

**VIRGINIA PORT AUTHORITY**  
**DEFINED BENEFIT PENSION PLAN AND TRUST**  
**(As Restated Effective January 1, 2015)**

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Pursuant to Paragraph 13.1 of the Virginia Port Authority Pension Plan and Trust (As Restated Effective July 1, 2000) (the “Plan”), the Board of Commissioners of the Virginia Port Authority, an agency of the Commonwealth of Virginia (hereinafter called the “Plan Sponsor”) hereby amends and restates the Plan as follows, effective January 1, 2015 or as otherwise expressly provided herein:

**WITNESSETH:**

THAT, WHEREAS, on August 1, 1998, the Employer adopted a defined benefit pension plan (the “Plan”) and a related trust agreement (the “Trust Agreement”) for its employees, effective August 1, 1998; and

WHEREAS, the Employer amended and restated the Plan effective July 1, 2000 (the “2000 Restatement”);

WHEREAS, the Employer adopted the following Amendments to the 2000 Restatement: The First Amendment dated June 27, 2002; the Second Amendment dated October 22, 2003; the Third Amendment dated June 29, 2005; the Fourth Amendment dated July 22, 2008; the Fifth Amendment dated September 23, 2008; the Sixth Amendment dated May 26, 2009; the Seventh Amendment dated September 22, 2009; the Eighth Amendment dated September 28, 2010; the Ninth Amendment dated May 24, 2011; the Tenth Amendment dated May 24, 2011; the Eleventh Amendment dated September 27, 2011; the Twelfth Amendment dated November 1, 2011; the Thirteenth Amendment dated May 28, 2013; the Fourteenth Amendment dated May 28, 2013; the Fifteenth Amendment dated June 4, 2013; the Sixteenth Amendment dated October 31, 2013; and the Seventeenth Amendment dated January 28, 2014;

WHEREAS, the Employer deems it desirable to amend and restate the Plan as hereinafter set forth (sometimes referred to as this “Restatement of the Plan”) to incorporate all amendments and to provide a harmonized benefit structure for certain former employees of the Virginia International Terminals LLC who participated in the Virginia International Terminals, LLC Pension Plan immediately prior to becoming hired by the Employer; and

NOW, THEREFORE, the Plan, as it affects any rights in respect to any person entitled to benefits under the Plan and Trust Agreement on or after January 1, 2015, is amended and restated in its entirety as herein set forth, provided, however, that:

- (i) The Accrued Benefit of any person who is not both an Eligible Employee and credited with Creditable Service on or after January 1, 2015 shall neither be increased nor decreased by virtue of this Restatement of the Plan, except as may be expressly provided herein by reference to such Employees or persons.
- (ii) The non-forfeitable percentage of the Accrued Benefit of any person who is not credited with Creditable Service on or after January 1, 2015 shall neither be increased nor decreased by virtue of this Restatement of the Plan, except as may be expressly provided herein by reference to such persons.
- (iii) The form of payment of benefits in pay status on December 31, 2014 shall not be affected by virtue of this Restatement of the Plan, except as may be expressly provided herein in the case of re-employment or continued employment.

**ARTICLE I**  
**Definition of Terms**

The following words and terms as used herein shall have the meaning set forth below, unless a different meaning is clearly required by the context:

1.1 **“Accrued Benefit”:** The Basic Accrued Benefit and the Law Enforcement Supplement determined under the provisions of Article IV to which a Participant is entitled.

1.2 **“Active Participant”**: A Participant who is an Eligible Employee.

1.3 **“Actuarial Equivalent” or “Actuarial Value”**: The benefit of equivalent value computed in accordance with accepted actuarial principles and based on the factors and assumptions set forth in Appendix A to the Plan.

1.4 **“Adjustment Factor”**: The cost of living adjustment factor prescribed by the Secretary of the Treasury or his delegate under Section 415(d) of the Code for years beginning after December 31, 1987, applied to such items and in such manner as the Secretary of the Treasury or his delegate shall prescribe.

1.5 **“Administrator”**: The Plan Administrator provided for in ARTICLE XII hereof.

1.6 **“ADRO”**: A domestic relations order within the meaning of Section 414(p) of the Code as applicable to governmental plans within the meaning of Section 414(d) of the Code and determined by the Administrator to be acceptable for processing pursuant to the Plan.

1.7 **“Annuity Starting Date”**: The first day of the first period for which a benefit is paid as an annuity or in any other form (as opposed to the actual date of payment). Notwithstanding the foregoing, the Annuity Starting Date shall not be considered delayed because actual benefit payment is delayed for reasonable administrative reasons as long as all benefits due are actually made.

1.8 **“Basic Accrued Benefit”**: That benefit determined under the provisions of paragraph 4.1 to which a Participant is entitled.

1.9 **“Beneficiary”**: The person or persons designated by a Participant or otherwise entitled pursuant to paragraph 7.4 to receive benefits under the Plan attributable to such Participant after the death of such Participant.

1.10 **“Board”**: The present and any succeeding Board of Commissioners of the Plan Sponsor.

1.11 **“Code”**: The Internal Revenue Code of 1986, as the same may be amended from time to time, or the corresponding section of any subsequent Internal Revenue Code, and, to the extent not inconsistent therewith, regulations issued thereunder.

1.12 **“Creditable Compensation”**:

1.12(a) A Legacy VPA Eligible Employee’s full compensation payable annually to an employee working full time in his covered position, excluding overtime pay, payments of a temporary nature and payments for extra duties. Such term shall be interpreted and applied in the same manner and to have the same meaning as used in VRS and shall include any elective deferrals as defined in IRC Section 402(g)(3) and any amount which is contributed or deferred by the Employer at the election of the Employee and which is not includible in gross income of the Employee by reason of IRC Sections 125, 132(f) or 457.

1.12(b) A Legacy VIT Eligible Employee’s Earnings as defined in paragraph G-1.1(c) of Appendix G to the Plan.

1.12(c) Notwithstanding anything to the contrary herein, any such Creditable Compensation in excess of the Compensation Limit for a Plan Year shall be disregarded.

1.13 **“Creditable Service”**:

1.13(a) With respect to a Legacy VPA Eligible Employee:

(i) Creditable Service shall begin on the date the Employee becomes an Eligible Employee and shall end on his termination from employment as an Eligible Employee. It shall be counted in terms of whole years with completed

months of Creditable Service in excess of complete years being counted as a fractional part of a year. Such term shall be interpreted and applied in the same manner and to have the same meaning as used in VRS.

(ii) In addition, a Legacy VPA Eligible Employee who (A) experiences an Involuntary Termination as that term is defined in the Employers' Policy #15 - Layoff and Severance Benefits (or such subsequent policy which may replace it); (B) has reached a Reduced or Unreduced Early Retirement Age and (C) is at least age fifty-five (55) shall be credited with additional years of Creditable Service for purposes of the Benefit Formula described in subparagraph 4.1(b)(ii); provided the General Waiver and Release referred to in such Policy is executed and delivered to the Employer as required under such Policy and is not subsequently revoked. The amount of the additional Creditable Service shall be the actuarial equivalent of the dollar value of the Severance Payment and Health Insurance Payment the Eligible Employee would otherwise have been entitled to under such policy had he not met the conditions of this subparagraph.

(iii) In addition, Creditable Service shall include the additional Creditable Service described in Appendix D to the Plan to the extent vested as described in Appendix D applicable to Legacy VPA Eligible Employees.

1.13(b) A Legacy VIT Eligible Employee's Credited Service as defined in paragraph G-1.1(b) of Appendix G to the Plan.

**1.14 "Compensation Limit":**

1.14(a) \$200,000 for Plan Years beginning on or after January 1, 2002 (as adjusted in \$5,000 increments by the applicable Adjustment Factor on the basis of a base period of the calendar quarter beginning July 1, 2001); \$150,000 for Plan Years beginning on or after January 1, 1994 but before January 1, 2002 (as adjusted in \$10,000 increments by the applicable Adjustment Factor determined on the basis of a base period of the calendar quarter beginning October 1, 1993); or \$200,000 for Plan Years beginning before January 1, 1994 (as adjusted by the applicable Adjustment Factor).

1.14(b) For purposes of applying the Compensation Limit:

(i) The Compensation Limit applicable to each Plan Year (or other applicable computation period) shall be the Compensation Limit in effect for each such Plan Year (or other applicable computation period), determined without increases in the Compensation Limit for subsequent periods.

(ii) If any Plan Year (or other stated computation period) is a period of less than twelve (12) months, then any dollar limitation referred to in this paragraph shall be prorated by multiplying the otherwise applicable dollar limitation for such Plan Year (or other stated computation period) by a fraction, the numerator of which is the number of months in such Plan Year (or other stated computation period) and the denominator of which is twelve (12).

1.15 **"Contract":** A group annuity contract, deposit administration contract, immediate participation guarantee contract, or other investment-oriented or funding contract or agreement issued by an Insurer to hold the assets of the Plan.

**1.16 "Effective Date":**

(i) The Effective Date of the Plan is August 1, 1998.

(ii) The Effective Date of this Restatement of the Plan is January 1, 2015;

provided, however, that:

(i) The Accrued Benefit of any person who is not both an Eligible Employee and credited with Creditable Service on or after January 1, 2015 shall neither be increased nor decreased by virtue of this Restatement of the Plan, except as may be expressly provided herein by reference to such Employees or persons.

(ii) The non-forfeitable percentage of the Accrued Benefit of any person who is not credited with Creditable Service on or after January 1, 2015 shall neither be increased nor decreased by virtue of this Restatement of the Plan, except as may be expressly provided herein by reference to such persons.

(iii) The form of payment of benefits in pay status on December 31, 2014 shall not be affected by virtue of this Restatement of the Plan, except as may be expressly provided herein in the case of re-employment or continued employment.

**1.17 “Eligible Employee”:**

1.17(a) A full-time, salaried, permanent Employee who first became a full-time, salaried, permanent Employee on or after August 1, 1998 or who made an affirmative election to become a member of the Plan in lieu of participation in VRS. Full-time, salaried, permanent Employees hired before August 1, 1998 who made the affirmative election to become members of this Plan in lieu of participation in VRS are subject to the special transition rules set forth in Appendix B to the Plan. No Employee hired or rehired after January 28, 2014 shall be an Eligible Employee, except that the CEO/Executive Director whose employment with the Employer commences on or about February 10, 2014, pursuant to an employment contract entered into prior to January 28, 2014, shall be an Eligible Employee. Eligible Employees described in this subparagraph share referred to as “Legacy VPA Eligible Employees.”

1.17(b) A full-time, salaried, permanent Employee who is employed by the Employer as a sworn law enforcement officer. Such an Employee shall be referred to as a Law Enforcement Eligible Employee. Law Enforcement Eligible Employees who are not also described in clause (a) of this paragraph shall not be entitled to a Basic Accrued Benefit.

1.17(c) Non-resident aliens with non-U. S. sourced income are generally excluded from participation in the Plan except such an Employee who has entered into a contract with the Employer that includes the provision of retirement benefits shall be an Eligible Employee.

1.17(d) For the sole purpose of determining eligibility for the Pre-Retirement Death Benefit described in paragraph 7.3, an employee associated with the sales and marketing of the Port of Virginia who was transferred to VIT effective on or about January 1, 2009 shall continue to be treated as an Eligible Employee as long as he remains employed with VIT.

1.17(e) For the sole purpose of determining eligibility for the Pre-Retirement Death Benefit described in paragraph 7.3, an employee who was transferred to VIT after December 31, 2014 shall continue to be treated as an Eligible Employee as long as he remains employed with VIT

1.17(f) In addition, an Employee who was transferred from VIT after December 31, 2014 and who was an active participant in the VIT Pension Plan immediately prior to his transfer shall be an Eligible Employee for so long as such Employee remains a full-time, permanent Employee. Eligible Employees described in this subparagraph shall be referred to as “Legacy VIT Eligible Employees.”

1.18 **“Employee”:** Any individual employed in the service of the Employer as a common law employee.

1.19 **“Employer”:**

1.19(a) The Plan Sponsor.

1.19(b) Solely for purposes of termination of employment with the Employer, the term "Employer" shall include VIT and Hampton Roads Chassis Pool II LLC (“HRCP II”).

1.20 **“Fund”:** The trust fund, including any separate trusts, created under and subject to the Plan, which shall be known as the “Virginia Port Authority Defined Benefit Pension Plan and Trust”.

1.21 **“Inactive Participant”**: A Participant who is not an Eligible Employee.

1.22 **“Insurer”**: Any insurance company which issues a Contract to hold assets of the Plan or a Policy to provide for payment of benefits under the Plan.

1.23 **“Investment Manager”**: A fiduciary of the Plan appointed to manage all or part of the assets of the Fund and serving pursuant to ARTICLE X.

1.24 **“Law Enforcement Supplement”**: The supplement determined under the provisions of 4.3 to which a Law Enforcement Participant is entitled.

1.25 **“Participant”**:

1.25(a) An Eligible Employee or other person qualified to participate in the Plan for so long as he is considered a Participant as provided in ARTICLE II hereof.

(i) A Legacy VPA Eligible Employee who became a Participant prior to July 1, 2011, may be referred to as a Pre-7/1/11 Participant.

(ii) A Legacy VPA Eligible Employee who becomes a Participant on or after July 1, 2011 may be referred to as a Post-6/30/11 Participant.

collectively referred to as “Legacy VPA Participants.”

(iii) A Legacy VIT Eligible Employee qualified to participate in the Plan may be referred to as a Legacy VIT Participant.

1.25(b) A Pre-7/1/11 or Post-6/30/11 Participant who is a Law Enforcement Eligible Employee may also be referred to as a Law Enforcement Participant. A Law Enforcement Eligible Employee who is also described in subparagraph 1.17(a) shall be referred to as a Non-VRS Law Enforcement Participant. A Law Enforcement Eligible Employee who is not also described in subparagraph 1.17(a) shall be referred to as a VRS Law Enforcement Participant.

1.25(c) A person may be a Participant solely by reason of his status as a Window Retiree and shall be entitled to participate only for purposes of receiving the Window Retirement Benefit.

1.26 **“Plan”**: This Agreement, including the Appendices hereto, as contained herein or duly amended. The defined benefit plan maintained pursuant hereto shall be known as the “Virginia Port Authority Defined Benefit Pension Plan and Trust”.

1.27 **“Plan Sponsor”**: Virginia Port Authority, an agency of the Commonwealth of Virginia.

1.28 **“Plan Year”**: A year commencing upon the first day of July of each year.

1.29 **“Policy”**: A group or individual policy, contract or other agreement (including a certificate) issued by an Insurer which is not a Contract and which is obtained to provide for the accumulation and/or payment of benefits under the Plan.

1.30 **“Normal Retirement Age”**:

1.30(a) For a Pre-7/1/11 Participant, the age of sixty-five (65) years; and

1.30(b) For a Post-6/30/11 Participant, the unreduced social security age applicable to such Participant (as defined under the Social Security Act (42 U.S.C. Section 416 et seq., as now or hereafter amended);

Provided, however, for a Law Enforcement Participant, the Normal Retirement Age is the age of sixty (60) years.

1.30(c) For a Legacy VIT Participant, the later of age of sixty-five (65) years or five (5) years of participation in the Plan or in the VIT Pension Plan ; and

1.31 **“Spouse”**: The For the purpose of qualifying to receive survivor annuity benefits under the Plan, an individual to whom a Participant was married:

- (i) On his Annuity Starting Date, or
- (ii) If he has not reached his Annuity Starting Date, on his date of death.

The determination of the marital status of a Participant shall be made pursuant to applicable local law; provided, however, that a Participant’s former spouse shall continue to be considered married to the Participant, and a Participant’s current spouse shall be considered not married to the Participant, to the extent provided under a ADRO.

1.32 **“Trustee”**: Wilmington Trust Company and any successor or additional Trustee or Trustees, appointed and serving in accordance herewith.

1.33 **“VIT”**: The Virginia International Terminals, LLC, a Virginia limited liability company.

1.34 **“VIT Pension Plan”**: The Virginia International Terminals LLC Pension Plan.

1.35 **“VRS”**: The Virginia Retirement System as set forth in Chapter 1 of Title 51.1 of the Virginia Code.

## **ARTICLE II**

### **Eligibility and Participation**

#### **2.1 Eligibility and Date of Participation.**

2.1(a) Each Eligible Employee who is a Participant on the day before the Effective Date of this Restatement shall remain a Participant.

2.1(b) Each Legacy VIT Eligible Employee shall become a Participant on his date of hire by the Employer.

2.1(c) An individual who becomes a Participant shall be or remain a Participant for so long as he remains an Eligible Employee and thereafter while he is entitled to future benefits under the terms of the Plan.

2.1(d) An individual who ceases to be an Eligible Employee shall not again become an active Participant, however, he may remain an inactive Participant in accordance with subparagraph 2.1(c).

## **ARTICLE III**

### **Funding**

3.1 **Funding**. All costs of benefits under the Plan shall be borne by contributions by the Employer and any assets transferred to the Plan. Such contributions by the Employer shall equal amounts actuarially determined to be sufficient to fund the expected benefit.

3.2 **Timing of Contributions by the Employer.** The contribution by the Employer for any Plan Year shall be made in the manner and at the time determined by the Plan Sponsor.

3.3 **Determination of Funding Requirements.** The amount of the Employer's contribution for any Plan Year shall be determined by the actuary for the Plan who shall be selected by, and may from time to time be changed by, the Plan Sponsor. The Trustee shall provide to the Plan's actuary and the Plan Sponsor, or to its duly appointed representative, such information regarding the income, disbursements and value of the Fund as may be reasonably required for the purpose of making such determination. The Plan Sponsor and the Plan's actuary shall select the appropriate funding method and assumptions for determining the amount of the Employer's contribution.

3.4 **No Duty of Trustee to Determine or Enforce Contributions.** The Trustee shall not be required to determine the amount of the Employer's contribution for any Plan Year or to enforce the duty of the Employer to make such contributions; but the Trustee shall provide the Employer with such information as it may reasonably require to determine the amount of its contribution.

#### **ARTICLE IV** **Determination of Accrued Benefit**

##### **4.1 Basic Accrued Benefit.**

4.1(a) The Basic Accrued Benefit shall be an amount, expressed in the form of a single life annuity payable monthly for the life of the Participant, commencing upon his Normal Retirement Date or as otherwise provided in this subparagraph 4.1(a), and equal to the amount determined under the Benefit Formula, calculated as follows:

(i) A Participant who retires on his Normal Retirement Date shall be entitled to his Basic Accrued Benefit calculated under the Benefit Formula to his Normal Retirement Date.

(ii) A Participant whose employment with the Employer terminates after his Normal Retirement Date shall be entitled to his Basic Accrued Benefit commencing on his Delayed Retirement Date (or, where applicable, his other benefit commencement date determined as though he had separated from service and had a Delayed Retirement Date) calculated under the Benefit Formula to his Delayed Retirement Date.

(iii) A Participant who retires on his Early Retirement Date shall be entitled to his Basic Accrued Benefit calculated under the Benefit Formula to his Early Retirement Date.

(iv) A Participant who retires on his Disability Retirement Date shall be entitled to either:

(A) If he (I) is determined to be totally and permanently disabled as provided in the Plan, (II) is eligible for and receives disability benefits under the Federal Social Security Act for the period of time from his Disability Retirement Date continuously until he reaches his Normal Retirement Date, and (III) has not received any benefits under the Plan before his Normal Retirement Date, his Basic Accrued Benefit calculated to his Normal Retirement Date computed as if he had remained an Eligible Employee accumulating one year of Creditable Service each Plan Year until such age and receiving the same rate of Creditable Compensation as at his last day of service as an Eligible Employee before his Disability Retirement Date until his Normal Retirement Date, or

(B) If he is not described in clause (iv)(A), his Basic Accrued Benefit calculated to his Disability Retirement Date.

(v) The Basic Accrued Benefit of each other Participant shall be calculated under the Benefit Formula as of the applicable date for which such determination is made.

4.1(b) With respect to a Legacy VPA Participant, for purposes hereof:

(i) “Average Compensation” for a Pre-7/1/11 Participant is the average annual Creditable Compensation of a Participant during the thirty-six (36) highest consecutive months of Creditable Service or during the entire period of Creditable Service if less than thirty-six (36) months. For a Post-6/30/11 Participant, Average Compensation is the average annual Creditable Compensation of a Participant during the sixty (60) highest consecutive months of Creditable Service or during the entire period of Creditable Service if less than sixty (60) months.

(ii) The “Benefit Formula” is one-twelfth (1/12) of the product obtained by multiplying one and seven tenths of one percent (1.70%) of a Legacy VPA Participant’s Average Compensation times his Creditable Service.

(iii) In addition to the Basic Accrued Benefit, a Window Retiree as defined in Appendix C, Appendix E or Appendix F shall be entitled to the Window Retirement Benefit described in Appendix C, Appendix E or Appendix F, as applicable.

4.1(c) With respect to a Legacy VIT Participant, for purposes hereof:

(i) “Final Average Earnings” is defined in paragraph G-1.1(d) of Appendix G.

(ii) “Final Average Excess Earnings” is defined in paragraph G-1.1(e) of Appendix G.

(iii) The “Benefit Formula” is defined in paragraph G-1.1(a) of Appendix G.

4.2 **Creditable Service Rule.** For purposes of determining the Basic Accrued Benefit under subparagraph 4.1(a), all Creditable Service shall be included.

4.3 **Law Enforcement Supplement.**

4.3(a) A Law Enforcement Participant hired before December 1, 2001 who did not elect during the election period described in paragraph 4.3(e) to receive the enhanced basic benefit described below and who is credited with at least 15 years of Creditable Service in a hazardous duty position shall be entitled to a temporary monthly allowance equal to one-twelfth (1/12<sup>th</sup>) of (i) Eight Thousand Nine Hundred Fifty-Two Dollars (\$8,952), in the case of payments made prior to December 1, 2001, (ii) Nine Thousand Eight Hundred Sixteen Dollars (\$9,816), in the case of payments made on or after December 1, 2001 but prior to July 1, 2005, (iii) Ten Thousand Seven Hundred Two Dollars (\$10,702), in the case of payments made on or after July 1, 2005 but prior to July 1, 2008, and (iv) Eleven Thousand Five Hundred Eight Dollars (\$11,508), in the case of payments made on or after July 1, 2008 but prior to July 1, 2013, and (v) Thirteen Thousand One Hundred Twenty-Eight Dollars (\$13,128), in the case of payments made on or after July 1, 2013. Such temporary allowance shall be paid from the date of such Participant’s retirement on a Reduced or Unreduced Early Retirement Date under the Plan or on a similar date under VRS until such Law Enforcement Participant reaches the earliest date at which such Participant is entitled to unreduced primary insurance benefits under the Federal Social Security Act.

4.3(b) A Law Enforcement Participant hired on or after December 1, 2001 and a Non-VRS Law Enforcement Participant hired before December 1, 2001 who elected during the election period described in paragraph 4.3(e) to receive an enhanced basic benefit shall be entitled to a monthly allowance equal to three-tenths of one percent (0.3%) of Average Compensation for each year of Creditable Service in a hazardous duty position with the Employer.

4.3(c) A VRS Law Enforcement Participant hired before December 1, 2001 who elected during the election period described in paragraph 4.3(e) to receive an enhanced basic benefit but who is not entitled to the Basic Accrued Benefit under this Plan, shall also be entitled to the excess, if any, of:

(i) A benefit determined as though such Participant were a participant in this Plan entitled to the Basic Accrued Benefit and the enhanced basic benefit described in 4.3(b), all determined using the Normal Retirement Age,

Unreduced Early Retirement Date or Reduced Early Retirement Date applicable to Law Enforcement Participants under this Plan, less

(ii) The benefit to which such Participant is entitled under the VRS related to Creditable Service while an Employee of the Employer.

4.3(d) For purposes hereof, Creditable Service in a hazardous duty position with the Employer shall include up to five (5) years of service in a hazardous duty position with another employer regardless of whether or not for the Employer or in Virginia.

4.3(e) Law Enforcement Participant hired before December 1, 2001 may make an irrevocable election to receive the enhanced basic benefit described in subparagraph 4.3(b) or, if applicable, 4.3(c) in lieu of the temporary supplement described in 4.3(a) during the period from January 2, 2002 through February 15, 2002 may elect to receive the Enhanced Multiplier Benefit in lieu of the supplement described in clause (i) of subparagraph 4.3(a).

#### 4.4 **Accrued Benefit Limitation.**

4.4(a) To the extent not otherwise provided herein or to the extent inconsistent with the provisions hereof and except as prohibited by applicable regulations under the Code, the applicable limitations on contributions and benefits under Section 415 are incorporated by reference and shall control over any contrary or omitted provisions in the Plan. As applicable to this Plan, the limitations on benefit of Section 415 of the Code generally limit a Participant's annual benefit (as defined in Section 415 of the Code) to the Defined Benefit Dollar Limit (as adjusted as required by Section 415 of the Code as applicable to governmental plans).

4.4(b) To the extent a death benefit with respect to a Participant is determined on the basis of his Accrued Benefit, or a projection thereof, such death benefit shall be determined on a basis which appropriately reflects the limitations imposed by Section 415 of the Code.

4.4(c) Notwithstanding the foregoing, adjustments in the Defined Benefit Dollar Limitation under Section 415 of the Code (including amendments to the Plan to make changes to coordinate the provisions of the Plan with changes to Section 415 of the Code enacted by Economic Growth and Tax Relief Reconciliation Act of 2001) shall only be applicable to benefits provided by this Plan with respect to a Participant who is an Employee at the time the adjustment is effective.

4.4(d) In complying with the limitations of Section 415 of the Code, all other transitional rules under any law enacting or amending Section 415 of the Code shall be applicable as determined by the Plan Sponsor.

4.4(e) For purposes hereof:

(i) The "Defined Benefit Dollar Limitation" is \$90,000 for Limitation Years ending before January 1, 2002 and is \$160,000 for Limitation Years ending on or after January 1, 2002, in each case as the same may be adjusted, effective January 1 of each year, under Section 415(d) of the Code in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under Section 415(d) of the Code shall apply to Limitation Years ending with or within the calendar year for which the adjustment applies. For Limitation Years beginning after December 31, 2002, the adjustment shall be in \$5,000 increments on the basis of a base period of the calendar quarter beginning July 1, 2001.

(ii) Section 415 Compensation means a Participant's earned income, wages, salaries and other amounts received for personal services actually rendered in the course of employment with the Employer maintaining the Plan and any elective deferrals as defined in IRC Section 402(g)(3) and any amount which is contributed or deferred by the Employers at the election of the Employee and which is not includible in gross income of the Employee by reason of IRC Sections 125, 132(f) or 457 shall be included in determining Section 415 Compensation. Section 415 Compensation shall exclude, except as otherwise expressly included above, paid or reimbursed expenses, contributions or benefits under a simplified employee pension plan, contributions (to the

extent not includible in the Employee's gross income when contributed) or benefits under this or any other plan of deferred compensation (other than an unfunded, non-qualified plan), contributions or benefits under any other employee benefit plan or arrangement (to the extent excludible from or not includible in gross income), now, heretofore or hereafter adopted, or other amounts which receive special tax benefits. Section 415 Compensation shall include amounts paid by the later of two and one-half (2-1/2) months after severance from employment or the end of the Plan Year (or Limitation Year, as applicable) that includes the date of severance from employment if such payments would have been paid to the Employee while the Employee continued in employment with the Employer absent the severance from employment and such amounts are regular compensation, commissions, bonuses or other similar compensation.

#### 4.5 **Additional Accrued Benefit Limitations When Employer Maintains More Than One Plan.**

4.5(a) If any Participant is or has been a participant in more than one Qualified Defined Benefit Plan (whether or not terminated), the limitations contained in paragraph 4.4 and this paragraph shall apply as if all such plans were one plan. In such case, the annual benefits (as defined in Section 415 of the Code) payable to the Participant under this Plan shall be reduced so that the total annual benefits payable to the Participant under this Plan (if a Qualified Defined Benefit Plan) and such other plan(s) do not exceed the Maximum Permissible Benefit.

4.5(c) Solely for purposes of paragraphs 4.4 and 4.5, the following words and terms shall have the meaning set forth below in this subparagraph:

(i) The term "Limitation Year" means the calendar year and is the year used to apply the limitations of Section 415 of the Code.

(ii) The term "Qualified Defined Benefit Plan" means any plan maintained by the Employer or portion thereof described or treated as a defined benefit plan within the meaning of Sections 414(j) and 415(k) of the Code.

4.6 **No Duplication of Benefits.** Notwithstanding any other provision of the Plan, the total Actuarial Value of the Basic Accrued Benefit which may be earned by any Participant shall not exceed the Actuarial Value of his Basic Accrued Benefit under the Plan, calculated without regard to any prior distributions of his Basic Accrued Benefit, and then reduced by the Actuarial Value of any prior distributions.

#### 4.7 **USERRA.**

4.7(a) The Plan shall comply with the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended and revised, and the Plan shall be construed, where necessary, in such a manner as to comply with the law. To the extent not inconsistent with the foregoing, the following special rules shall apply in case of Reemployed Veterans notwithstanding any other provision of the Plan:

(i) A Reemployed Veteran shall not be considered to have incurred a Severance from Service Date by reason of his Qualified Military Service.

(ii) Compensation to be used for purposes of determining benefit accrual with respect to a period of Qualified Military Service shall mean the Creditable Compensation (as otherwise defined in the Plan but based on rate of pay) which the Reemployed Veteran would have received but for his Qualified Military Service. If a Reemployed Veteran's pay is not readily determinable, the Reemployed Veteran's Compensation shall then be his average Compensation for the 12-month period (or actual shorter period of employment) immediately preceding his Qualified Military Service.

(iii) Qualified Military Service of a Reemployed Veteran shall be counted as service for purposes of participation and benefit accrual under the Plan. Additionally, the time period between the end of the Reemployed Veteran's Qualified Military Service and his return to the Employer (including the time period spent recovering from an injury or illness as required under USERRA) shall be counted as service for purposes of participation and

benefit accrual under the Plan. The Reemployed Veteran shall not be required to make-up Employee Contributions in order for Qualified Military Service to be counted under this section.

4.7(b) For purposes of this paragraph, the following terms have the following meanings:

(i) “Qualified Military Service” means any service in the uniformed services (as defined under USERRA) by any individual if such individual is entitled to reemployment rights under USERRA with respect to such service and to the Employer.

(ii) “Reemployed Veteran” means a person who is or, but for his Qualified Military Service, would have been a Participant at some time during his Qualified Military Service and who is entitled to the restoration benefits and protections of USERRA with respect to his Qualified Military Service and the Plan.

(iii) “USERRA” means the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended, and the final regulations and any other applicable guidance issued thereunder.

4.7(c) To the extent required by USERRA or Section 401(a)(37) of the Code for purposes of determining vesting in Accrued Benefits and entitlement to death benefits under the Plan, in the event a Participant ceases to be an Employee in order to perform Qualified Military Service and dies while performing Qualified Military Service, the Participant’s death shall be considered to have occurred while he was an active Eligible Employee and, if he ceased to be an Eligible Employee in order to perform Qualified Military Service, while he was an Eligible Employee so that his Beneficiaries are entitled to any additional benefits provided under the Plan (other than benefit accruals relating to the period of Qualified Military Service unless otherwise expressly provided), including without limitation any additional or enhanced vesting or death benefits, had the Participant resumed employment with the Employer and then terminated employment on account of death.

4.7(d) For purposes of the Plan, Compensation (but only to the extent the Differential Wage Payments to the individual in question, if an Employee, would otherwise be included Compensation) and Section 415 Compensation includes Differential Wage Payments and a person receiving a Differential Wage Payment from the Employer shall be considered an Employee. A “Differential Wage Payment” is any payment which is made to an individual by an Employer with respect to any period during which the individual is performing Qualified Military Service while on active duty for a period of more than thirty (30) days and which represents all or a portion of the wages the individual would have received from an Employer if the individual were performing services for the Employer.

#### 4.8 **Additional Benefits for Certain Participants and Beneficiaries under the Plan.**

4.8(a) Effective with the July 1, 2005 monthly payment:

(i) All monthly payments of the temporary allowance described in subparagraph 4.3(a) then or thereafter payable for certain Law Enforcement Participants who were then currently retired under the Plan, shall increase to 1/12<sup>th</sup> of Ten Thousand Seven Hundred Two Dollars (\$10,702).

(ii) All monthly payments of the enhanced basic benefit described in subparagraph 4.3(b) then or thereafter payable for certain Law Enforcement Participants who were then currently retired, and contingent annuitants (referred to herein as Beneficiaries or contingent annuitant Beneficiaries) of then previously deceased Law Enforcement Participants whose benefit included the enhanced basic benefit under the Plan, whose retirement benefits commenced prior to January 1, 2004, shall increase by nine and five one-hundredths of one percent (9.05%) of the amount that would otherwise have been received on July 1, 2005.

(iii) All monthly payments then or thereafter payable for all Participants who were then current retired members under the Plan, and contingent annuitants (referred to herein as Beneficiaries or contingent annuitant Beneficiaries) of then previously deceased members under the Plan, whose retirement benefits commenced prior

to January 1, 2004, shall increase by nine and five one-hundredths of one percent (9.05%) of the amount that would otherwise have been received on July 1, 2005.

4.8(b) Effective with the July 1, 2008 monthly payment:

(i) All monthly payments of the temporary allowance described in subparagraph 4.3(a) then or thereafter payable for certain Law Enforcement Participants who were then currently retired under the Plan, shall increase to 1/12<sup>th</sup> of Eleven Thousand Five Hundred Eight Dollars (\$11,508).

(ii) All monthly payments of the enhanced basic benefit described in subparagraph 4.3(b) then or thereafter payable for certain Law Enforcement Participants who were then currently retired, and contingent annuitants (referred to herein as Beneficiaries or contingent annuitant Beneficiaries) of then previously deceased Law Enforcement Participants whose benefit included the enhanced basic benefit under the Plan, whose retirement benefits commenced prior to July 1, 2007, shall increase by seven and fifty three one-hundredths of one percent (7.53%) of the amount that would otherwise have been received on July 1, 2008.

(iii) All monthly payments then or thereafter payable for all Participants who were then current retired members under the Plan, and contingent annuitants (referred to herein as Beneficiaries or contingent annuitant Beneficiaries) of then previously deceased members under the Plan, whose retirement benefits commenced prior to July 1, 2007, shall increase by seven and fifty three one-hundredths of one percent (7.53%) of the amount that would otherwise have been received on July 1, 2008.

4.8(c) Effective with the July 1, 2013 monthly payment:

(i) All monthly payments of the temporary allowance described in subparagraph 4.3(a) then or thereafter payable for certain Law Enforcement Participants who were then currently retired under the Plan, shall increase to 1/12<sup>th</sup> of Thirteen Thousand One Hundred Twenty-Eight Dollars (\$13,128).

(ii) All monthly payments of the enhanced basic benefit described in subparagraph 4.3(b) then or thereafter payable for certain Law Enforcement Participants who were then currently retired, and contingent annuitants (referred to herein as Beneficiaries or contingent annuitant Beneficiaries) of then previously deceased Law Enforcement Participants whose benefit included the enhanced basic benefit under the Plan, whose retirement benefits commenced prior to July 1, 2012, shall increase by seven and ninety-seven one-hundredths of one percent (7.97%) of the amount that would otherwise have been received on July 1, 2013.

(iii) All monthly payments then or thereafter payable for all Participants who were then current retired members under the Plan, and contingent annuitants (referred to herein as Beneficiaries or contingent annuitant Beneficiaries) of then previously deceased members under the Plan, whose retirement benefits commenced prior to July 1, 2012, shall increase by seven and ninety-seven one-hundredths of one percent (7.97%) of the amount that would otherwise have been received on July 1, 2013.

4.9 **No Repayment of Cash Out.** No Participant shall be permitted to repay any cash-out distribution received under paragraph 8.11 for any purposes under the Plan.

## **ARTICLE V** **Retirement Dates**

5.1 **Normal Retirement Date.** The Normal Retirement Date of a Participant shall be the first day of the calendar month coinciding with or next following the date on which the Participant attains his Normal Retirement Age.

5.2 **Delayed Retirement Date.** A Participant who continues in the active employment of the Employer beyond his Normal Retirement Date shall continue to participate in the Plan, and his Delayed Retirement Date shall be the first day of the calendar month coinciding with or next following the date of termination of his employment with the Employer.

5.3 **Unreduced Early Retirement Date.**

5.3(a) A Pre-7/1/11 Participant who is not a Law Enforcement Participant and who has attained the age of fifty (50) years or more while an Eligible Employee and has completed at least thirty (30) years of Creditable Service may retire from the employment of the Employer prior to his Normal Retirement Date with an unreduced benefit payable immediately and his Unreduced Early Retirement Date shall be the first day of the month coinciding with or next following the date of such retirement.

5.3(b) A Post-6/30/11 Participant who is not a Law Enforcement Participant and whose age and years of Creditable Service when added together equal at least 90 may retire from the employment of the Employer prior to his Normal Retirement Date with an unreduced benefit payable immediately and his Unreduced Early Retirement Date shall be the first day of the month coinciding with or next following the date of such retirement.

5.3(c) A Law Enforcement Participant who has attained the age of fifty (50) years or more while an Eligible Employee and has completed at least twenty-five (25) years of Creditable Service may retire from the employment of the Employer prior to his Normal Retirement Date with an unreduced benefit payable immediately and his Unreduced Early Retirement Date shall be the first day of the month coinciding with or next following the date of such retirement.

5.3(d) A Law Enforcement Participant who is not in a hazardous duty position immediately prior to his retirement date shall not be considered a Law Enforcement Participant for purposes of determining his Unreduced Early Retirement Date.

5.3(e) A Legacy VIT Participant who has attained the age of sixty-two (62) years or more while an Eligible Employee and has completed at least thirty (30) years of Creditable Service may retire from the employment of the Employer prior to his Normal Retirement Date with an unreduced benefit payable immediately and his Unreduced Early Retirement Date shall be the first day of the month coinciding with or next following the date of such retirement.

5.4 **Reduced Early Retirement Date.**

5.4(a) A Pre-7/1/11 Participant who is not a Law Enforcement Participant and who has attained the age of fifty-five (55) years or more while an Eligible Employee and has completed at least five (5) years of Creditable Service or who has attained the age of fifty (50) years or more while an Eligible Employee and has completed at least ten (10) years of Creditable Service may retire from the employment of the Employer prior to his Normal Retirement Date with an actuarially reduced benefit payable immediately and his Reduced Early Retirement Date shall be the first day of the month coinciding with or next following the date of such retirement.

5.4(b) A Post-6/30/11 Participant who is not a Law Enforcement Participant and who has attained the age of sixty (60) years or more while an Eligible Employee may retire from the employment of the Employer prior to his Normal Retirement Date with an actuarially reduced benefit payable immediately and his Reduced Early Retirement Date shall be the first day of the month coinciding with or next following the date of such retirement.

5.4(c) A Law Enforcement Participant who has attained the age of fifty (50) years or more while an Eligible Employee and has completed at least five (5) years of Creditable Service may retire from the employment of the Employer prior to his Normal Retirement Date with an actuarially reduced benefit payable immediately and his Reduced Early Retirement Date shall be the first day of the month coinciding with or next following the date of such retirement.

5.4(d) A Law Enforcement Participant who is not in a hazardous duty position immediately prior to his retirement date shall not be considered a Law Enforcement Participant for purposes of determining his Reduced Early Retirement Date.

5.4(e) Legacy VIT Participant who has attained the age of fifty-five (55) years or more while an Eligible Employee and has completed at least five (5) years of Creditable Service may retire from the employment of the Employer prior to his Normal Retirement Date with an actuarially reduced benefit payable immediately and his Reduced Early Retirement Date shall be the first day of the month coinciding with or next following the date of such retirement..

5.5 **Disability Retirement Date.**

5.5(a) A Participant who, while an Eligible Employee, is Disabled and who has completed at least five (5) years of Creditable Service may retire from the employment of the Employer prior to his Normal Retirement Date and his Disability Retirement Date shall be the first day of the month coinciding with or next following the date of such retirement.

5.5(b) For purposes hereof, the existence of a “Disability” or the status of being “Disabled” shall be considered present during the period for which an Employee or former Employee either:

(i) Is determined by the Federal Social Security Administration to be disabled, as that term is defined for purposes of Federal Social Security disability benefits, and for which he receives such benefits after the required waiting period prior to his Normal Retirement Date, or

(ii) Is determined by the applicable fiduciary to be disabled for purposes of entitlement to disability benefits under any long term disability plan which is maintained by the Employer and under which he is covered, and for which he receives such benefits prior to his Normal Retirement Date,

provided the cause of such disability occurred when the Employee was an Eligible Employee. The Administrator shall have the right to require proof of continuing Disability. Failure by the Participant to provide such evidence as may from time to time be required by the Administrator prior to such Participant’s attainment of his Normal Retirement Date shall result in the discontinuance of his Disability Retirement status and the termination of his status as Disabled under the Plan. The determination of Disability shall be made by the Administrator in accordance with standards uniformly applied to all Participants, on the advice of one or more physicians appointed or approved by the Plan Sponsor if deemed necessary or advisable by the Administrator, and the Administrator shall have the right to require further medical examinations from time to time to determine whether there has been any change in the Participant’s physical condition.

**ARTICLE VI**  
**Vesting**

6.1 **Vesting at Retirement or Attainment of Normal Retirement Age.** Upon either:

(i) A Participant’s having attained his Normal Retirement Age while employed by the Employer,

(ii) His satisfaction of the age and service requirements for Reduced Early Retirement while an Eligible Employee, or

(iii) His retirement from the employment of the Employer due to his Disability (as provided in paragraph 5.5),

the Basic Accrued Benefit of such Participant shall be fully vested and non-forfeitable.

6.2 **Vesting in Basic Accrued Benefit at Other Times.**

6.2(a) Vesting for Legacy VPA Participants shall be determined as follows:

(i) At any time when a Legacy VPA Eligible Employee who becomes a Participant is not fully vested in his Basic Accrued Benefit under paragraph 6.1, he shall have a non-forfeitable right to one hundred percent (100%) of his Basic Accrued Benefit if he is credited with at least five (5) years of Creditable Service.

(ii) For this purpose, service with the VIT by an Employee affected by the 2008 reorganization approved by the Board on September 23, 2008 immediately after the transfer and prior to any termination of employment with VIT shall count as Creditable Service toward vesting in the Basic Accrued benefit accrued under this Plan.

(iii) For this purpose, service with the VIT by an Employee who transfers directly from the Employer to VIT on or after December 31, 2014 prior to any termination of employment shall count as Creditable Service toward vesting in the Basic Accrued Benefit accrued under this Plan.

6.2(b) At any time when a Legacy VIT Participant is not fully vested in his Basic Accrued Benefit under paragraph 6.1 and he is credited with two (2) or more years of Vested Service as defined in paragraph G-1.1(f) of Appendix G, he shall have a non-forfeitable right to a portion of his Accrued Benefit in accordance with the following schedule:

<u>Years of Vested Service</u>	<u>Vested Percentage</u>
Less than two years	0%
Two years but less than three years	20%
Three years but less than four years	30%
Four years but less than five years	40%
Five years but less than six years	60%
Six years but less than seven years	80%
Seven years or more years	100%

6.3 **Felony Forfeiture.** Notwithstanding the foregoing, a Participant shall forfeit his entire Accrued Benefit if he is convicted of a felony and it is determined by the Employer that the felony arose from misconduct occurring on or after July 1, 2011, in any position as an Eligible Employee. Such forfeiture shall occur following the conclusion of the administrative process as set forth in Section 51.1-124.13 of the Code of Virginia. The Administrator may delay distribution to a Participant for a reasonable period to allow for the administrative process if notified by the Employer that a determination that a felony charge arising from misconduct described above is sought. If the Participant is or becomes a Participant in service after such a forfeiture, the Participant shall be entitled to benefits based solely on benefits based on service accruing after the forfeiture.

6.4 **Vesting of Executive Director.** Notwithstanding the foregoing, effective February 10, 2014, the Executive Director of the Employer shall have a nonforfeitable right to one hundred percent (100%) of his Basic Accrued Benefit at all times.

**ARTICLE VII**  
**Death Benefit**

7.1 **Death after Benefit Commencement Date.** If a Participant dies after his Accrued Benefit has begun to be paid to him, the only benefits payable under the Plan after his death shall be those, if any, provided under the form of payment being made to him at his death.

7.2 **Death before Benefit Commencement Date.** If a Participant dies before his Annuity Starting Date, no benefit shall be paid under the Plan except any Death Benefit which may be provided under this ARTICLE VII.

7.3 **Pre-Retirement Death Benefit.**

7.3(a) In the event that a Participant dies while an Eligible Employee and before his Annuity Starting Date at a time when he has a non-forfeitable interest in his Basic Accrued Benefit, then the Beneficiary of such Participant shall be entitled to receive as a Death Benefit under the Plan (referred to as the “Pre-Retirement Death Benefit”) a survivor annuity, expressed in the form of a single life annuity payable monthly for the life of such Beneficiary commencing on the Beneficiary’s Earliest Commencement Date, equal to the Pre-Retirement Beneficiary’s Annuity determined as if the Participant had died on the day following his Annuity Starting Date under the appropriate one of the following assumed circumstances:

- (i) If the Participant dies after attaining his Earliest Retirement Age, it shall be assumed both that he retired and that his Annuity Starting Date occurred on the day before his death, or
- (ii) If the Participant dies on or before attaining his Earliest Retirement Age, it shall be assumed that he merely separated from the service of the Employer on the date of his death but survived until his Earliest Retirement Age which was also his Annuity Starting Date.

If the Legacy VPA Participant has no Beneficiary, as defined in paragraph 7.4, then no Death Benefit is payable.

7.3(b) For purposes of paragraph 7.3(a):

- (i) A Participant’s “Earliest Retirement Age” is the earliest date under the Plan as of which he could elect to commence receiving his Basic Accrued Benefit, on the assumption that he had merely separated from the service of the Employer on the date of his death and had continued to survive.
- (ii) The “Earliest Commencement Date” is the Participant’s Earliest Retirement Age or, if later, the first day of the calendar month immediately following the month in which the Participant died.
- (iii) With respect to a Legacy VPA Participant and a Legacy VIT Participant who dies while employed by the Employer, the “Pre-Retirement Beneficiary’s Annuity” is the survivor annuity to which the Beneficiary would have been entitled under the Joint and 100% Survivor Annuity form of payment described in subparagraph 8.2(a) and named the Beneficiary as the contingent annuitant.

7.3(c) In the event that a Legacy VIT Participant dies after his employment with the Employer is terminated and before his Annuity Starting Date at a time when he has a non-forfeitable interest in his Basic Accrued Benefit, then the Spouse of such Participant shall be entitled to receive as a Death Benefit under the Plan (referred to as the “Pre-Retirement Death Benefit”) a survivor annuity, expressed in the form of a single life annuity payable monthly for the life of such Beneficiary commencing on the Spouse’s Earliest Commencement Date, equal to the Pre-Retirement Spouse’s Annuity determined as if the Participant had died on the day following his Annuity Starting Date under the appropriate one of the following assumed circumstances:

- (i) If the Participant dies after attaining his Earliest Retirement Age, it shall be assumed both that he retired and that his Annuity Starting Date occurred on the day before his death, or

(ii) If the Participant dies on or before attaining his Earliest Retirement Age, it shall be assumed that he merely separated from the service of the Employer on the date of his death but survived until his Earliest Retirement Age which was also his Annuity Starting Date.

If the Legacy VIT Participant has no Spouse, then no Death Benefit is payable.

7.3(d) For purposes of paragraph 7.3(c):

(i) A Participant's "Earliest Retirement Age" is the earliest date under the Plan as of which he could elect to commence receiving his Basic Accrued Benefit, on the assumption that he had merely separated from the service of the Employer on the date of his death and had continued to survive.

(ii) A Spouse's "Earliest Commencement Date" is the Participant's Earliest Retirement Age or, if later, the first day of the calendar month immediately following the month in which the Participant died.

(iii) The "Pre-Retirement Spouse's Annuity" is the survivor annuity to which the Spouse would have been entitled under the Joint and 50% Survivor Annuity form of payment described in subparagraph 8.2(a) and named the Beneficiary as the contingent annuitant.

7.4 **Beneficiary Designation**. The Participant shall be entitled to designate a Beneficiary hereunder by filing a designation in writing with the Plan Administrator on the form provided for such purpose. Any Beneficiary designation made hereunder shall be effective only if signed and dated by the Participant and delivered to the Plan Administrator prior to the time of the Participant's death. Any Beneficiary designation hereunder shall remain effective until changed or revoked hereunder.

7.4(a) Any Beneficiary designation may include contingent or successive Beneficiaries. The Participant shall designate the Beneficiary by name.

7.4(b) A Beneficiary designation may be changed by the Participant at any time, or from time to time, by filing a new designation in writing with the Plan Administrator.

7.4(c) If the Participant dies without having designated a Beneficiary, or if the Beneficiary so designated has predeceased him, the Participant's Beneficiary shall be deemed to be the Participant's surviving spouse. If the Participant dies without having designated a Beneficiary, or if the Beneficiary so designated has predeceased him and he has not surviving spouse, then he shall be deemed to have no Beneficiary and no Death Benefit shall be payable.

## **ARTICLE VIII** **Payment of Benefits**

### **8.1 Time of Payment.**

8.1(a) The Basic Accrued Benefit of a Participant shall become payable to the Participant, if then alive, at the earliest of the following applicable times:

(i) The Participant's Normal or Delayed Retirement Date on which he retires under the Plan.

(ii) The Participant's Normal Retirement Date if he is not then an Employee for reasons other than death.

(iii) The Participant's Unreduced Early Retirement Date on which he retires under the Plan.

(iv) The first day of any calendar month designated by the Participant if he is neither an Employee nor Disabled (as defined in paragraph 5.5), which date shall not be earlier than:

(A) His Reduced Early Retirement Date, nor later than his Normal Retirement Date, if the Participant retires on his Reduced Early Retirement Date, or

(B) The date on which the Participant attains the age required for Reduced or Unreduced Early Retirement, nor later than his Normal Retirement Date, if the Participant ceased to be an Employee at a time when he had satisfied the service requirement for Reduced or Unreduced Early Retirement.

In order for payment to begin, the Participant must file a written application therefor with the Administrator no later than thirty (30) days (or such other date as the Administrator may determine or permit on a uniform and non-discriminatory basis) before such designated date.

8.1(b) The Law Enforcement Supplement shall begin to be paid on the Law Enforcement Participant's Reduced or Unreduced Retirement Date or Normal Retirement Date on which he retires from employment in a hazardous duty position with the Employer.

8.1(c) The Pre-Retirement Beneficiary's Death Benefit with respect to a Participant shall become payable to his Beneficiary at the following applicable time:

(i) The date which would have been the Participant's Normal Retirement Date, if he dies before then.

(ii) The date which would have been the Participant's next available Delayed Retirement Date, if he dies on or after his Normal Retirement Date.

(iii) The first day of any calendar month coinciding with or following the Participant's Beneficiary's or Spouse's Earliest Commencement Date (as determined pursuant to subparagraph 7.3(b) or (d)), if his Beneficiary requests in writing payment in annuity form at that time and if earlier than the time for payment otherwise provided under this subparagraph. Any such request shall be filed with the Administrator at least thirty (30) days (or such other date as the Administrator may determine or permit on a uniform and non-discriminatory basis) before the date such Death Benefit is requested to be paid.

8.1(d) Notwithstanding the foregoing provisions of this paragraph, payment may be delayed for a reasonable period of time in the event the recipient cannot be located or is not competent to receive the benefit payment, there is a dispute as to the proper recipient of such benefit payment, additional time is needed to calculate the Accrued Benefit or Death Benefit, or additional time is necessary to properly explain the recipient's options.

8.2 **Form of Basic Accrued Benefit Payment.** A Participant shall be paid the non-forfeitable Basic Accrued Benefit to which he is entitled in one of the forms hereafter provided in this paragraph 8.2, commencing as provided in paragraph 8.1, and having the same Actuarial Value as the form stated in subparagraph 4.1(a).

8.2(a) Basic Accrued Benefit payments to a Participant shall be in the form of a single annuity for the life of the Participant, payable in equal monthly amounts on the first day of each calendar month during the lifetime of such Participant. This annuity is sometimes referred to herein as a "Single Life Annuity".

8.2(b) Each Participant shall have the right to elect in accordance with the provisions of subparagraph 8.2(e) in lieu of the normal form of benefit provided in subparagraph 8.2(a), to receive his non-forfeitable Basic Accrued Benefit in one of the following optional forms:

(i) In the case of a Basic Accrued Benefit commencing before the earliest date at which the Participant is entitled to unreduced primary insurance benefits under the Federal Social Security Act (his “Social Security Payment Date”) and otherwise payable as a Single Life Annuity, increased monthly amounts until the Participant has reached his Social Security Payment Date and reduced monthly amounts thereafter, so determined as to provide the Participant with equal aggregate monthly retirement benefits under the Plan and primary insurance benefits under the Federal Social Security Act from and after his Annuity Starting Date. This annuity is sometimes referred to herein as the “Social Security Option Annuity.”

8.2(c) Each Legacy VPA Participant shall have the right to elect in accordance with the provisions of subparagraph 8.2(e) in lieu of the normal form of benefit provided in subparagraph 8.2(a) or the optional form described in subparagraph 8.2(b), to receive his non-forfeitable Basic Accrued Benefit in one of the following optional forms:

(i) A joint and survivor annuity which provides for the payment to the Participant entitled thereto of equal monthly amounts on the first day of each calendar month during his lifetime and continuing thereafter for the lifetime of his Beneficiary at the rate of (A) fifty percent (50%), or (B) one hundred percent (100%) of such monthly payment to the Participant. These annuities are sometimes referred to herein as a “Joint and 50% Survivor Annuity” and a “Joint and 100% Survivor Annuity”, respectively. Notwithstanding, however, in no event shall the Actuarial Equivalent of the benefit expected to be paid to a Beneficiary who is not the Participant’s surviving spouse exceed the Actuarial Equivalent of the benefit expected to be paid to the Participant during his lifetime.

8.2(d) Each Legacy VIT Participant shall have the right to elect in accordance with the provisions of subparagraph 8.2(e) in lieu of the normal form of benefit provided in subparagraph 8.2(a) or the optional form described in subparagraph 8.2(b), to receive his non-forfeitable Basic Accrued Benefit in one of the following optional forms:

(i) A joint and survivor annuity which provides for the payment to the Participant entitled thereto of equal monthly amounts on the first day of each calendar month during his lifetime and continuing thereafter for the lifetime of his Spouse at the rate of (A) fifty percent (50%), or (B) one hundred percent (100%) of such monthly payment to the Participant. These annuities are sometimes referred to herein as a “Joint and 50% Spouse Survivor Annuity” and a “Joint and 100% Spouse Survivor Annuity”, respectively.

(ii) A joint and survivor annuity which provides for the payment to the Participant entitled thereto of equal monthly amounts on the first day of each calendar month during his lifetime and continuing thereafter for the lifetime of his Beneficiary at the rate of thirty-three and 1/3<sup>rd</sup> percent (33-1/3%) of such monthly payment to the Participant. These annuities are sometimes referred to herein as a “Joint and 33-1/3% Survivor Annuity.” Notwithstanding, however, in no event shall the Actuarial Equivalent of the benefit expected to be paid to a Beneficiary who is not the Participant’s surviving spouse exceed the Actuarial Equivalent of the benefit expected to be paid to the Participant during his lifetime.

(iii) A monthly annuity for the life of the Participant with payments guaranteed for a period of 120 months. If the Participant receives the guaranteed number of payments before his death, payment shall continue until his death but no benefit shall be due the Beneficiary after the Participant’s death. In the event the Participant should die before 120 monthly payments have been made, payment shall continue to a Beneficiary until an aggregate of 120 monthly payments have been made. If the designated Beneficiary is not living at the death of the Participant, the Actuarial Equivalent of the remaining guaranteed payments shall be paid in a lump sum to the estate of the Participant. If the payments are continued to the Beneficiary and the Beneficiary should then die before a combined total of one hundred twenty (120) payments have been made to the Participant and the Beneficiary, the Actuarial Equivalent of the remaining guaranteed payments shall be paid in a lump sum to the estate of the Beneficiary.

8.2(e) Election of the form of payment shall be made by the Participant on a form provided by the Administrator within the sixty (60) days prior to the Annuity Starting Date.

8.2(f) A Window Retiree may elect to have his Window Retirement Benefit described in Appendix C, Appendix E or Appendix F (as applicable) paid in the same form and same manner as his Accrued Benefit, except that the Window

Retirement Benefit described in Appendix C, Appendix E or Appendix F (as applicable) of a Window Retiree who is a Participant solely by reason of being a Window Retiree shall be paid as a Single Life Annuity described in subparagraph 8.2(a). Alternatively, a Window Retiree may elect during the period described in subparagraph 8.2(e) to have the actuarial present value of his Window Benefit determined in the manner described in subparagraph A-1.4(d) of Appendix A, paid in a lump sum as described in subparagraph C-1.5(c) of Appendix C, subparagraph E-1.5(c) of Appendix E or subparagraph F-1.5(c) of Appendix F.

8.2(g) Notwithstanding the limitations set forth in subparagraph 8.11(a), a Participant who resides in Korea may elect during the period described in subparagraph 8.2(c) to have the actuarial present value of his Accrued Benefits determined in the manner described in subparagraph A-1.4(d) of Appendix A, paid in a lump sum (subject to the provisions of paragraph 8.7).

8.2(h) A Participant who receives additional Creditable Service under subparagraph 1.13(a)(ii) may elect to have his entire Accrued Benefit paid in the form and manner described above. Alternatively, a Participant who receives additional Creditable Service under subparagraph 1.13(a)(ii) may elect during the period described in subparagraph 8.2(e) to have the actuarial present value of the Accrued Benefit attributable to such additional Creditable Service determined in the manner described in subparagraph A-1.4(d) of Appendix A, paid in a lump sum (subject to paragraph 8.7).

8.3 **Permissible Changes in Form of Payment After Annuity Starting Date.** A retired Legacy VPA Participant who has elected a Joint and Survivor Annuity Option may, in the manner prescribed by the Administrator, revoke such election and elect to receive from the date of such election either the Basic Accrued Benefit under the Single Life Annuity Option or a Joint and Survivor annuity with a different Beneficiary if the original Beneficiary has died, a final decree of divorce of the retired member from the original Beneficiary has been entered or the written consent of the original Beneficiary, together with evidence satisfactory to the Administrator of the good health of the original Beneficiary is submitted to the Administrator. If the provisions of this paragraph are invoked by a retired Participant on the basis of a divorce, if the marriage had been of a duration of twenty or more years, then the provisions of this paragraph shall not be applicable until the death or remarriage of the former spouse, unless such spouse consents in writing to the revocation of the option prior to death or remarriage. If such an election is made as a result of death or divorce, of the Beneficiary, then benefits payable to the retired Participant may be adjusted retroactively for a period not more than sixty (60) days from the date the Administrator is first notified of the retired Participant's desire to make the change.

8.4 **Form of Law Enforcement Supplement.** The Law Enforcement Supplement shall be paid to the Law Enforcement Participant on the first day of each calendar month. Such payments shall cease upon the earlier of the Law Enforcement Participant's reaching his Social Security Retirement Age (as defined in paragraph 4.3) or death.

8.5 **Form of Death Benefit Payment.** The Pre-Retirement Beneficiary's Death Benefit shall be paid in the form of a single annuity for the life of the Beneficiary entitled thereto payable in equal monthly amounts on the first day of each calendar month during the lifetime of the Beneficiary, commencing as provided in paragraph 8.1 and having the same Actuarial Value as the form stated in subparagraph 7.3(a) or 7.3(c).

8.6 **Effect of Reemployment.** If a Participant again becomes an Eligible Employee, payment of his Accrued Benefit shall cease and shall recommence in the same form, upon his subsequent retirement or termination of employment and his benefit payments shall be adjusted to reflect any greater Basic Accrued Benefit to which he may then be entitled.

8.7 **Plan to Plan Direct Rollover as a Distribution Option.**

8.7(a) Notwithstanding any contrary provision of the Plan, but subject to any de minimis or other exceptions or limitations provided for under Section 401(a)(31) of the Code:

- (i) Any prospective recipient (whether a Participant, a surviving spouse or a current or former spouse who is an alternate payee under a qualified domestic relations order) of a distribution from the Plan which constitutes an "eligible rollover distribution" (to the extent otherwise includible in the recipient's gross income) may direct the Trustee to pay the distribution directly to an "eligible retirement plan";

(ii) If (A) the present value of the entire non-forfeitable Accrued Benefit payable to a Participant exceeds \$1,000, (B) the Participant has not attained the later of his Normal Retirement Age or the age of sixty-two (62) and (C) the Participant does not either consent in writing to a distribution to him (as opposed to a rollover to an “eligible retirement plan”) or direct in writing the distribution be made to a specified “eligible retirement plan” or plans, then any “eligible rollover distribution” to the Participant shall be made by the Trustee’s paying the distribution directly to an “eligible retirement plan” which is an individual retirement plan in a direct rollover to the individual retirement plan on behalf of the Participant (an “automatic rollover”); and

(iii) Any non-spouse designated Beneficiary within the meaning of Section 401(a)(9)(E) of the Code who is a prospective recipient of an “eligible rollover distribution” from the Plan may direct the Trustee to pay the distribution directly to an “inherited IRA”.

8.7(b) For purposes hereof, the following terms have the meanings assigned to them in Section 401(a)(31) of the Code and, to the extent not inconsistent therewith, shall have the following meanings:

(i) Except as provided below, the term “eligible retirement plan” means a defined contribution plan which is either an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code (other than an endowment contract), an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the prospective recipient’s eligible rollover distribution.

(A) An “eligible retirement” plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan.

(B) The definition of “eligible retirement plan” applicable to a Participant shall also apply in the case of a distribution to a Participant’s surviving spouse and to a Participant’s spouse or former spouse who is the alternate payee under a QDRO.

(C) An “eligible retirement plan” includes an individual retirement plan described in section 408A of the Code (sometimes referred to as a Roth IRA).

(D) In the case of an eligible rollover distribution payable to a non-spouse designated Beneficiary within the meaning of Section 401(a)(9)(E) of the Code, an “eligible retirement plan” means only an “inherited IRA”.

(ii) The term “eligible rollover distribution” means any distribution made after December 31, 1992 other than any of the following:

(A) A distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made either for the life (or life expectancy) of the recipient or the joint lives (or joint life expectancies) of the recipient and his beneficiary who is an individual or for a specified period of ten (10) or more years.

(B) A distribution to the extent it is required under the minimum distribution requirement of Section 401(a)(9) of the Code.

(C) That portion of a hardship withdrawal attributable to pre-tax elective contributions or other contributions subject to the withdrawal restrictions of Section 401(k)(2)(B)(i)(IV) of the Code.

(D) Any amount that is distributed on account of hardship (whether or not subject to the withdrawal restrictions of Section 401(k)(2)(B)(i)(IV) of the Code).

(E) Any other amount which is not considered an eligible rollover distribution for purposes of Section 402(c)(4) of the Code with respect to the Plan.

A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred and earnings thereon, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. Such portion may also be paid to an annuity contract described in Section 403(b) of the Code or a qualified defined benefit plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred and earnings thereon, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(iii) The term “inherited IRA” means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code (other than an endowment contract) or an individual retirement plan described in section 408A of the Code (sometimes referred to as a Roth IRA) established for the purpose of receiving the distribution where the individual retirement account or annuity or Roth IRA is treated as an inherited individual retirement account or annuity within the meaning of Section 408(d)(3)(C) or, as applicable, Section 409A(d)(3)(B) of the Code.

8.7(c) Any such direction shall be filed with the Administrator in such form and at such time as the Administrator may require and shall adequately specify the eligible retirement plan to which the payment shall be made.

8.7(d) The Trustee shall make payment as directed only if the proposed transferee plan will accept the payment.

8.7(e) Any such plan to plan transfer shall be considered a distribution option under this Plan and shall be subject to all the usual distribution rules of this Plan (including but not limited to the requirement of spousal consent, where applicable, and an advance explanation of the option).

8.7(f) The Administrator is authorized in its discretion, applied on a uniform and non-discriminatory basis, to apply any discretionary de minimis or other discretionary exceptions or limitations provided for under Section 401(a)(31) of the Code in effecting or declining to effect plan to plan transfers hereunder.

8.7(g) Within a reasonable time (generally not more than ninety (90) nor less than thirty (30) days) before the benefit payment date of a prospective recipient of an eligible rollover distribution from the Plan, the Administrator shall provide the prospective recipient with a written explanation of the rollover and tax rules required by Section 402(f) of the Code. In addition, where the prospective distribution is described in clause (ii) of subparagraph 8.7(a), the Administrator shall provide the written notice to the prospective recipient required by Sections 401(a)(31)(B)(i) of the Code (either separately or at the time the notice under Section 402(f) of the Code is provided) that the automatic rollover to an individual retirement plan pursuant to clause (ii) of subparagraph 8.7(a) may be transferred to another individual retirement plan.

8.7(h) In the case of an automatic rollover described in clause (ii) of subparagraph 8.7(a):

(i) Unless otherwise determined by the Plan Sponsor by written agreement with another Plan fiduciary, the Administrator shall determine the individual retirement plan to receive the automatic rollover and the initial investment under the individual retirement plan in which the automatic rollover is invested;

(ii) The automatic rollover shall be made to an individual retirement plan within the meaning of Section 7701(a)(37) of the Code;

(iii) In connection with the automatic rollover, the Administrator shall enter into a written agreement with the individual retirement plan provider that provides:

(A) The rolled-over funds shall be invested in an investment product designed to preserve principal and provide a reasonable rate of return, whether or not such return is guaranteed, consistent with liquidity;

(B) For purposes of clause (iii)(A) of this subparagraph, the investment product selected for the rolled-over funds shall seek to maintain, over the term of the investment, the dollar value that is equal to the amount invested in the product by the individual retirement plan;

(C) The investment product selected for the rolled-over funds shall be offered by a state or federally regulated financial institution, which shall be either (I) a bank or savings association, the deposits of which are insured by the Federal Deposit Insurance Corporation, (II) a credit union, the member accounts of which are insured within the meaning of Section 101(7) of the Federal Credit Union Act, (III) an insurance company, the products of which are protected by State guaranty associations, or (IV) an investment company registered under the Investment Company Act of 1940;

(D) All fees and expenses attendant to an individual retirement plan, including investments of the individual retirement plan (e.g., establishment charges, maintenance fees, investment expenses, termination costs and surrender charges) shall not exceed the fees and expenses charged by the individual retirement plan provider for comparable individual retirement plans established for reasons other than the receipt of a rollover distribution subject to the provisions of Section 401(a)(31)(B) of the Code; and

(E) The recipient on whose behalf the Plan makes an automatic rollover shall have the right to enforce the terms of the contractual agreement establishing the individual retirement plan, with regard to his rolled-over funds, against the individual retirement plan provider.

(iv) Participants shall be furnished a summary plan description, or a summary of material modifications, that describes the Plan's automatic rollover provisions effectuating the requirements of Section 401(a)(31)(B) of the Code, including an explanation that the mandatory distribution in the form of an automatic rollover will be invested in an investment product designed to preserve principal and provide a reasonable rate of return and liquidity, a statement indicating how fees and expenses attendant to the individual retirement plan will be allocated (i.e., the extent to which expenses will be borne by the account holder alone or shared with the distributing Plan or Plan Sponsor), and the name, address and phone number of a plan contact (to the extent not otherwise provided in the summary plan description or summary of material modifications) for further information concerning the Plan's automatic rollover provisions, the individual retirement plan provider and the fees and expenses attendant to the individual retirement plan; and

It is intended that the automatic rollover provisions of the Plan satisfy the safe harbor therefore under VA Code Section 5.1-803.C., and such provisions shall be interpreted and administered in accordance therewith.

## 8.8 **Benefit Determination and Payment Procedure.**

8.8(a) The Administrator shall make all determinations concerning eligibility for benefits under the Plan, the time or terms of payment, and the forms or manner of payment to the Participant or the Participant's Beneficiary, in the event of the death of a Participant. The Administrator shall promptly notify the Trustee of each such determination that benefit payments are due or should cease to be made and provide to the Trustee all other information necessary to allow the Trustee to carry out said determination, whereupon the Trustee shall pay or cease to pay such benefits from the Fund in accordance with the Administrator's determination.

8.8(b) In making the determinations described in subparagraph 8.8(a), the Administrator shall take into account the terms of any ADRO received with respect to the Accrued Benefit of the Participant or any Death Benefit with respect to the Participant. The time and form of payment with respect to the ADRO and the time and form of payment chosen by the Participant or required by the Plan shall not be altered by the terms of the ADRO. The Administrator shall make all determinations regarding benefit payments to be made pursuant to a ADRO. Any benefit payment which may be subject to the terms of a domestic relations order received by the Administrator shall be suspended during the period the Administrator is considering whether the order is a ADRO. In the event that benefits are in pay status at the time that a domestic relations order is received, the Administrator shall promptly notify the Trustee of the amount, if any, of the benefit payments that must be suspended for the period required by the Administrator to determine the status of the order. Upon the completion of the Administrator's review or other determination of the status of the order, the Administrator shall promptly notify the Trustee of the time benefit payments are to commence or resume, and of the identity of, and the amount and form of benefits to be paid to the person or persons to whom payment is to be made.

8.8(c) To the extent the payment provisions of the Plan are inconsistent with and violative of the requirements of Section 401(a)(9) of the Code, the provisions of Section 401(a)(9) of the Code are hereby incorporated by reference and shall control.

8.9 **Payments to Minors and Incompetents.** If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits will be paid to such person as the Administrator may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

8.10 **Distribution of Benefit When Distributee Cannot Be Located.** The Administrator shall make all reasonable attempts to determine the identity and/or whereabouts of a Participant or a Participant's Beneficiary entitled to any other benefit under the Plan, including the mailing by certified mail of a notice to the last known address shown on the Employer's, the Administrator's or the Trustee's records. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Trustee shall continue to hold the benefit due such person, subject to any applicable statute of escheats.

8.11 **Benefit Cash-Out.**

8.11(a) Notwithstanding the time and form of payment provided for elsewhere in this ARTICLE VIII and in lieu of payment pursuant to paragraph 8.2 (but only at or prior to the time the benefit would otherwise commence to be paid thereunder), the Actuarial Value of the non-forfeitable Accrued Benefit of a Participant (determined as of the date of termination of employment or required benefit commencement) shall be paid in the form of a lump sum in cash (a "cash-out") as soon as reasonably practicable (generally during the last month of each Plan Year) after the Participant's termination of employment with the Employer or, if earlier, any required time for benefit commencement under subparagraph 8.1(a), if the Actuarial Value (determined using the assumptions set forth in subparagraph A-1.4(d) of Appendix A to the Plan) of such Participant's entire non-forfeitable Accrued Benefit does not exceed \$10,000 at the time of the cash-out.

8.11(b) Notwithstanding the time and form of payment provided for elsewhere in this ARTICLE VIII and in lieu of payment pursuant to paragraph 8.5 (but only at or prior to the time the benefit would otherwise commence to be paid thereunder), the Actuarial Value of the Pre-Retirement Spouse's Death Benefit with respect to a Participant (determined as of the date of the Participant's death) shall be paid in the form of a lump sum in cash (a "cash-out") as soon as reasonably practicable (generally during the last month of each Plan Year) after the Participant's death if the Actuarial Value (determined using the assumptions set forth in subparagraph A-1.4(d) of Appendix A to the Plan) of the Pre-Retirement Death Benefit with respect to such Participant's does not exceed \$10,000 at the time of the cash-out.

8.11(c) Following a cash-out pursuant to this paragraph, a Participant shall cease to be a Participant in the Plan. In the event such Participant again becomes an Eligible Employee on or after July 1, 2011 but before January 28, 2014, he shall be a Post-6/30/11 Participant with respect to any Accrued Benefit accrued after such rehire.

**ARTICLE IX**  
**The Fund**

9.1 **Trust Fund and Exclusive Benefit.** The Trustee shall receive all contributions under and all assets transferred to the Plan and shall invest and administer them as a trust fund (the “Fund”) for the exclusive benefit of the Participants and Beneficiaries hereunder in accordance with the Plan. Except as otherwise expressly provided herein, no part of the corpus or income of the Fund shall revert to or be used or enjoyed by the Employer or be used for, or diverted to, purposes other than the exclusive benefit of the Participants or their Beneficiaries and the defrayal of reasonable expenses of the Plan and Fund. The rights of all persons hereunder are subject to the terms of the Plan.

9.2 **Plan and Fund Expenses.** Unless or to the extent not paid by the Employer without being advanced subject to reimbursement (which shall make such payments as directed by the Plan Sponsor) or unless prohibited by the Code, all expenses of the Plan and the Fund, including reasonable legal, accounting, actuarial, custodial, brokerage, consulting and other fees and expenses incurred in the establishment, amendment, administration and termination of the Plan or the Fund and/or the compensation of the Trustee and other fiduciaries of the Plan to the extent provided under the Plan, and all taxes of any nature whatsoever, including interest and penalties, assessed against or imposed upon the Fund or the income thereof shall be paid out of the Fund and shall constitute a charge upon the Fund. The Plan Sponsor may cause the Employer to advance any or all such expenses and/or taxes on behalf of the Fund, subject to the Employer’s right of reimbursement from the Fund if so directed by the Plan Sponsor and to the applicable prohibited transaction provisions of the Code.

9.3 **Reversions to the Employer.**

9.3(a) If a contribution by the Employer is made under a mistake of fact, upon written direction by the Plan Sponsor, the Trustee shall return to the Employer an amount equal to such mistaken contribution, less any losses attributable to such mistaken contribution, within one year after payment of such contribution.

9.3(b) If it is finally determined by the Internal Revenue Service or a court of competent jurisdiction on review of the Internal Revenue Service’s determination that the Plan as initially adopted (if an application for a determination is timely filed with the Internal Revenue Service by the date, including extensions thereof, on which the Employer’s federal income tax return for its taxable year in which the Plan was adopted is due to be filed) does not qualify under Section 401 of the Code, the Trustee shall return to the Employer within one year after the date of notice of such disqualification all assets attributable to its contributions to the Plan received by the Trustee and made since the date the Plan was adopted, except to the extent otherwise directed by the Plan Sponsor.

9.3(c) After the termination of the Plan as a whole and after all fixed and contingent liabilities of the Fund to Participants and their Beneficiaries have been satisfied, any remaining assets of the Fund shall be distributed to the Employer as the Plan Sponsor may direct.

9.4 **No Interest Other Than Plan Benefit.** Nothing contained herein shall be deemed to give any Participant or Beneficiary any interest in any specific part of the Fund or any interest other than his right to receive benefits in accordance with the provisions of the Plan.

9.5 **Provisions Relating to Insurer.**

9.5(a) No Insurer shall be deemed a party to the Plan or responsible for the validity thereof.

9.5(b) No Insurer shall be required to determine either:

(i) That a person for whom the Trustee applies for a Policy is, in fact, eligible for participation or entitled to benefits under the Plan,

- (ii) Any fact necessary for the proper issuance of any Policy or Contract, or
- (iii) The proper distributions or further application of any moneys paid by it to the Trustee in accordance with the written direction of the Trustee;

and with respect to each of the foregoing, the Insurer shall be fully indemnified and protected in relying upon the advice and direction of the Trustee.

9.5(c) Any notice, direction, application or other communication whatsoever shall be accepted by the Insurer as duly authorized and executed if signed by the Trustee. The Insurer shall be fully protected in assuming that the Trustee is as shown in the latest notification received by it at its home office.

9.5(d) Except as may be otherwise provided in any binding receipt issued by the Insurer, there shall be no coverage and no annuity or death benefit payable under any Policy to be purchased from any Insurer until such Policy shall have been issued and the premium therefor shall have been paid.

#### 9.6 **Payments from the Fund.**

9.6(a) The Trustee shall make all payments from the Fund which become due hereunder in accordance with the written instructions or directions of the Administrator. In directing the Trustee to make any payments or deliveries out of the Fund, the Administrator shall follow the provisions of the Plan. The Trustee acting in accordance with such instructions or directions shall be fully protected and indemnified by the Employer in relying upon any such written instruction or direction which the Trustee reasonably and in good faith believes to be proper.

9.6(b) The Trustee shall make provision for the reporting and withholding of any federal, state or local taxes that may be required to be withheld with respect to the payment of benefits pursuant to the terms of the Plan and shall pay amounts withheld to the appropriate taxing authorities or determine that such amounts have been reported, withheld and/or paid.

### **ARTICLE X** **Fiduciaries**

10.1 **Named Fiduciaries and Duties and Responsibilities.** Authority to control and manage the operation and administration of the Plan shall be vested in the following, who, together with their membership, if any, shall be the Named Fiduciaries under the Plan with those powers, duties, and responsibilities specifically allocated to them by the Plan:

10.1(a) **Trustee** - The Trustee in connection with its fiduciary obligations relating to the Plan and the Fund.

10.1(b) **Plan Sponsor** - The Plan Sponsor in connection with its fiduciary obligations and rights relating to the Plan and the Fund.

10.1(c) **Plan Administrator** - The Plan Administrator in connection with its fiduciary obligations and rights relating to the Plan and the Fund.

10.2 **Limitation of Duties and Responsibilities of Named Fiduciaries.** The duties and responsibilities, and any liability therefor, of the Named Fiduciaries provided for in paragraph 10.1 shall be severally limited to the duties and responsibilities specifically allocated to each such Named Fiduciary in accordance with the terms of the Plan, and there shall be no joint duty, responsibility, or liability among any such groups of Named Fiduciaries in the control and management of the operation and administration of the Plan.

10.3 **Service by Named Fiduciaries in More Than One Capacity.** Any person or group of persons may serve in more than one Named Fiduciary capacity with respect to the Plan (including both service as Trustee and Plan Administrator).

10.4 **Allocation or Delegation of Duties and Responsibilities by Named Fiduciaries.** By written agreement filed with the Plan Administrator and the Plan Sponsor, the duties and responsibilities of the Trustee with respect to the management and control of the assets of the Fund may, with the written consent of the Plan Sponsor, be allocated among the Trustees (if there are two or more persons so serving) and any other duties and responsibilities of any Named Fiduciary may be allocated among Named Fiduciaries or may, with the consent of the Plan Sponsor, be delegated to persons other than Named Fiduciaries. The delegation permitted under this paragraph includes the Trustee's right to select a custodian to hold the assets of the Fund. Any written agreement shall specifically set forth the duties and responsibilities so allocated or delegated, shall contain reasonable provisions for termination, and shall be executed by the parties thereto.

10.5 **Investment Manager.** The Plan Sponsor may appoint one or more Investment Managers to manage all or any portion of the Fund. The appointment of any such Investment Manager shall be by written agreement, which shall specify the scope of the powers and duties of such Investment Manager, shall contain reasonable provisions for the termination of such appointment, may require or allow any Investment Manager to perform or to select the person performing asset custodial services for all or part of the Fund, and shall be executed by the parties thereto and acknowledged by the Trustee. An Investment Manager appointed pursuant to any such agreement shall acknowledge therein its status as a fiduciary with respect to the Plan.

10.6 **Assistance and Consultation.** A Named Fiduciary, and any delegate named pursuant to paragraph 10.4, may engage agents to assist in its duties and may consult with counsel, who may be counsel for the Employer, with respect to any matter affecting the Plan or its obligations and responsibilities hereunder, or with respect to any action or proceeding affecting the Plan. All compensation and expenses of such agents and counsel shall be paid or reimbursed from the Fund, except to the extent prohibited by the Code and except to the extent paid or reimbursed by the Employer.

10.7 **Indemnification.** The Employer shall indemnify and hold harmless any individual who is a Named Fiduciary or a member of a Named Fiduciary under the Plan and any other individual to whom duties of a Named Fiduciary are delegated pursuant to paragraph 10.4, to the extent permitted by law, from and against any liability, loss, cost or expense arising from their good faith action or inaction in connection with their responsibilities under the Plan.

## **ARTICLE XI**

### **Powers and Duties of Trustee**

11.1 **Trustee Powers and Duties.** Subject to the following provisions of this ARTICLE XI, the Trustee shall commingle and jointly invest, or where specifically provided herein shall segregate and separately invest, the assets of the Fund, without distinction between corpus and income.

11.1(a) The Trustee shall hold the Fund in trust, shall have the following general powers granted in this paragraph, subject to the directions, limitations, restrictions or prohibitions imposed hereunder, and, except as otherwise specifically provided herein, shall have exclusive authority and discretion in its management and control of the Fund.

(i) The Trustee shall invest and reinvest the Fund in such stocks, stock options (whether or not covered), warrants and rights, puts, calls, stock-index futures, bonds, securities, commodities, commodity futures and options, real estate mortgages, real estate investment trusts or funds, real estate, partnership interests, mutual funds, closed-end investment companies, regulated investment companies or trusts, common, collective or group trust funds (except as otherwise limited hereunder) and other investments, and in such proportion, as may be deemed suitable for the purposes and the funding policy hereof.

(ii) Such investments shall not be restricted to property and securities of the character authorized for investment by trustees under any present or future laws.

(iii) To the extent permitted by law, the Trustee is expressly authorized to invest and reinvest the Fund and to execute any joinder or similar agreement therefor on behalf of the Plan:

(A) In any general common trust fund qualifying under Section 584 of the Code and maintained by any person, including but not limited to the Trustee or any affiliate of the Trustee in the same bank holding system affiliated group, as defined in Section 1504 of the Code, as the Trustee (if the Trustee and any such affiliate are banks or trust companies supervised by a state or federal agency) and/or the Investment Manager or any affiliate of the Investment Manager;

(B) In any other collective or group trust fund maintained by any person, including but not limited to any such bank or trust company and/or the Investment Manager or any affiliate of the Investment Manager, and consisting solely of assets of qualified retirement trusts and/or individual retirement accounts exempt from federal income taxation under the Code, as the Trustee or, where applicable, the Investment Manager in its discretion may determine (whether or not the Trustee or, where applicable, the Investment Manager is such a bank or trust company), provided such collective or group trust is so qualified and exempt under the Code;

(C) In Contracts or Policies (not containing or providing life insurance) issued to provide or fund benefits under the Plan, and in Policies of life insurance on the lives of Participants if the Plan expressly provides for the purchase of such Policies and the Administrator so directs, (whether or not the Insurer is the Plan Sponsor or any affiliate of the Plan Sponsor, or the Investment Manager or any affiliate of the Investment Manager, if an insurance company).

(D) In whole or in part in deposits with any bank or similar financial institution supervised by the United States or a State, regardless of whether such bank or other institution is a Trustee or other fiduciary hereunder, provided such deposits shall bear a reasonable rate of interest, except that funds may be deposited in non-interest bearing accounts to such extent and for such time as may be reasonably required for the orderly administration of the Plan; or

(E) In any mutual fund, closed-end investment company, regulated investment company or trust, or similar pooled investment medium, whether or not maintained by or advised by the Trustee or any affiliate of the Trustee or the Investment Manager or any affiliate of the Investment Manager.

(iv) If an investment is made in a common, collective or group trust, the Trustee is expressly authorized to incorporate the terms thereof as an investment medium under and as a part of the Plan, and the terms of such trust shall govern the investment, disposition and distribution of the assets of such trust.

11.1(b) Subject to the requirements imposed by law, and in furtherance and not in limitation of the Trustee's investment authority, the Trustee shall have all powers and authority necessary or advisable to carry out the provisions of the Plan, and all inherent, implied and statutory powers now or subsequently provided by law, including specifically the power to do any of the following:

(i) To deal with all or any part of the Fund, including, without limitation, to invest, reinvest and change investment;

(ii) To acquire any property by purchase, subscription, lease or other means;

(iii) To sell for cash or on credit, convey, lease for long or short terms, or convert, redeem or exchange all or any part of the Fund;

(iv) To borrow money for the purpose of the Fund, and for any sum so borrowed to issue its promissory note as Trustee and to secure the repayment thereof by pledging all or any part of the Fund;

- (v) To enforce by suit or otherwise, or to waive its rights on behalf of the Fund, and to defend claims asserted against him or the Fund;
- (vi) To compromise, adjust and settle any and all claims against or in favor of it or the Fund;
- (vii) To renew, extend or foreclose any mortgage or other security;
- (viii) To bid in property on foreclosure;
- (ix) To take deeds in lieu of foreclosure, with or without paying a consideration therefor;
- (x) To vote, or give proxies to vote, any stock or other security, and to oppose, participate in and consent to the reorganization, merger, consolidation or readjustment of the finances of any enterprise, to pay assessments and expenses in connection therewith, and to deposit securities under deposit agreements;
- (xi) To hold Plan assets unregistered (including in bearer form), or to register them in its own name, in street name or in the names of nominees who are within the jurisdiction of the district courts of the United States and are either banks or trust companies that are subject to supervision by the United States or a state thereof, brokers or dealers registered under the Securities Exchange Act of 1934, clearing agencies as defined in Section 3(a)(23) of the Securities Exchange Act of 1934, permissible nominees of any of the foregoing, or any other persons or entities permitted to act as nominee for the Trustee, provided the books and records of the Fund shall at all times reflect that the Fund is the beneficial owner of such securities;
- (xii) To make, execute, acknowledge and deliver any and all instruments that it shall deem necessary or appropriate to carry out the powers herein granted; and generally to exercise any of the powers of an owner with respect to all or any part of the Fund; and
- (xiii) Generally to exercise any of the powers of an owner with respect to all or any portion of the Fund.

No person dealing with the Trustee shall be bound to see to the application of any money or property paid or delivered to the Trustee or to inquire into the validity or propriety of any transaction.

11.1(c) The Trustee shall not have the power or duty to inquire into the correctness of the amount tendered to it as required by the Plan nor to enforce the payment of contributions thereunder by the Employer. The Trustee shall be responsible only for such sums and assets that it actually receives as Trustee.

11.2 **Accounts.** The Trustee shall keep true and accurate accounts of all investments, receipts, and disbursements and other transactions hereunder, and all accounts, books and records relating thereto shall be open to inspection and audit at all reasonable times by any person or persons designated by the Plan Sponsor. Within sixty (60) days after the removal or resignation of the Trustee and as of each valuation date, the Trustee shall file with the Plan Sponsor a valuation of the assets of the Trust, an accounting of its transactions since the last previous such accounting and a report of all material soft dollar transactions as defined in Virginia Code Section 51.1-1000.3. In addition, the Plan Sponsor may require an accounting from the Trustee at any other reasonable time. No employee and no person other than those designated by the Plan Sponsor shall have the right to demand or be entitled to any accounting by the Trustee except as otherwise provided by law.

11.3 **Two or More Trustees.** In the event two or more persons are at any time serving as Trustee hereunder, such Trustees shall jointly manage and control the Fund; provided, however, that pursuant to paragraph 10.4 such Trustees may enter into an agreement in writing with respect to the allocation of specific responsibilities, obligations or duties among themselves. Any written agreement entered into pursuant to this paragraph shall be attached to and made a part of the Plan.

11.4 **Management of Fund by Investment Manager.** In the event an Investment Manager is appointed for all or part of the assets of the Fund, the Trustee shall follow the directions of the Investment Manager in managing and

controlling the assets of the Fund subject to the direction and control of the Investment Manager. The Investment Manager shall be governed by the powers and restrictions imposed on the Trustee in its management and control of the Fund.

11.5 **Trustee Compensation and Expenses.** The Trustee shall be paid such reasonable compensation and shall be reimbursed for its reasonable expenses as shall from time to time be agreed upon by the Plan Sponsor and the Trustee.

11.6 **Trustee Resignation, Removal or Death and Appointment of Successor or Additional Trustee.**

11.6(a) In the event the Trustee or Trustees serving hereunder have been named Trustee by virtue of any office they may hold in connection with their employment by the Plan Sponsor, upon leaving any such office, such Trustee shall at once cease to be a Trustee and shall be discharged from all further duties and responsibilities as Trustee. Upon acceptance in writing of its status as Trustee hereunder by the successor in office of any such Trustee, he shall become a Trustee hereunder.

11.6(b) The Trustee may resign at any time upon delivering to the Plan Sponsor a written notice of such resignation to take effect not less than sixty (60) days after the delivery thereof unless the Plan Sponsor shall accept as adequate a shorter notice. The Trustee may be removed by the Plan Sponsor, by mailing notice by registered mail addressed to the Trustee at his last known address, or by delivery of same to the Trustee to take effect not less than sixty (60) days after mailing or delivery of such notification unless notice of a shorter duration shall be accepted as adequate. The Administrator shall be notified by the Plan Sponsor of any such resignation or removal.

11.6(c) In case of the resignation or removal of a Trustee, such Trustee shall transfer, assign, convey and deliver to the successor or other Trustee the trust estate as it may then be constituted and shall execute all documents necessary for transferring the trust estate.

11.6(d) The Plan Sponsor shall forthwith appoint a successor Trustee in case of resignation, removal or death of all Trustees appointed and then serving. Any successor Trustee shall qualify as such by executing, acknowledging, and delivering to the Plan Sponsor an instrument accepting such appointment hereunder in such form as may be satisfactory to the Plan Sponsor, which form shall become a part of this Trust document, and thereupon such successor Trustee shall become vested with the rights, powers, discretion, duties and obligation of its predecessor Trustee. The Administrator shall be notified by the Plan Sponsor of any such successor Trustee.

11.6(e) In the event of the resignation, removal or death of a Trustee, the surviving Trustee shall continue to be a Trustee hereunder.

11.6(f) The Plan Sponsor may at any time and from time to time appoint one or more additional Trustees. The Administrator shall be notified by the Plan Sponsor of any such additional Trustee or Trustees.

11.7 **Automatic Successor Trustee by Corporate Transaction.** If any corporate Trustee at any time shall be merged, or consolidated with, or shall sell or transfer substantially all of its assets and business to another employer, domestic or foreign, or shall be in any manner reorganized or reincorporated, then the resulting or acquiring employer shall be substituted ipso facto for such corporate Trustee without the execution of any instrument and without any action upon the part of the Plan Sponsor, any Participant or Beneficiary, or any other person having or claiming to have an interest in the Fund.

**ARTICLE XII**  
**Plan Administration**

12.1 **Appointment of Plan Administrator.** The Plan Sponsor may appoint one or more persons to serve as the Plan Administrator (the "Administrator") for the purpose of carrying out the duties specifically imposed on the Administrator by the Plan, the Code and the Code of Virginia. In the event more than one person is appointed, the persons shall form an administrative committee for the Plan. The person or committeemen serving as Administrator shall serve for indefinite terms at the pleasure of the Plan Sponsor, and may, by sixty (60) days prior written notice to the Plan Sponsor, terminate such

appointment. The Plan Sponsor shall inform the Trustee of any such appointment or termination and the Trustee may assume that any person appointed continues in office until notified of any change.

12.2 **Plan Sponsor as Plan Administrator.** In the event that no Administrator is appointed or in office pursuant to paragraph 12.1, the Plan Sponsor shall be the Administrator.

12.3 **Compensation and Expenses.** Unless otherwise determined and paid by the Employer, the person or committeemen serving as the Administrator shall serve without compensation for service as such. All expenses of the Administrator shall be paid as provided in paragraph 9.2, provided no compensation shall be paid the Administrator from the Fund to the extent prohibited by the Code.

12.4 **Procedure if a Committee.** If the Administrator is a committee, it shall appoint from its members a Chairman and a Secretary. The Secretary shall keep records as may be necessary of the acts and resolutions of such committee and be prepared to furnish reports thereof to the Trustee. Except as otherwise provided, all instruments executed on behalf of such committee may be executed by its Chairman or Secretary and the Trustee may assume that such committee, its Chairman or Secretary are the persons who were last designated as such to the Trustee in writing by the Plan Sponsor.

12.5 **Action by Majority Vote if a Committee.** If the Administrator is a committee, its action in all matters, questions and decisions shall be determined by a majority vote of its members qualified to act thereon.

12.6 **Appointment of Successors.** Upon the death, resignation or removal of a person serving as, or on a committee which is, the Administrator, the Plan Sponsor may, but need not, appoint a successor.

12.7 **Additional Duties and Responsibilities.** The Administrator shall have the following duties and responsibilities in addition to those expressly provided elsewhere in the Plan:

12.7(a) The Administrator shall be responsible for the fulfillment of all relevant reporting and disclosure requirements set forth in the Code and Chapter 10 of Title 51.1 of the Code of Virginia, including but not limited to the preparation of necessary plan descriptions, summary plan descriptions, annual report, disclosure of material soft dollar transactions, annual employee benefit statements, notice of special tax treatment (rollover, five-year or ten-year averaging and capital gains) for distributions, and other statements or reports, the distribution thereof to Participants and their Beneficiaries and the filing thereof with the appropriate state or federal governmental officials and agencies.

12.7(b) The Administrator shall maintain and retain necessary records respecting administration of the Plan and matters upon which disclosure is required under the Code and the Virginia Code.

12.7(c) The Administrator shall make any elections for the Plan under the Code or the Code of Virginia.

12.7(d) The Administrator shall provide to Participants and Beneficiaries such notices and information as are required by the Plan and the Code and the Code of Virginia.

12.7(e) The Administrator shall make all determinations regarding eligibility for participation in and benefits under the Plan.

12.7(f) The Administrator shall establish and communicate to the Trustee a funding policy consistent with the current and long-term financial needs of the Plan with respect to the ages of the Participants in the Plan and other such relevant information; provided, however, that nothing in this subparagraph shall be construed as granting to the Plan Administrator any power or authority with respect to the control and management of the Fund.

12.7(g) The Administrator shall have the right to settle claims against the Plan and to make such equitable adjustments in a Participant's or Beneficiary's rights or entitlements under the Plan as it deems appropriate in the event an error or omission is discovered or claimed in the operation or administration of the Plan.

12.8 **Power and Authority.**

12.8(a) The Administrator is hereby vested with all the power and authority necessary in order to carry out its duties and responsibilities in connection with the administration of the Plan, including the power to interpret the provisions of the Plan. For such purpose, the Administrator shall have the power to adopt rules and regulations consistent with the terms of the Plan.

12.8(b) The Administrator shall exercise its power and authority in its discretion. It is intended that a court review of the Administrator's exercise of its power and authority with respect to matters relating to claims for benefits by, and to eligibility for participation in and benefits of, Participants and Beneficiaries shall be made only on an arbitrary and capricious standard.

12.9 **Availability of Records.** The Employer and the Trustee shall, at the request of the Administrator, make available necessary records or other information they possess which may be required by the Administrator in order to carry out its duties hereunder.

12.10 **No Action with Respect to Own Benefit.** No Administrator who is a Participant shall take any part as the Administrator in any discretionary action in connection with his participation as an individual. Such action shall be taken by the remaining Administrator, if any, or otherwise by the Plan Sponsor.

12.11 **Limitation on Powers and Authority.** The Administrator shall have no power in any way to modify, alter, add to or subtract from any provisions of the Plan.

**ARTICLE XIII**  
**Amendment and Termination of Plan**

13.1 **Amendment.**

13.1(a) The Plan may be amended in whole or in part at any time by action of the Plan Sponsor; provided, however, that:

(i) Except to the extent required by the Code, the Accrued Benefit of a Participant determined at the time of any such amendment shall not be adversely affected thereby.

(ii) The duties and obligations of the Trustee hereunder shall not be increased nor its compensation decreased without its written consent.

Any such amendment to the Plan shall be in writing and shall be adopted pursuant to action by the Plan Sponsor (including pursuant to any standing authorization for any officer, director or committee to adopt amendments) in accordance with its applicable procedures, including where applicable by majority vote or consent in writing.

13.1(b) Notwithstanding the foregoing, the Plan Sponsor hereby delegates to the Administrator the right to modify, alter, or amend the Plan in whole or in part to make any technical modification, alteration or amendment which in the opinion of counsel for the Plan Sponsor is required by law and is deemed advisable by the Administrator and to make any other modification, alteration or amendment which does not, in the Administrator's view, substantially increase costs, contributions or benefits and does not materially affect the eligibility, vesting or benefit accrual or allocation provisions of the Plan.

13.2 **Merger, Consolidation or Transfer of Assets.** The merger or consolidation of or transfer of assets or liabilities between this Plan and any other plan shall be permitted upon action by the Plan Sponsor or as expressly provided elsewhere in the Plan so long as, immediately after such merger, consolidation or transfer of assets or liabilities, each

Participant who is or may become eligible to receive an accrued benefit of any type from this Plan (or whose Beneficiaries may be eligible to receive any such benefit) would, if such surviving or transferee plan was then terminated, be entitled to receive an accrued benefit at least equal to the accrued benefit to which such Participant (and each such Beneficiary) would have been entitled had this Plan terminated immediately prior to such merger, consolidation or transfer of assets or liabilities.

13.3 **Plan Permanence and Termination.** The Employers have established the Plan with the intention and expectation that the Plan will be a permanent program within the requirements of Section 401 of the Code and that they will be able to make contributions indefinitely, but the Employer is not or shall not be under any obligation or liability to any Participant or Employee to continue their contributions or to maintain the Plan for any given length of time, and each may in its sole and absolute discretion discontinue its contributions or otherwise terminate its participation in the Plan at any time without any such liability for such discontinuance or termination.

13.4 **Lapse in Contributions.** Failure by the Employer to make contributions to the Fund in any year or years, unless the same shall be coupled with any other event causing a termination of its participation in the Plan, shall not terminate the Plan or operate to vest the rights of any Participants or to accelerate any payments or distributions to or for the benefit of any Participants or their Beneficiaries.

13.5 **Termination Events.**

13.5(a) The Plan shall terminate in whole or in part as the case may be upon the happening of any of the following events:

(i) The Employer's adjudication as a bankrupt or its general assignment to or for the benefit of its creditors or its dissolution, unless within sixty (60) days after such event a successor employer shall assume the terms and conditions hereof in writing.

(ii) Action by the Plan Sponsor terminating the Plan as a whole and specifying the date of such termination. Notice of such termination shall be delivered to the Trustee, the Administrator and all Employers.

13.5(b) For purposes of paragraphs 13.6 through 13.8 hereof, any action by the Plan Sponsor terminating the Plan shall also specify whether the Plan is thereafter to be operated as a "terminated plan" or a "frozen plan". Such terms are defined as follows:

(i) A "terminated plan" is one that has been formally terminated, has ceased crediting service for benefit accrual purposes and vesting, and has been or is distributing Plan assets to Participants and Beneficiaries entitled thereto as soon as administratively possible. For purposes hereof, a Plan will be considered a terminated plan when Plan assets are required to be distributed pursuant to paragraph 13.8 hereof.

(ii) A "frozen plan" is one in which benefit accruals have ceased but all Plan assets are not being distributed to Participants or Beneficiaries entitled thereto as soon as administratively possible. For purposes hereof, a Plan will be considered a frozen plan when Plan assets are not required to be distributed pursuant to paragraph 13.8 hereof.

13.6 **Benefits upon Termination.**

13.6(a) In the event of a termination of the Plan, so much of the Plan as has been terminated shall be automatically amended without any action required by the Plan Sponsor or any other person as of and immediately prior to the effective time of such termination by reducing or eliminating the incidental and ancillary benefits of Participants and their Beneficiaries under so much of the Plan as has terminated, but only if payment thereof has not commenced or is not subject only to the expiration of a waiting period, to the fullest extent permitted by paragraph 13.1.

13.6(b) Under no circumstances shall all or any portion of the Accrued Benefit of any such Participant under the Plan to the extent terminated be increased by reason of continued service as an Employee with the Employer.

13.6(c) Each affected Participant's Accrued Benefit shall be non-forfeitable upon the effective date of any termination or partial termination of the Plan within the meaning of Section 411(d)(3) of the Code or, if the Board so resolves, after any other termination. However, no Participant or Beneficiary shall have any recourse toward payment or satisfaction of an Accrued Benefit or any Death Benefit or other benefit liability under so much of the Plan as has terminated from any source other than assets of the Fund.

13.7 **Administration of Plan after Termination.** Upon the effective date of the complete or partial termination of the Plan, the Trustee shall continue to hold and the Administrator shall continue to administer the assets used to fund the Accrued Benefits of all Participants and Beneficiaries as part of the Fund.

13.8 **Distribution of Assets after Termination.**

13.8(a) In the event the Plan is considered a terminated plan, the Administrator shall forthwith allocate the assets of the Fund to fund the Basic Accrued Benefits, the Law Enforcement Supplement and any Death Benefits or other benefit liabilities which may thereafter be payable under the Plan on the basis of the relative Actuarial Values of such benefits.

13.8(b) After the allocation referred to in subparagraph 13.8(a), the Trustee shall then distribute or pay to the Participants or their Beneficiaries entitled thereto, in accordance with such allocation of assets, but subject to the applicable time and form of benefit payment provisions in ARTICLE VIII (which if the Plan Sponsor so directs shall include for such purpose a lump sum payment option), either a lump sum amount equal to their respective allocations (in cash or in assets valued at current fair market value, or both) or Policies to provide such Basic Accrued Benefits, Law Enforcement Supplements or Death Benefits, purchased as provided in the Plan, or a combination of the foregoing, upon the happening of any of the following events which occur on or after or result in the termination of the Plan:

(i) Delivery to the Trustee of a notice executed on behalf of the Employer by authority of the Plan Sponsor directing that such distribution or payment be made, which direction may be made with respect to the entire Fund or with respect to assets needed to fund the benefits of Participants affected by a partial termination of the Plan.

(ii) Adjudication of the Plan Sponsor as a bankrupt or general assignment by the Plan Sponsor to or for the benefit of creditors or dissolution of the Plan Sponsor, unless, within sixty (60) days after such event, either a successor or other employer shall assume the terms and conditions hereof in writing, or the Trustee (or a successor Trustee appointed within such sixty (60) day period) shall agree to continue to hold and administer the Fund as provided in paragraph 13.7 and additionally, unless otherwise agreed with or directed by the Plan Sponsor, to assume all the powers and duties imposed upon the Named Fiduciaries under the Plan. In assuming such powers and duties, the Trustee (or any successor Trustee) shall be vested with all authority granted by the Plan without any limitation imposed upon such authority by the Plan except the requirement that its actions shall be governed by the other provisions of the Plan and by the Code. If the Trustee (or any successor Trustee) shall so agree to continue the trust, all expenses of the Plan and the Fund and reasonable compensation to the Trustee (or any successor Trustee) and any successor shall be paid from the Fund. In the event of the death, resignation or removal of the Trustee (or any successor Trustee) who shall have so agreed to continue the trust, a court of competent jurisdiction over the Fund shall appoint a successor or the benefits payable under the Plan shall forthwith be distributed as hereinabove provided at the direction of such court.

**ARTICLE XIV**  
**Miscellaneous**

14.1 **Headings.** The headings in the Plan have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

14.2 **Gender and Number.** In the construction of the Plan, the masculine shall include the feminine or neuter and the singular shall include the plural and vice-versa in all cases where such meanings would be appropriate.

14.3 **Governing Law.** The Plan and the Fund created hereunder shall be construed, enforced and administered in accordance with the laws of the Commonwealth of Virginia.

14.4 **Employment Rights.** Participation in the Plan shall not give any employee the right to be retained in the Employer's employ nor, upon dismissal or upon his voluntary termination of employment, to have any right or interest in the Fund other than as herein provided.

14.5 **Conclusiveness of Employer Records.** The records of the Employer with respect to age, service, employment history, compensation, absences, illnesses and all other relevant matters shall be conclusive for purposes of the administration of the Plan.

14.6 **Right to Require Information and Reliance Thereon.** The Employer, Administrator and Trustee shall have the right to require any Participant, Beneficiary or other person receiving benefit payments to provide it with such information, in writing, and in such form as it may deem necessary to the administration of the Plan and may rely thereon in carrying out its duties hereunder. Any payment to or on behalf of a Participant or Beneficiary in accordance with the provisions of the Plan in good faith reliance upon any such written information provided by a Participant or any other person to whom such payment is made shall be in full satisfaction of all claims by such Participant and his Beneficiary; and any payment to or on behalf of a Beneficiary in accordance with the provisions of the Plan in good faith reliance upon any such written information provided by such Beneficiary or any other person to whom such payment is made shall be in full satisfaction of all claims by such Beneficiary.

14.7 **Alienation and Assignment.** Except as otherwise permitted by Code and as expressly permitted by the Plan or the Administrator, no benefit hereunder shall be subject in any manner to alienation, sale, anticipation, transfer, assignment, pledge, encumbrance, garnishment, attachment, execution or levy of any kind.

14.8 **Notices and Elections.**

14.8(a) Except as provided in subparagraph 14.8(b), all notices required to be given in writing and all elections, consents, applications and the like required to be made in writing, under any provision of the Plan, shall be invalid unless made on such forms as may be provided or approved by the Administrator and, in the case of a notice, election, consent or application by a Participant or Beneficiary, unless executed by the Participant or Beneficiary giving such notice or making such election, consent or application.

14.8(b) Subject to limitations under applicable provisions of the Code, the Administrator is authorized in its discretion to accept other means for receipt of effective notices, elections, consent and/or application by Participants and/or Beneficiaries, including but not limited to interactive voice systems, on such basis and for such purposes as it determines from time to time.

14.9 **Delegation of Authority.** Whenever the Plan Sponsor or the Employer is permitted or required to perform any act, such act may be performed by any of its officers or any other person duly authorized by the Plan Sponsor.

14.10 **Service of Process.** The Administrator, as well as the Trustee, shall be the agent for service of process on the Plan.

14.11 **Construction.** This Plan is created for the exclusive benefit of Employees of the Employer and their Beneficiaries and shall be interpreted and administered consistent with its being an employees' defined benefit pension plan and trust as defined in Sections 401 and 414 of the Code maintained by a governmental entity as defined in Section 414(d) of the Code.

**ARTICLE XV**  
**Adoption of the Plan**

15.1 **Initial Adoption and Failure to Obtain Qualification.** If it is finally determined by the Internal Revenue Service or by a court of competent jurisdiction on review of the Internal Revenue Service's determination that the Plan does not qualify initially under Section 401 of the Code, the Plan shall have no force or effect and the Trustee shall return to the Employer all assets attributable to its contribution received by the Trustee as provided in ARTICLE III. Upon return of such contributions, the Plan shall terminate and the Trustee shall be discharged from all obligations under the Plan.

IN WITNESS WHEREOF, the Board of Commissioners has caused its name to be signed to this Amendment by its Chairman, as of the \_\_\_ of November, 2014.

VIRGINIA PORT AUTHORITY,

By: \_\_\_\_\_  
Its: Chairman

Wilmington Trust Company  
Trustee

\_\_\_\_\_(SEAL)

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

Its \_\_\_\_\_

Attest:

\_\_\_\_\_  
Its \_\_\_\_\_

**VIRGINIA PORT AUTHORITY  
DEFINED BENEFIT PENSION PLAN AND TRUST**

**Appendix A  
Actuarial Equivalents and Values**

**A-1.1 General Factors and Definitions.**

A-1.1(a) Actuarial Equivalents and Values, and all actuarial calculations regarding benefit equivalencies under the Plan (except as expressly otherwise provided), shall be determined on the basis of:

(i) In the case of a Legacy VPA Participant:

(A) Interest at an assumed rate equal to seven and one-half percent (7-1/2%), and

(B) The 1983 GAM Mortality Table split for participation by 50% male and 50% female,

(ii) In the case of a Legacy VIT Participant:

(A) Interest at an assumed rate equal to seven and one-half percent (7-1/2%), and

(B) For Participants, the UP-84 Mortality Table,

(C) For Spouses and other contingent annuitants, the UP-84 Mortality Table with ages set back six (6) years,

which factors are sometimes referred to herein as the “actuarial factors” or separately as the “interest factor” or the “mortality factor”, respectively

A-1.2 **Development and Use of Tables.** The Administrator is authorized to develop, and utilize on a uniform basis consistently applied, tables for determinations of Actuarial Equivalents and Values. Any such table or tables may include more than one age for a factor, shall round factors to the nearest decimal, shall provide for linear proration based on either nearest or completed months of age or any other reasonable determination of age, shall provide factors based on either nearest or attained age or any other reasonable determination of age, and may include such other interpolations and variables, all as determined by the Administrator in its discretion. Any such table or tables shall produce substantially consistent results applied in a non-discriminatory manner.

A-1.3 **Correction of Errors.** In determining Actuarial Equivalents or Values for the purpose of correcting or recouping erroneous payments, the amount to be paid or recouped may be determined on a uniform and non-discriminatory basis consistently applied either by application of the appropriate factors to provide an amount as of the actual date of payment or recoupment or by application of the appropriate factors to provide a value as of the date of the erroneous underpayment or overpayment, to which shall be added interest at the applicable rate to the date of payment or recoupment, as determined in the discretion of and on a uniform and non-discriminatory basis by the fiduciary of the Plan determining how the error should be corrected.

A-1.4 **Special Actuarial Factors and Rules.** Notwithstanding the provisions of subparagraph 1.1(a) of this Appendix, the rules and factors set forth in this paragraph shall be used to determine Actuarial Equivalents and Values under the circumstances described herein.

A-1.4(a) In the case of commencement of a Participant's Accrued Benefit (including the Basic Accrued Benefit and the enhanced basic benefit described in paragraphs 4.3(b) and 4.3(c)) on such Participant's Reduced Early Retirement Date:

(i) In the case of a Legacy VPA Participant:

(A) If such Participant has attained age fifty-five (55) at the time of his Reduced Early Retirement Date, then his Basic Accrued Benefit shall be reduced by one-half of one percent (0.5%) for each of the first sixty (60) months and four-tenths of one percent (0.4%) for each additional month by which the Reduce Early Retirement Date precedes the Participant Normal Retirement Date or, if earlier, his first Unreduced Early Retirement Date assuming he had remained employed. For this purpose, any Early Retirement Date shall be determined without regard to any additional Creditable Service under subparagraph 1.13(a)(ii).

(B) If such Participant has not attained age fifty-five (55) at the time of his Reduced Early Retirement Date, then his Basic Accrued Benefit shall be reduced by both the reductions determined in clause (i) of this subparagraph to age fifty-five (55) and by six-tenths of one percent (0.6%) for each month by which the Participant's Reduced Early Retirement Date precedes age fifty-five (55).

(ii) In the case of a Legacy VIT Participant, if such Participant has attained age fifty-five (55) at the time of his Reduced Early Retirement Date, then his Basic Accrued Benefit shall be reduced by five-ninths of one percent (5/9ths%) for each of the first sixty (60) months and five-eighteenthths of one percent (5/18ths%) for each additional month by which the Reduce Early Retirement Date precedes the Participant Normal Retirement Date or, if earlier, his first Unreduced Early Retirement Date assuming he had remained employed.

A-1.4(b) In the case of the following optional forms of benefit payment, the Actuarial Equivalent or Value adjustment of a Legacy VPA Participant's Basic Accrued Benefit shall be determined on the basis of the following formulas:

(i) Joint and 50% Beneficiary Survivor Annuity:

See VRS Members Handbook – conversion factors for Joint and 50% Beneficiary Survivor Annuity

(ii) Joint and 100% Beneficiary Survivor Annuity:

See VRS Members Handbook – conversion factors for Joint and 100% Beneficiary Survivor Annuity

A-1.4(c) In the case of the following optional forms of benefit payment, the Actuarial Equivalent or Value adjustment of a Legacy VIT Participant's Basic Accrued Benefit shall be determined on the basis of ???????.

A-1.4(d) No special disabled life mortality table maybe used.

A-1.4(e) In the case of the valuation of a benefit for purposes of payments made in the form of a lump sum pursuant to paragraph 8.2 and paragraph 8.11 of the Plan, the Actuarial Equivalent or Value shall be based on the Mortality Table described in clause (ii) of subparagraph A-1.1(a) of this Appendix and the interest rate shall be the average interest rate published by Moody's Investor Services for Aa Corporate Bonds, plus 50 basis points (.5%), for the month of May preceding the Plan Year in which distribution is made. For the first Plan Year in which such distributions are to be made, i.e. the Plan Year July 1, 2005 - June 30, 2006, the interest rate will be the Moody's Aa Corporate Bond average for May, 2005 plus .5%, or 5.79%.

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**Appendix B**  
**Transition Rules**

**B-1.1 Application of Special Transition Rules.** The following Eligible Employees are subject to the Special Transition Rules set forth in this Appendix:

- (i) James C. Davis
- (ii) Jeanne C. Heilman
- (iii) Martin H. Schlosser

**B-1.2 Special Transition Rules.**

**B-1.2(a)** A Member's Contribution Account shall be established under the Plan in the name of each of the above named Eligible Employees. Such account shall receive funds transferred from the Members Contribution Account under VRS and shall be credited under the Plan with interest at a rate of four percent (4%) per year.

**B-1.2(b)** Notwithstanding any provision of the Plan in the event of the death of an Eligible Employee named above before his Annuity Starting Date, if no Beneficiary is named or there is no surviving spouse to receive the Death benefit Under the Plan, the balance in the Member's Contribution Account shall be paid to:

- (i) His children and descendants of his deceased children, or
- (ii) if none, his parents, or
- (iii) if none, the duly appointed executor or administrator of his estate, or
- (iv) if none the next of kin entitled to inherit under the laws of his domicile at the time of his death.

**B-1.2(c)** Notwithstanding any provision of the Plan in the event of the death of an Eligible Employee named above after his Annuity Starting Date, if the Participant did not select a Joint and Survivor annuity form of payment, and the amount paid to the Participant prior to his death does not exceed the balance in the Member's Contribution Account as of the Annuity Starting Date, then the excess of the amount paid to the Participant over the balance in the Member's Contribution Account as of the Annuity Starting Date shall be paid in a lump sum to the Beneficiary named by the Participant, or if none, to his surviving spouse, or if none, to the person or persons as determined pursuant to subparagraph 1.2(b) of this Appendix.

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**Appendix C  
2008 Immediate Retirement Incentive Window**

**C-1.1 Window Retirement Benefits.**

C-1.1(a) Each Window Retiree (as defined in paragraph 1.2 of this Appendix) shall be entitled to the following additional benefits under the Plan (sometimes in the aggregate referred to as the “Window Retirement Benefits”) and as of such Window Retiree’s Window Retirement Date, the Actuarial Value of such Window Retirement Benefits shall be added to and considered a part of his non-forfeitable Accrued Benefit for all purposes of the Plan.

(i) “Additional Service Benefit” - Except as set forth in (ii) below, an Additional Service Benefit equal to the excess of:

(A) The Actuarial Value of the Participant’s Accrued Benefit (under this Plan or under VRS) as of his Window Retirement Date determined as if he were credited with three (3) additional years of Creditable Service (under this Plan or under VRS), over

(B) The Actuarial Value of the Participant’s Accrued Benefit (under this Plan or under VRS) as of his Window Retirement Date determined without regard to his status as a Window Retiree.

(ii) “Additional Service Benefit for Participant between age 62 and 65 as of July 1, 2008” - The Additional Service Benefit for a Participant who is between age 62 and 65 as of July 1, 2008 shall equal to the excess of:

(A) The Actuarial Value of the Participant’s Accrued Benefit (under this Plan or under VRS) as of his Window Retirement Date determined as if he were credited with the additional Creditable Service (under this Plan or under VRS) that he would have had he remained an active employee until he reached age 65, over

(B) The Actuarial Value of the Participant’s Accrued Benefit (under this Plan or under VRS) as of his Window Retirement Date determined without regard to his status as a Window Retiree.

(iii) “Early Reduction Factors” - The reduction of the amount of a Participant’s Accrued Benefit under subparagraph A-1.4(a) of Appendix A to the Plan or under VRS shall be applied to each Window Retiree as though he were three years older. Notwithstanding, however, a Window Retiree who is between ages 62 and 65 as of July 1, 2008 shall be treated as though he were 65. The resulting difference in the Accrued Benefit will be provided under this Plan.

C-1.1(b) Notwithstanding any contrary provision of the Plan, Window Retirement Benefits are hereby made effective without regard to the “10-year phase-in limitation” under Section 415(b)(5)(D) of the Code.

**C-1.2 Eligibility for Window Retirement.**

C-1.2(a) Any Plan Participant who voluntarily agrees to cease his employment pursuant to the Immediate Retirement Incentive Window Program and who:

(i) As of July 1, 2008, is actively at work (including persons on short term authorized leave such as vacation, family or medical leave or sick leave, but in any event excluding persons on layoff) as an Eligible Employee (determined without regard to date of hire) other than as a Law Enforcement Eligible Employee,

(ii) As of July 1, 2008 is:

(A) At least age 55 with at least five (5) years of Creditable Service, or

(B) At least age 50 with at least ten (10) years of Creditable Service, and

(iii) Executes a general release at such time and in such form (including but not limited to an age discrimination release), if any, as the Administrator may on a uniform and nondiscriminatory basis require, and does not revoke such release,

may retire from the employment of the Employer on the Window Retirement Date.

C-1.2(b) In order to become a Window Retiree, an eligible Participant must file a written acceptance of the offer of the Window Retirement Benefit with the Administrator during the Election Period. Such application shall include such other information as the Administrator may deem appropriate.

C-1.2(c) The Administrator shall inform each Participant who is eligible to be a Window Retiree of his Window Retirement Benefits (which are described in paragraph C-1.1 of this Appendix).

C-1.2(d) For purposes of the Immediate Retirement Incentive Window Program, the Administrator is hereby vested with all the power and authority necessary in order to carry out its duties and responsibilities in connection with the administration of the Immediate Retirement Incentive Window Program provisions of the Plan, including the power to interpret the provisions of the Plan. For such purpose, the Administrator shall have the power to adopt rules and regulations consistent with the terms of the Plan. The Administrator shall exercise such power and authority in its discretion. It is intended that a court review of the Administrator's exercise of such power and authority with respect to matters relating to claims for benefits by, and to eligibility for participation in and benefits of, Participants and Beneficiaries shall be made only on an arbitrary and capricious standard.

C-1.2(e) For purposes hereof, the following terms have the following meanings:

(i) The "Election Period" is the period from September 24, 2008 through November 14, 2008.

(ii) A Participant's "Window Retirement Date" is December 1, 2008 unless the Participant actually retires from the employment of the Employer at a later date requested by the Plan Sponsor.

(iii) A "Window Retiree" is a Participant described in subparagraph 1.2(a) of this Appendix who accepts the offer of the Window Retirement Benefit during the Election Period and who ceases to be an Employee on the Window Retirement Date.

(vi) The "Immediate Retirement Incentive Window Program" is the special administration and enhanced benefit provisions related to the Window Retirement Benefits contained in this Appendix and related provisions of the Plan.

C-1.3 **Special Death Benefit Rules for Window Retirees.** In the event of the death of a Participant who is a Window Retiree on or after his Window Retirement Date and before his Annuity Starting Date, the Window Retirement Benefits to which he is entitled shall be considered a part of his Accrued Benefit for purposes of determining the Death Benefit payable under ARTICLE VII of the Plan with respect to such Participant.

C-1.4 **Special Vesting Rules for Window Retirees.** For purposes of the determining vesting in the Window Retirement Benefit only, a Participant's Creditable Service shall include creditable service under VRS.

C-1.5 **Special Payment Rules for Window Retirees.**

C-1.5(a) The Actuarial Value of Window Retirement Benefit of a Window Retiree shall be payable as part of his Accrued Benefit in accordance with the provisions of ARTICLE VIII of Plan.

C-1.5(b) In the case of a Window Retiree who is a Participant solely by reason of his status as a Window Retiree, his Window Retirement Benefit shall be paid as a single life annuity or as otherwise elected in accordance with the provisions of ARTICLE VIII of the Plan.

C-1.5(c) Notwithstanding the foregoing a Window Retiree may elect in the manner described in subparagraph 8.2(c) that the Actuarial Value of his Window Retirement Benefit shall be paid to him in a lump sum (subject to the provisions of paragraph 8.7).

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**Appendix D  
Additional Creditable Service**

D-1.1 **Additional Creditable Service.** The Executive Director of the Employer shall be entitled to the total Creditable Service toward the determination of his Basic Accrued Benefit under the Plan determined by multiplying his actual Creditable Service in the position of Executive Director by a factor of 2.0. The Interim Executive Director serving in that position immediately prior to February 10, 2014 shall be entitled to two (2) additional years of Creditable Service.

D-1.2 **Purpose for Which Additional Service Credit Granted.** Creditable Service described in this Appendix shall be used in determining the Basic Accrued Benefit only and not toward Reduced or Unreduced Early Retirement Date.

D-1.3 **Vesting in Benefit Attributable to Additional Creditable Service.** The Accrued Benefit attributable to the additional Creditable Service described in this Appendix, shall be vested and non-forfeitable at all times.

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**Appendix E  
2011 Immediate Retirement Incentive Window**

**E-1.1 Window Retirement Benefits.**

E-1.1(a) Each Window Retiree (as defined in paragraph 1.2 of this Appendix) shall be entitled to the following additional benefits under the Plan (sometimes in the aggregate referred to in this Appendix as the “Window Retirement Benefits”) and as of such Window Retiree’s Window Retirement Date, the Actuarial Value of such Window Retirement Benefits shall be added to and considered a part of his non-forfeitable Basic Accrued Benefit for all purposes of the Plan.

(i) “Additional Service Benefit”

(A) Except as set forth in (B) or (C) below, an Additional Service Benefit equal to the excess of:

(I) The Actuarial Value of the Participant’s Basic Accrued Benefit (under this Plan or under VRS) as of his Window Retirement Date determined as if he were credited with three (3) additional years of Creditable Service (under this Plan or under VRS), over

(II) The Actuarial Value of the Participant’s Basic Accrued Benefit (under this Plan or under VRS) as of his Window Retirement Date determined without regard to his status as a Window Retiree.

(B) The Additional Service Benefit for a Participant, other than a Law Enforcement Eligible Employee, who is between age 62 and 65 as of October 1, 2011 shall be equal to the excess of:

(I) The Actuarial Value of the Participant’s Basic Accrued Benefit (under this Plan or under VRS) as of his Window Retirement Date determined as if he were credited with the additional Creditable Service (under this Plan or under VRS) that he would have had he remained an active employee until he reached age 65, over

(II) The Actuarial Value of the Participant’s Basic Accrued Benefit (under this Plan or under VRS) as of his Window Retirement Date determined without regard to his status as a Window Retiree.

(C) The Additional Service Benefit for a Participant who is a Law Enforcement Eligible Employee and who is between age 57 and 60 as of October 1, 2011 shall be equal to the excess of:

(I) The Actuarial Value of the Participant’s Basic Accrued Benefit (under this Plan or under VRS) as of his Window Retirement Date determined as if he were credited with the additional Creditable Service (under this Plan or under VRS) that he would have had he remained an active employee until he reached age 60, over

(II) The Actuarial Value of the Participant’s Basic Accrued Benefit (under this Plan or under VRS) as of his Window Retirement Date determined without regard to his status as a Window Retiree.

(D) Except as set forth in (E) below, in the case of a Law Enforcement Eligible Employee, the Additional Service Benefit shall also include the excess of:

(I) The Actuarial Value of the Participant's Law Enforcement Supplement determined under the 0.3% method described in subparagraph 4.3(b) of this Plan as of his Window Retirement Date determined as if he were credited with three (3) additional years of Creditable Service in a hazardous duty position under the Plan, over

(II) The Actuarial Value of the Participant's Law Enforcement Supplement determined under the 0.3% method described in subparagraph 4.3(b) of this Plan as of his Window Retirement Date determined without regard to his status as a Window Retiree.

(E) Notwithstanding, however, the Additional Service Benefit for a Law Enforcement Eligible Employee Participant who is between age 57 and 60 as of October 1, 2011 shall also include only the excess of:

(I) The Actuarial Value of the Participant's Law Enforcement Supplement determined under the 0.3% method described in subparagraph 4.3(b) of this Plan as of his Window Retirement Date determined as if he were credited with the additional Creditable Service in a hazardous duty position under the Plan that he would have had he remained an active employee until he reached age 60, over

(II) The Actuarial Value of the Participant's Law Enforcement Supplement determined under the 0.3% method described in subparagraph 4.3(b) of this Plan as of his Window Retirement Date determined without regard to his status as a Window Retiree.

(F) The Additional Service Benefit for a Law Enforcement Eligible Employee Participant shall be counted toward eligibility for the Temporary Retirement Allowance.

(ii) "Early Reduction Factors"

(A) The actuarial reduction of the amount of a Participant's Basic Accrued Benefit under this Plan or under VRS that is normally applied to payments beginning before Normal Retirement Age shall be applied to each Window Retiree as though he were three years older. Notwithstanding, however, a Window Retiree other than a Law Enforcement Eligible Employee and who is between ages 62 and 65 as of October 1, 2011 shall be treated as though he were 65. Notwithstanding further, a Window Retiree who is a Law Enforcement Eligible Employee and who is between ages 57 and 60 as of October 1, 2011 shall be treated as though he were 60. The resulting difference in the Accrued Benefit will be provided under this Plan.

(B) The actuarial reduction of the amount of a Participant's Law Enforcement Supplement, if applicable, determined under the 0.3% method described in subparagraph 4.3(b) of this Plan that is normally applied to payments beginning before Normal Retirement Age shall be applied to each Window Retiree as though he were three years older. Notwithstanding, however, a Window Retiree who is between ages 57 and 60 as of October 1, 2011 shall be treated as though he were 60. The resulting difference in the Accrued Benefit will be provided under this Plan.

E-1.1(b) Notwithstanding any contrary provision of the Plan, Window Retirement Benefits are hereby made effective without regard to the "10-year phase-in limitation" under Section 415(b)(5)(D) of the Code.

**E-1.2 Eligibility for Window Retirement.**

E-1.2(a) Any Plan Participant who voluntarily agrees to cease his employment pursuant to the Immediate Retirement Incentive Window Program and who:

(i) As of October 1, 2011, is actively at work (including persons on short term authorized leave such as vacation, family or medical leave or sick leave, but in any event excluding persons on layoff) as an Eligible Employee, including a Law Enforcement Eligible Employee (determined without regard to date of hire), and

(ii) In the case of a Participant other than a Law Enforcement Eligible Employee, as of October 1, 2011 is:

(A) At least age 55 with at least five (5) years of Creditable Service, or

(B) At least age 50 with at least ten (10) years of Creditable Service, and

(iii) In the case of a Participant who is a Law Enforcement Eligible Employee, as of March 1, 2012 is at least age 50 with at least five (5) years of Creditable Service under this Plan or under VRS, and

(iv) Executes a general release at such time and in such form (including but not limited to an age discrimination release), if any, as the Administrator may on a uniform and nondiscriminatory basis require, and does not revoke such release,

may retire from the employment of the Employer on the Window Retirement Date.

E-1.2(b) In order to become a Window Retiree, an eligible Participant must file a written acceptance of the offer of the Window Retirement Benefit with the Administrator during the Election Period. Such application shall include such other information as the Administrator may deem appropriate.

E-1.2(c) The Administrator shall inform each Participant who is eligible to be a Window Retiree of his Window Retirement Benefits (which are described in paragraph E-1.1 of this Appendix).

E-1.2(d) For purposes of the Immediate Retirement Incentive Window Program, the Administrator is hereby vested with all the power and authority necessary in order to carry out its duties and responsibilities in connection with the administration of the Immediate Retirement Incentive Window Program provisions of the Plan, including the power to interpret the provisions of the Plan. For such purpose, the Administrator shall have the power to adopt rules and regulations consistent with the terms of the Plan. The Administrator shall exercise such power and authority in its discretion. It is intended that a court review of the Administrator's exercise of such power and authority with respect to matters relating to claims for benefits by, and to eligibility for participation in and benefits of, Participants and Beneficiaries shall be made only on an arbitrary and capricious standard.

E-1.2(e) For purposes hereof, the following terms have the following meanings:

(i) The "Election Period" is the period from October 1, 2011 through January 1, 2012.

(ii) A Participant's "Window Retirement Date" is March 1, 2012 unless the Participant actually retires from the employment of the Employer at a later date requested by the Plan Sponsor.

(iii) A "Window Retiree" is a Participant described in subparagraph E-1.2(a) of this Appendix who accepts the offer of the Window Retirement Benefit during the Election Period and who ceases to be an Employee on the Window Retirement Date.

(vi) The “Immediate Retirement Incentive Window Program” is the special administration and enhanced benefit provisions related to the Window Retirement Benefits contained in this Appendix and related provisions of the Plan.

E-1.3 **Special Death Benefit Rules for Window Retirees.** In the event of the death of a Participant who is a Window Retiree on or after his Window Retirement Date and before his Annuity Starting Date, the Window Retirement Benefits to which he is entitled shall be considered a part of his Accrued Benefit for purposes of determining the Death Benefit payable under ARTICLE VII of the Plan with respect to such Participant.

E-1.4 **Special Vesting Rules for Window Retirees.** For purposes of determining vesting in the Window Retirement Benefit only, a Participant’s Creditable Service shall include creditable service under VRS.

E-1.5 **Special Payment Rules for Window Retirees.**

E-1.5(a) The Actuarial Value of Window Retirement Benefit of a Window Retiree shall be payable as part of his Accrued Benefit in accordance with the provisions of ARTICLE VIII of Plan.

E-1.5(b) In the case of a Window Retiree who is a Participant solely by reason of his status as a Window Retiree, his Window Retirement Benefit shall be paid as a single life annuity or as otherwise elected in accordance with the provisions of ARTICLE VIII of the Plan.

E-1.5(c) Notwithstanding the foregoing a Window Retiree may elect in the manner described in subparagraph 8.2(c) that the Actuarial Value of his Window Retirement Benefit (other than the Temporary Retirement Allowance) shall be paid to him in a lump sum (subject to the provisions of paragraph 8.7).

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**Appendix F  
2013 Immediate Retirement Incentive Window**

**F-1.1 Window Retirement Benefits.**

F-1.1(a) Each Window Retiree (as defined in paragraph 1.2 of this Appendix) shall be entitled to the following additional benefits under the Plan (sometimes in the aggregate referred to in this Appendix as the “Window Retirement Benefits”) and as of such Window Retiree’s Window Retirement Date, the Actuarial Value of such Window Retirement Benefits shall be added to and considered a part of his non-forfeitable Basic Accrued Benefit for all purposes of the Plan.

(i) “Additional Service Benefit”

(A) Except as set forth in (B) or (C) below, an Additional Service Benefit equal to the excess of:

(I) The Actuarial Value of the Participant’s Basic Accrued Benefit (under this Plan or under VRS) as of his Window Retirement Date determined as if he were credited with three (3) additional years of Creditable Service (under this Plan or under VRS), over

(II) The Actuarial Value of the Participant’s Basic Accrued Benefit (under this Plan or under VRS) as of his Window Retirement Date determined without regard to his status as a Window Retiree.

(B) The Additional Service Benefit for a Participant, other than a Law Enforcement Eligible Employee, who is between age 62 and 65 as of June 1, 2013 shall be equal to the excess of:

(I) The Actuarial Value of the Participant’s Basic Accrued Benefit (under this Plan or under VRS) as of his Window Retirement Date determined as if he were credited with the additional Creditable Service (under this Plan or under VRS) that he would have had he remained an active employee until he reached age 65, over

(II) The Actuarial Value of the Participant’s Basic Accrued Benefit (under this Plan or under VRS) as of his Window Retirement Date determined without regard to his status as a Window Retiree.

(C) The Additional Service Benefit for a Participant who is a Law Enforcement Eligible Employee and who is between age 57 and 60 as of June 1, 2013 shall be equal to the excess of:

(I) The Actuarial Value of the Participant’s Basic Accrued Benefit (under this Plan or under VRS) as of his Window Retirement Date determined as if he were credited with the additional Creditable Service (under this Plan or under VRS) that he would have had he remained an active employee until he reached age 60, over

(II) The Actuarial Value of the Participant’s Basic Accrued Benefit (under this Plan or under VRS) as of his Window Retirement Date determined without regard to his status as a Window Retiree.

(D) Except as set forth in (E) below, in the case of a Law Enforcement Eligible Employee, the Additional Service Benefit shall also include the excess of:

(I) The Actuarial Value of the Participant's Law Enforcement Supplement determined under the 0.3% method described in subparagraph 4.3(b) of this Plan as of his Window Retirement Date determined as if he were credited with three (3) additional years of Creditable Service in a hazardous duty position under the Plan, over

(II) The Actuarial Value of the Participant's Law Enforcement Supplement determined under the 0.3% method described in subparagraph 4.3(b) of this Plan as of his Window Retirement Date determined without regard to his status as a Window Retiree.

(E) Notwithstanding, however, the Additional Service Benefit for a Law Enforcement Eligible Employee Participant who is between age 57 and 60 as of June 1, 2013 shall also include only the excess of:

(I) The Actuarial Value of the Participant's Law Enforcement Supplement determined under the 0.3% method described in subparagraph 4.3(b) of this Plan as of his Window Retirement Date determined as if he were credited with the additional Creditable Service in a hazardous duty position under the Plan that he would have had he remained an active employee until he reached age 60, over

(II) The Actuarial Value of the Participant's Law Enforcement Supplement determined under the 0.3% method described in subparagraph 4.3(b) of this Plan as of his Window Retirement Date determined without regard to his status as a Window Retiree.

(F) The Additional Service Benefit for a Law Enforcement Eligible Employee Participant shall be counted toward eligibility for the Temporary Retirement Allowance.

(ii) "Early Reduction Factors"

(A) The actuarial reduction of the amount of a Participant's Basic Accrued Benefit under this Plan or under VRS that is normally applied to payments beginning before Normal Retirement Age shall be applied to each Window Retiree (except Joseph Jefferson Keever) as though he were three years older. Joseph Jefferson Keever shall be treated as though he were five years older. Notwithstanding, however, a Window Retiree other than a Law Enforcement Eligible Employee and who is between ages 62 and 65 as of June 1, 2013 shall be treated as though he were 65. Notwithstanding further, a Window Retiree who is a Law Enforcement Eligible Employee and who is between ages 57 and 60 as of June 1, 2013 shall be treated as though he were 60. The resulting difference in the Accrued Benefit will be provided under this Plan.

(B) The actuarial reduction of the amount of a Participant's Law Enforcement Supplement, if applicable, determined under the 0.3% method described in subparagraph 4.3(b) of this Plan that is normally applied to payments beginning before Normal Retirement Age shall be applied to each Window Retiree as though he were three years older. Notwithstanding, however, a Window Retiree who is between ages 57 and 60 as of June 1, 2013 shall be treated as though he were 60. The resulting difference in the Accrued Benefit will be provided under this Plan.

F-1.1(b) Notwithstanding any contrary provision of the Plan, Window Retirement Benefits are hereby made effective without regard to the "10 year phase in limitation" under Section 415(b)(5)(D) of the Code.

F-1.2 Eligibility for Window Retirement.

F-1.2(a) Any Plan Participant who voluntarily agrees to cease his employment pursuant to the Immediate Retirement Incentive Window Program and who:

(i) As of June 1, 2013, is actively at work (including persons on short term authorized leave such as vacation, family or medical leave or sick leave, but in any event excluding persons on layoff) as an Eligible Employee, including a Law Enforcement Eligible Employee (determined without regard to date of hire), and

(ii) In the case of a Participant other than a Law Enforcement Eligible Employee, as of June 1, 2013 is:

(A) At least age 55 with at least five (5) years of Creditable Service, or

(B) At least age 50 with at least ten (10) years of Creditable Service, and

(iii) In the case of a Participant who is a Law Enforcement Eligible Employee, as of June 1, 2013 is at least age 50 with at least five (5) years of Creditable Service under this Plan or under VRS, and

(iv) Executes a general release at such time and in such form (including but not limited to an age discrimination release), if any, as the Administrator may on a uniform and nondiscriminatory basis require, and does not revoke such release,

may retire from the employment of the Employer on the Window Retirement Date.

F-1.2(b) In order to become a Window Retiree, an eligible Participant must file a written acceptance of the offer of the Window Retirement Benefit with the Administrator during the Election Period. Such application shall include such other information as the Administrator may deem appropriate.

F-1.2(c) The Administrator shall inform each Participant who is eligible to be a Window Retiree of his Window Retirement Benefits (which are described in paragraph F-1.1 of this Appendix).

F-1.2(d) For purposes of the Immediate Retirement Incentive Window Program, the Administrator is hereby vested with all the power and authority necessary in order to carry out its duties and responsibilities in connection with the administration of the Immediate Retirement Incentive Window Program provisions of the Plan, including the power to interpret the provisions of the Plan. For such purpose, the Administrator shall have the power to adopt rules and regulations consistent with the terms of the Plan. The Administrator shall exercise such power and authority in its discretion. It is intended that a court review of the Administrator's exercise of such power and authority with respect to matters relating to claims for benefits by, and to eligibility for participation in and benefits of, Participants and Beneficiaries shall be made only on an arbitrary and capricious standard.

F-1.2(e) For purposes hereof, the following terms have the following meanings:

(i) The "Election Period" is the period from June 1, 2013 through July 31, 2013.

(ii) A Participant's "Window Retirement Date" is October 1, 2013 unless the Participant actually retires from the employment of the Employer at a later date requested by the Plan Sponsor.

(iii) A "Window Retiree" is a Participant described in subparagraph F-1.2(a) of this Appendix who accepts the offer of the Window Retirement Benefit during the Election Period and who ceases to be an Employee on the Window Retirement Date.

(vi) The "Immediate Retirement Incentive Window Program" is the special administration and enhanced benefit provisions related to the Window Retirement Benefits contained in this Appendix and related provisions of the Plan.

F-1.3 Special Death Benefit Rules for Window Retirees. In the event of the death of a Participant who is a Window Retiree on or after his Window Retirement Date and before his Annuity Starting Date, the Window Retirement

Benefits to which he is entitled shall be considered a part of his Accrued Benefit for purposes of determining the Death Benefit payable under ARTICLE VII of the Plan with respect to such Participant.

F-1.4 Special Vesting Rules for Window Retirees. For purposes of determining vesting in the Window Retirement Benefit only, a Participant's Creditable Service shall include creditable service under VRS.

F-1.5 Special Payment Rules for Window Retirees.

F-1.5(a) The Actuarial Value of Window Retirement Benefit of a Window Retiree shall be payable as part of his Accrued Benefit in accordance with the provisions of ARTICLE VIII of Plan.

F-1.5(b) In the case of a Window Retiree who is a Participant solely by reason of his status as a Window Retiree, his Window Retirement Benefit shall be paid as a single life annuity or as otherwise elected in accordance with the provisions of ARTICLE VIII of the Plan.

F-1.5(c) Notwithstanding the foregoing a Window Retiree may elect in the manner described in subparagraph 8.2(c) that the Actuarial Value of his Window Retirement Benefit (other than the Temporary Retirement Allowance) shall be paid to him in a lump sum (subject to the provisions of paragraph 8.7).

**VIRGINIA PORT AUTHORITY  
DEFINED BENEFIT PENSION PLAN AND TRUST**

**Appendix G  
Special Provisions Applicable to Legacy VIT Participants**

**G-1.1 Special Definitions.**

G-1.1(a) Benefit Formula means one-twelfth (1/12) the amount calculated in accordance with the following formula:

- (i) One and four-tenths percent (1.4%) of the Participant's Final Average Earnings at his date of retirement multiplied by the number of years of such Participant's Creditable Service at such date, plus
- (ii) Four-tenths of one percent (0.4%) of the Participant's Final Average Excess Earnings at his date of retirement multiplied by the number of years of such Participant's Creditable Service at such date to a maximum of thirty-five (35) years; reduced by
- (iii) Actuarial Equivalent of the "Normal Retirement Allowance" calculated under the VIT Pension Plan immediately prior to the Employee's transfer from VIT.

Notwithstanding the provisions set forth in paragraph G-1.1(a), above to the contrary, a Participant's excess benefit, as calculated in paragraph G-1.1(a)(ii), may not exceed the maximum excess allowance provided in Section 401(1) of the Code. If a Participant's monthly retirement allowance begins at or after Normal Retirement Age but before his or her Social Security Retirement Age (as defined below), the Participant's excess benefit (as provided in paragraph G-1.1(a)(ii), above) shall be reduced as may be necessary to meet the annual maximum excess allowance percentage as set forth in Section 401(1) of the Code and the Tables I, II or III, whichever table is applicable to the Participant, set forth in Treasury Regulation 401(1)-3(e)(3). If a Participant's benefits commence under the Plan before he attains age fifty-five (55), the excess benefit provided in paragraph G-1.1(a)(ii), above, shall be further reduced (on a monthly basis to reflect the month in which benefits commence) to a factor which is the Actuarial Equivalent of the excess benefit provided in Section 401(1) of the Code and the regulations promulgated thereunder, commencing in the month in which the Participant attains age fifty-five (55). Notwithstanding the foregoing, for limitation years ending after December 31, 2001, the adjustments under Code Section 415(b)(2)(C) apply to benefits that commence before age 62, and the adjustments under Code Section 415(b)(2)(D) apply to benefits that begin after age 65. There are no actuarial adjustments for benefits that commence between ages 62 and 65. For purposes hereof, "Social Security Retirement Age" means age 65 in the case of a Participant attaining age 62 before January 1, 2000 (i.e., born before January 1, 1938), age 66 for a Participant attaining age 62 after December 31, 1999, and before January 1, 2017 (i.e., born after December 31, 1937, but before January 1, 1955), and age 67 for a Participant attaining age 62 after December 31, 2016 (i.e., born after December 31, 1954).

G-1.1(b) Credited Service means all years of Credited Service as determined under the VIT Pension Plan immediately prior to the Employee's transfer from VIT. Notwithstanding the forgoing, if at the time of the Employee's transfer, he does not have a year of Credited Service for the Plan Year in which the transfer occurs, the Employee shall be credited with Creditable Service under this Plan for the period between the first day of the Plan year of the VIT Plan and the date of transfer. For periods beginning on the date of the transfer, Creditable Service shall be determined in the same manner as determined for Legacy VPA Employees.

G-1.1(c) Earnings:

(i) in the case of a Legacy VIT Participant hired on or after January 1, 1997, means base salary or wages, prior to withholdings or deferrals under any plan of deferred compensation, paid to him or her by the Employer, excluding extra compensation of any kind, such as the Pay Plan Bonus, overtime pay, unused personal leave and vacation payouts, and other bonuses.

(ii) in the case of a Legacy VIT Participant hired before January 1, 1997, means the Participant's current calendar year's "Total Compensation" divided by the Participant's Base Pay for the prior year, the resulting quotient shall then be multiplied by the Participant's prior year's Earnings, as represented by the following formula:

Current Year Earnings	=	$\frac{\text{Current Year Total Compensation}}{\text{Prior Year Base Pay}}$	x	Prior Year Earnings
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For this purpose:

"Base Pay" shall mean, base salary or wages, prior to withholdings or deferrals under any plan of deferred compensation, paid to him or her by the Employer, excluding extra compensation of any kind, such as the Pay Plan Bonus, overtime pay, unused personal leave and vacation payouts, and other bonuses.

"Pay Plan Bonus" shall mean the salaried or hourly pay plan bonus, if any, which is awarded to an Employee as an integral part of the Employee's annual compensation review.

"Total Compensation" shall mean Base Pay plus the Pay Plan Bonus.

G-1.1(d) Final Average Earnings means, for any Legacy VIT Participant as of any date, one-fifth of his total Earnings in the sixty (60) consecutive months of his Creditable Service during which his Earnings were highest, except that where a Participant has had less than sixty (60) months of Creditable Service, Final Average Earnings shall be his total Earnings during the shorter period, divided by the Participant's Creditable Service.

G-1.1(e) Final Average Excess Earnings means, for any Participant as of any date, that portion, if any, of the Participant's Final Average Earnings in excess of the Participant's "covered compensation," as determined in accordance with the provisions of the Federal Social Security Act in effect on the first day of the Plan Year in which the date of determination falls. As used in this definition, "covered compensation" means the amount of annual compensation with respect to which old-age and survivors insurance benefits would be provided for such Participant under the Social Security Act, computed as though for each year, until the Participant reaches his or her retirement age set forth under the Social Security Act, his or her annual compensation is at least equal to the maximum amount of earnings which may be considered wages for such year under Section 3121(a)(1) of the Code, as amended from time to time.

G-1.1(f) Vested Service means all years of Vested Service as determined under the VIT Pension Plan immediately prior to the Employee's transfer from VIT. Notwithstanding the forgoing, if at the time of the Employee's transfer, he does not have a year of Vested Service for the Plan Year in which the transfer occurs, the Employee shall be credited with Vested Service under this Plan for the period between the first day of the Plan year of the VIT Pension Plan and the date of transfer. For periods beginning on the date of the transfer, Vested Service shall be determined in the same manner as Creditable Service is determined for Legacy VPA Employees.