



Restated and Amended as of July 1, 2020  
Restated and Amended as of July 1, 2021

**UNIVERSIDAD DEL SAGRADO CORAZON  
PENSION PLAN**

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## **UNIVERSIDAD DEL SAGRADO CORAZÓN PENSION PLAN**

The Universidad del Sagrado Corazón Pension Plan, hereinafter set forth, represents an amendment to and a restatement of the Universidad del Sagrado Corazón Pension Plan in its entirety effective July 1, 2020, except where otherwise stated. The purpose of the amendment and restatement of the Plan is to confirm that the Plan has been and continues to be a “church plan” within the meaning of Section 3(33) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). Accordingly, the Plan is not subject to ERISA. In addition, the Plan is not subject to the Internal Revenue Code of 1986, as amended (the “U.S. Code”), but is subject to the Puerto Rico Internal Revenue Code of 2011, as amended, (the “P.R. Code”) and to the rules and regulations of the Puerto Rico Department of Treasury, (the “P.R. Treasury”). The Plan has not and is not electing to apply the provisions of ERISA.

References in this Plan to provisions of the U.S. Code and the Treasury Regulations promulgated under the U.S. Code, are voluntarily incorporated in order to provide rules for administering and operating the Plan but are not intended to imply that the Plan is subject to the U.S. Code. Similarly, References to ERISA, the Pension Benefit Guaranty Corporation and to the U.S. Department of Labor are also voluntarily incorporated into the Plan for plan administration and operation purposes only and are not intended to imply that the Plan is subject to ERISA or regulations issued by the Pension Benefit Guaranty Corporation or the U.S. Department of Labor.

### **ARTICLE I DEFINITIONS**

Where the following words and phrases appear in the Plan, they shall have the respective meanings as set forth below, unless the context in which they are used clearly indicates a different meaning.

#### **1.01 Accrued Benefit**

A retirement benefit determined in accordance with Section 5.01 based upon the Participant’s Average Final Compensation as of the date of determination and his Years of Credit to date of determination.

A Participant’s Accrued Benefit may not be less than his Employee Provided Accrued Benefit. In no event may a Participant’s Accrued Benefit determined as of March 1, 1991, be less than his Accrued Benefit determined as of February 28, 1991 in Accordance with the benefit formula then in effect.

#### **1.02 Actuarial Equivalent**

Effective July 1, 2000, Actuarial Equivalent means a benefit that is of equal value at the date of determination to the benefits for which they are to be substituted. For purposes of this Plan, the following conventions shall be used to calculate Actuarial Equivalence:

(a) For all purposes other than the calculation of lump sum benefits, Actuarial Equivalence shall be based on the Applicable Interest Rate specified in Section 1.05 and the Applicable Mortality Table specified in Section 1.06.

(b) For purposes of calculating lump sum benefits under Section 5.06, Actuarial Equivalence shall be based on the Applicable Mortality Table specified in Section 1.06 and the "Section 417 interest rate". For this purpose, the Section 417 interest rate means the applicable interest rate described in Code Section 417(e)(3)(C). Specifically, the 417 interest rate shall be the adjusted first, second, and third segment rates applied under rules similar to the rules of Code Section 417(e)(3)(D) for the month preceding the Plan Year in which the distribution is made.

(c) During the period beginning July 1, 2000, and ending on April 15, 2005, the amount of any such lump sum shall be determined either under subsection (b) or under the terms of this Section applicable to lump sums prior to amendment (set forth in subsection (d) immediately below), whichever results in the highest benefit payable to the Participant.

Notwithstanding the foregoing, the amount payable to a Participant in a lump sum calculated under this Section shall not be less than the Participant's Accrued Benefit on the date this amendment is executed, converted to such lump sum using the Actuarial Equivalence factors for lump sums in effect under this Section on the day before this amendment is executed.

#### 1.03 Administrative Committee

The persons appointed by the Employer to administer the Plan in accordance with the provisions of Article VIII. The Administrative Committee shall serve as the Plan Administrator.

#### 1.04 Anniversary Date

The Effective Date and each March 1 thereafter through March 1, 1984. Thereafter, the Anniversary Date shall be July 1, beginning with July 1, 1985.

#### 1.05 Applicable Interest Rate

Applicable Interest Rate means an annual rate of interest of five percent (5%) that will be periodically reviewed.

#### 1.06 Applicable Mortality Table

Applicable Mortality Table means the table prescribed by the United States Secretary of the Treasury under U.S. Code section 417(e)(3).

#### 1.07 Average Final Compensation

A Participant's aggregate Compensation for the 5 consecutive calendar years in which his Compensation is highest during his last 10 calendar years of employment, divided by 5, provided that, if he has been an Employee for less than 5 consecutive years, his Average Final Compensation shall be based upon his aggregate Compensation for the calendar years during which he was an Employee. For purposes of this calculation, if a higher average will result, calendar years during any part of which a Participant incurred a Period of Severance, or was not an Employee for any reason, shall not be recognized and the calendar years preceding and following such period shall be deemed to be consecutive.

#### 1.08 Beneficiary

The person or persons designated to receive benefits payable under the Plan in the event of a Participant's death. Such designation may be changed at any time by the Participant. A Participant may also name one or more contingent Beneficiaries to receive any benefits payable in the event of his death with no surviving primary Beneficiary. In the absence of any designation, or if no designated person is living when a benefit is payable, Beneficiary shall mean the following person or persons, in the following order:

(a) The Participant's spouse;

(b) The Participant's estate.

Notwithstanding the preceding, the election by a married Participant of a Beneficiary other than his spouse shall not be deemed to be effective, and the Participant's spouse shall automatically be deemed to be the Participant's sole Beneficiary, unless the Participant's spouse agrees to such non-spousal designation in writing and such spousal consent is witnessed by a member of the Administrative Committee or a notary public.

#### 1.08A Board

The Board of Trustees of the Universidad del Sagrado Corazón.

#### 1.09 Compensation

The basic salary or wages paid to a person while he is an Employee of the Employer, excluding overtime pay, bonuses, severance pay, payments for life insurance or employee benefit plans, and any other forms of additional compensation during a calendar year. Effective January 1, 2012, a Participant's annual Compensation for purposes of determining benefit accruals, the discrimination test under P.R. Code Section 1081.01(a) and any benefit limitations contained in the Plan shall not exceed the limit imposed by P.R. Code Section 1081.01(a)(12).

#### 1.10 Effective Date

March 1, 1977.

#### 1.11 Employee

Any person who is employed by the Employer as a regular, administrative employee on a full-time or part-time basis or on the regular teaching staff on a full-time basis or any such person on an authorized leave of absence in accordance with Subsection 1.15(c). Temporary or casual employees on a full-time or part-time basis are not considered Employees for purposes of this Plan. Any person who is represented by a collective bargaining agent shall not be considered an Employee for purposes of the Plan. Effective July 1, 2003, any person on the payroll of a third party with whom the Employer has contracted for the provision of such person's services shall not become a Participant. In addition, any person who pursuant to a written contract with the Employer that provides that he is an independent contractor and not an employee, shall not be eligible to participate in the Plan during the period such written contract is in effect. The Employer's employment classification of a person shall be binding and conclusive for all purposes of the Plan and shall remain in effect regardless of any contrary classification or reclassification of such person by any other person or entity, including without limitation, by the U.S. Internal Revenue Service or a court of competent jurisdiction

#### 1.12 Employee Provided Accrued Benefit

A retirement benefit payable as of a Participant's Normal Retirement Date in the normal form of benefit for a single participant which is of equivalent value to the Participant's Mandatory Contributions Account. For purposes of determining such actuarial equivalence, no mortality assumption shall be used for the period ending on a Participant's Normal Retirement Date.

#### 1.13 Employer

Universidad del Sagrado Corazón and any entity required by the P.R. Code to be grouped with Universidad Sagrado Corazón.

#### 1.14 Employer Provided Accrued Benefit

A retirement benefit equal to (a), reduced by (b):

(a) The Participant's Accrued Benefit.

(b) The Participant's Employee Provided Accrued Benefit.

If a former Participant is reemployed by the Employer following a Period of Severance, his Employer Provided Accrued Benefit shall not be less than the Employer Provided Accrued Benefit determined immediately prior to the Period of Severance, unless the

Participant's Years of Credit prior to the Period of Severance are to be excluded from any subsequent benefit calculation in accordance with Section 1.32.

1.15 Employment Commencement Date

For all purposes of the Plan, the date on which a person employed by the Employer first performs an Hour of Service.

1.16 Enrolled Actuary

A person who is enrolled by the U.S. Joint Board for the Enrollment of Actuaries to perform actuarial valuations and certify to their results.

1.17 Highly Compensated Employee

Any Employee residing in Puerto Rico who is "highly compensated" within the meaning of P.R. Code Section 1081.01(d)(3)(E)(iii).

1.18 Hour of Service

(a) Each hour for which a person is directly or indirectly compensated by the Employer for the performance of duties, including each such hour during which a person was represented by a collective bargaining agent.

(b) Each hour for which a person is directly or indirectly compensated by the Employer on account of a period of time during which no duties are performed or for which back pay has been received by the person (irrespective of whether mitigating damages have been awarded or agreed to by the Employer) due to:

- (i) vacation or holiday,
- (ii) illness or incapacity,
- (iii) layoff,
- (iv) jury duty,
- (v) military duty,
- (vi) leave of absence,

provided that no more than 501 such hours shall be recognized on account of a single continuous period during which no duties are performed and further provided that:

- (i) such payment is not made or due under a plan maintained solely for purposes of complying with applicable workers' compensation, unemployment compensation, or disability insurance laws, and

(ii) such payment does not solely represent reimbursement for medical or medically related expenses, and further provided that hours shall not be recognized with respect to periods during which payments are received from any long-term disability plan or this Plan.

(c) Each hour for which a person would normally be scheduled to work for the Employer during an authorized, paid leave of absence, but only if he returns to work within the time fixed by the Employer. Such leaves of absence shall be granted under rules uniformly applied to all persons.

With respect to Subsections (a) and (c) above, hours shall be recognized when the duties are performed, or would normally have been performed. With respect to Subsection (b) above, hours shall be recognized when payment is made or becomes due, or in the case of back pay, in the period to which the award or payment pertains. The provisions of this Section 1.18 shall be applied using the provisions of the Code of Federal Regulations Sections 2530.202b-2(b) and (c). An Employee who is absent from employment because of a leave of absence under the Family and Medical Leave Act of 1993 shall receive credit for Hours of Service during such absence. Provided, however, that the same Hours of Service shall not be credited under both this subsection and any other provision of this Section.

#### 1.19 Mandatory Contributions Account

A Participant's own contributions, if any, made in accordance with Section 3.02, credited with interest at the rate of 5% per annum compounded annually through June 30, 1988, and using the rate of 120 percent of the Federal mid-term rate as in effect under Section 1274 of the U.S. Code for the first month of each Plan Year compounded annually from July 1, 1989 to the date as of which the determination is made. A Participant's Mandatory Contributions Account shall be reduced by any distributions made in accordance with Section 5.06. Effective October 31, 2006, Participants are no longer required or allowed to make contributions to the Plan.

#### 1.20 Maternity or Paternity Leave

An Employee's absence from work for the Employer (a) by reason of the pregnancy of such Employee; (b) by reason of the birth of a child of such Employee; (c) by reason of the placement of a child with the Employee in connection with the adoption of such child by such Employee; or (d) for purposes of caring for a child of such Employee immediately following the birth of the child or the placement of the child with such Employee.

#### 1.21 Normal Retirement Date

The later of the Participant's attainment of age 65 or his completion of five Years of Service.

#### 1.22 Participant

An Employee eligible to participate in the Plan in accordance with Section 2.01 (an Active Participant), or a former Employee receiving or eligible to receive a retirement benefit (an Inactive Participant). For purposes of this Section 1.21, any person employed by the Employer who is not an Employee but who would be eligible for retirement benefits if his employment terminated shall also be referred to as an Inactive Participant. No Employee shall become an Active Participant after September 30, 2006.

#### 1.23 Period of Severance

The period, measured in full years and months (as defined in Section 1.32), between a Participant's Severance from Service Date and a subsequent Reemployment Commencement Date. A Participant shall not be deemed to have a Period of Severance while on an authorized leave of absence provided that he is compensated by the Employer during that period and provided that he returns to active employment with the Employer immediately following such leave.

#### 1.24 Plan

The retirement plan set forth herein and as amended and restated hereafter, which is known as the: "Universidad del Sagrado Corazón Pension Plan".

#### 1.25 Plan Year

The 12-month period beginning on the Effective Date and on each Anniversary Date thereafter.

#### 1.26 Reemployment Commencement Date

The date on which a person formerly employed by the Employer first performs an Hour of Service after a Period of Severance.

#### 1.27 Severance from Service Date

The later of the following:

(a) The date of a person's resignation from the employ of the Employer, discharge, retirement, or death.

(b) The day following a period of one full year during which a person previously employed by the Employer does not complete an Hour of Service for any reason other than his resignation, discharge, retirement, or death. These reasons shall include, but shall not be limited to, vacation, holiday, sickness, disability, leave of absence, or layoff.

For all purposes of the Plan, a person's employment with the Employer shall be deemed to have terminated as of a Severance from Service Date.

#### 1.28 Total and Permanent Disability

A physical condition of an Active Participant who, in the opinion of the Administrative Committee, is unable to engage in any substantial gainful activity, taking into account training and past work experience, due to a medically determinable physical or mental impairment which can be expected to be of long, continued and indefinite duration or to result in death. In determining whether a Participant is disabled, the Administrative Committee shall rely upon the advice of a licensed Doctor of Medicine who the Administrative Committee may retain at Employer expense for such advice. Continued evidence of a disabled Participant's disability shall be required at least annually, or more frequently if the Administrative Committee so requests for the Participant to remain eligible for a Disability Retirement Benefit, as described in Section 5.04.

#### 1.29 Trust Agreement

The legally binding agreement between the Employer and the Trustee. Any term defined in the Trust Agreement shall have the same meaning as therein ascribed when used herein unless the context clearly implies a different meaning.

#### 1.30 Trustee

The trustee named in the Trust Agreement, or its successor, if any.

#### 1.31 Trust Fund

The fund created by the Employer to receive Plan contributions, together with earnings thereon.

#### 1.32 Years of Credit (for purposes of determining amount of benefit)

All Years of Service (as defined in Section 1.33) measured in near years and months, while an Employee, excluding any period during which the Employee did not receive Compensation or did not make contributions to the Plan. Years of Credit preceding a Period of Severance shall be excluded if the Participant received a refund of his Mandatory Contributions Account in accordance with Subsection 5.06(a), received a refund of his Mandatory Contributions Account and a distribution of the Actuarial Equivalent of his Employer Provided Accrued Benefit in accordance with Subsection 5.06(b), or received a distribution in accordance with Subsection 5.06(c) and was not vested at the date of distribution.

Notwithstanding the preceding, Years of Credit shall exclude all Years of Service during which an individual was represented by a collective bargaining agent with respect to any period of employment with the Employer. Effective December 12, 1994, notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the U.S. Code.

Notwithstanding anything to the contrary in the Plan, effective October 31, 2006 all Participants' Years of Credit were frozen on such date.

1.33 Years of Service (for purposes of determining benefit eligibility)

The period measured in near years and months (as defined below) beginning on a person's Employment Commencement Date and ending on his last Severance from Service Date, but excluding the following:

(a) Any intervening Period of Severance (provided that the person's Reemployment Commencement Date followed a period of at least one full year during which he completed no Hours of Service),

(b) Any Years of Service preceding a Period of Severance of at least five full years provided:

(i) the person had not completed at least 5 Years of Service at the time of such Severance, and

(ii) the length of the Period of Severance exceeded his Years of Service determined as of the Severance from Service Date, and

(iii) the Participant had not incurred a Total and Permanent Disability, which disability continued throughout the Period of Severance.

In the event of an Employee's absence from the employ of the Employer for a period:

(i) that commences on or after January 1, 1985;

(ii) for which the Employee is not paid or entitled to payment by the Employer;

(iii) that constitutes Maternity or Paternity Leave; and

(iv) that exceeds one year;

then, solely for purposes of determining the length of a Period of Severance for purposes of this Section 1.33, the period of such absence commencing on the date of the commencement of such absence and ending on the second anniversary of the commencement of such absence (or, if earlier, on the last day of such absence) shall not be considered a Period of Severance. Notwithstanding any provision in the Plan to the contrary, the preceding paragraph shall not apply unless the Employee furnishes to the Administrative Committee such information as may reasonably be required in order to establish (i) that the Employee's absence is one described in Section 1.19 and (ii) the number of days during such absence.

Effective December 12, 1994, notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the U.S. Code.

## **ARTICLE II PARTICIPATION**

### **2.01 Requirements for Participation**

Each Employee, if he was a Participant in the Plan on July 1, 2020, shall continue as a Participant in the Plan. Effective October 31, 2006 the Plan was frozen, and no Employee employed on or after that date shall be eligible to participate in the Plan.

### **2.02 Cessation of Participation**

A person's Active or Inactive Participation in the Plan shall cease when his employment with the Employer terminates, and he has received a refund of his Mandatory Contributions Account in accordance with Subsection 5.06(a) or, if later, when distribution of any Normal, Late, Early, Disability, or Deferred Vested Retirement Benefit to which he may be entitled has been completed.

## **ARTICLE III CONTRIBUTIONS**

### **3.01 Contributions by the Employer**

The contributions of the Employer shall be made at such times and in such amounts as the Employer shall determine, based upon the recommendations of an Enrolled Actuary engaged by the Administrative Committee, as provided below, recognizing that the Plan is a "church plan" and is not subject to the funding requirements of Title IV of ERISA. The Employer may, in its discretion, make contributions to the Trust Fund from time to time, to fund the cost of the death and retirement benefits provided by the Plan and to pay certain expenses of the Plan. Any forfeitures under the Plan shall be used to reduce the contributions otherwise payable by the Employer and shall not be applied to increase any retirement benefits otherwise payable under the Plan.

The Administrative Committee shall establish a funding policy, which the Administrative Committee may revise at any time in its discretion, and, on an annual basis, shall approve the actuarial assumptions and methods under which actuarial valuations of the assets and liabilities of the Plan shall be performed. The Administrative Committee shall appoint a qualified Enrolled Actuary to recommend appropriate actuarial assumptions and methods and to perform the required actuarial valuations.

### 3.02 Mandatory Contributions by Participants

Each Participant who is also an Employee, as a condition to participate in this Plan, shall contribute 1% of the first \$4,800 of his Compensation, plus 3% of the next \$9,600 of his Compensation, plus 4% of his Compensation in excess of \$14,400, and shall authorize the Employer, in writing, to deduct those contributions from his Compensation as it becomes due. All such contributions shall be made by payroll deduction.

A Participant who, for a period of time, is granted a leave of absence in accordance with Subsection 1.17(c) or is accumulating Hours of Service in accordance with Subsection 1.17(b) and who remains an Employee during such period shall be required to make contributions to the Plan during such period equal to the amounts described in the preceding paragraph based on his rate of Compensation immediately prior to the start of such period.

Notwithstanding the foregoing, effective October 31, 2006, Participants shall not be required or permitted to make contributions to the Plan.

### 3.03 Refunds of Employer Contributions

Once a contribution is made to the Plan by the Employer, it may not be refunded to the Employer unless the contribution was made in error as a result of a mistake in fact or was conditioned upon the qualification or the non-deductibility of the contributions of the Plan under the P.R. Code.

A permissible refund under this section must be made within one year from the date the contribution was made to the Plan.

### 3.04 Establishment of Trust Fund

The Employer has appointed a Trustee who has established a Trust Fund to which all Employer and Mandatory Employee contributions have and shall continue to be made. The Trust Fund shall continue to be held, invested, reinvested, used and disbursed by the Trustee in accordance with the provisions of the Plan and a Trust Agreement entered into between the Employer and the Trustee.

The Employer may remove the Trustee at any time upon the notice required by the Trust Agreement. The Employer then shall designate a successor Trustee.

No person shall have any interest in, or right to, the Trust Fund or any part thereof, except as expressly provided in the Plan or the Trust Agreement. Any provisions of the Plan to the contrary notwithstanding, and except for the payment of expenses, no part of the assets of the Trust Fund shall, by reason of any modification, amendment, termination, or otherwise, be used for or diverted to purposes other than for the exclusive benefit of Participants and Beneficiaries.

### 3.05 Payment of Expense

All expenses which arise in connection with the administration of the Plan and the Trust Agreement including, but not limited to, the compensation of the Trustee and of any Enrolled Actuary, accountant, counsel, or other person appointed by the Administrative Committee, the Employer, or the Trustee shall be paid out of the Trust Fund, unless paid by the Employer.

### 3.06 Annual Contribution Limitations

Notwithstanding any other provisions of the Plan, the total Annual Additions for each Participant for any Plan Year shall not exceed any limitation as may be imposed by the P.R. Code and amendments thereto.

The term "Annual Additions" shall mean the sum of the Participant's mandatory contributions made during any Plan Year.

## **ARTICLE IV ELIGIBILITY FOR RETIREMENT BENEFITS**

### 4.01 Normal Retirement

A Participant whose employment is terminated on his Normal Retirement Date shall have a nonforfeitable right to receive a Normal Retirement Benefit.

### 4.02 Late Retirement

A Participant may continue his employment after his Normal Retirement Date. When his employment terminates, he shall have a nonforfeitable right to a Late Retirement Benefit.

### 4.03 Early Retirement

A Participant whose employment is terminated before his Normal Retirement Date, but after he has attained age 55, and has completed at least 5 Years of Service shall have a nonforfeitable right to receive an Early Retirement Benefit.

### 4.04 Disability Retirement

A Participant who has completed five Years of Service and has terminated his employment due to a Total and Permanent Disability which lasted more than six months shall be entitled to a Disability Retirement Benefit.

#### 4.05 Deferred Vested Retirement

Effective July 1, 1989, a Participant who is not entitled to a Normal, Late, Early, or Disability Retirement Benefit hereunder, but whose employment is terminated after he has completed at least 5 Years of Service shall have a nonforfeitable right to receive a Deferred Vested Retirement Benefit.

#### 4.06 Refund of Mandatory Participant Contributions

A Participant who is not entitled to any retirement benefits in accordance with this Article IV shall have a nonforfeitable right to receive a refund of his Mandatory Contributions Account or, if his Mandatory Contributions Account is not distributed, a monthly benefit from the Plan equal to his Employee Provided Accrued Benefit, upon his termination of employment. A Participant who is on a leave of absence with or without pay shall not be entitled to a refund of his Mandatory Contributions Account until his termination of employment, and he shall be entitled to no other benefits from the Plan.

### **ARTICLE V AMOUNT OF RETIREMENT BENEFITS**

#### 5.01 Normal Retirement Benefit

A Participant's Normal Retirement Benefit shall be equal to the greater of (a) and (b) below:

(a) 1.95% of the Participant's Average Final Compensation multiplied by his Years of Credit, to a maximum of 20 years.

(b) The Participant's Employee Provided Accrued Benefit.

Benefit payments shall commence on the first day of the month coincident with or next following the Participant's Normal Retirement Date and shall be paid in accordance with Article VII.

#### 5.02 Late Retirement Benefit

(a) A Participant's Late Retirement Benefit shall be calculated in accordance with Section 5.01, based upon his Average Final Compensation and Years of Credit as of his actual retirement date. Benefit payments shall commence on the first day of the month coincident with or next following the Participant's retirement and shall be paid in accordance with Article VII; provided, however, that payment of Normal Retirement Benefits shall not be deferred by the Plan pursuant to this Section unless the Plan Administrator notifies the Participant by personal delivery or first class mail during the first calendar month or payroll period in which the Plan withholds payments that the payment of his retirement benefit will not begin effective on his Normal Retirement Date.

(b) Effective July 1, 2021, the administrative procedure used prior to July 1, 2021, to provide an increased benefit due to late retirement will not be used in calculating benefits for terminated vested participants. Effective January 1, 2022, the administrative procedure that provides for a late retirement adjustment will not be used in calculating Late Retirement Benefits for Active Participants. However, in both cases an affected Participant will be entitled to the increased benefit to which he or she is entitled as of July 1, 2021 (in the case of terminated vested participants) and as of January 1, 2022 (in the case of Active Participants).

#### 5.03 Early Retirement Benefit

A Participant's Early Retirement Benefit shall be calculated in accordance with Section 5.01 based upon his Average Final Compensation and Years of Credit as of his actual retirement date. Benefit payments shall commence on the first day of the month coincident with or next following the Participant's Normal Retirement Date. The Participant may elect benefit commencement as of the first day of any month preceding this date, in which case his monthly benefit will be the retirement benefit to which he would otherwise be entitled, reduced by 5/12% for each month by which benefit commencement precedes the first day of the month coincident with or next following his Normal Retirement Date, to a maximum of 60 such months, and by an additional 5/24% for each month of early commencement thereafter.

A Participant who retires from active employment after attaining age 55 and completing at least 25 Years of Service may elect benefit commencement as of the first day of any month preceding his Normal Retirement Date without a reduction for early commencement.

Benefits shall be paid in accordance with Article VII.

#### 5.04 Disability Retirement Benefit

A Participant's Disability Retirement Benefit shall be calculated in accordance with Section 5.01 based upon his Average Final Compensation and Years of Credit as of his actual Disability Retirement Date. Benefit payments shall begin on the first day of the month coincident with or next following the Participant's Disability Retirement Date and shall be reduced pursuant to the reduction factors specified in Section 5.03. If benefits commence prior to the Participant's attainment of age 55, the benefit payable shall be the Actuarial Equivalent of a benefit payable at the Participant's attainment of age 55.

Benefits shall be paid in accordance with Article VII. If a Participant is no longer deemed to be Totally and Permanently Disabled according to the Administrative Committee, he shall no longer be eligible for a Disability Retirement Benefit but may be eligible for other benefits based upon his age at the date of recovery and his Years of Credit as of his Disability Retirement Date.

#### 5.05 Deferred Vested Retirement Benefit

A Participant's Deferred Vested Retirement Benefit shall be calculated in accordance with Section 5.01 based upon his Average Final Compensation and his Years of Credit as of the date his employment terminates.

Benefit payments shall commence on the first day of the month coincident with or next following the Participant's Normal Retirement Date. The Participant may elect benefit commencement as of the first day of any month preceding this date but after attaining age 55, in which case his monthly benefit will be reduced as described in Section 5.03. Benefits shall be paid in accordance with Article VII.

#### 5.06 Refund of Mandatory Contributions Account and Other Distributions Preceding Eligibility for Benefit Commencement

(a) If a Participant terminates or has terminated his employment with eligibility for a refund of his Mandatory Contributions Account in accordance with Section 4.06, and the value of his Mandatory Contributions Account is not more than \$5,000, he shall receive a single sum payment of such amount, and no other benefits shall be payable from the Plan.

(b) If a Participant terminates or has terminated his employment with eligibility for a Deferred Vested Retirement Benefit in accordance with Section 4.05, and the immediate single sum payment, which is the Actuarial Equivalent of his Employer Provided Accrued Benefit plus the value of his Mandatory Contributions Account, is not more than \$5,000, he shall receive a single sum payment. The payment shall be equal to the amount determined in accordance with the preceding sentence.

(c) If a Participant terminates or has terminated his employment with eligibility for a refund of his Mandatory Contributions Account in accordance with Section 4.06 or a Deferred Vested Retirement Benefit in accordance with Section 4.05 and the immediate single sum payment, which is the Actuarial Equivalent of his Employer Provided Accrued Benefit, plus the value of his Mandatory Contributions Account, is more than \$5,000, he shall be entitled to elect a refund of his Mandatory Contributions Account subject to the spousal consent provisions of Section 7.01.

Any refunds or distributions made in accordance with this Section 5.06 shall be made as soon as administratively feasible following the last day of the Plan Year during which the Participant's employment terminates, or earlier at the Administrative Committee's sole discretion. No refunds or distributions shall be permitted prior to eligibility for benefit commencement except as provided in this Section 5.06.

For purposes of this Section, if the present value of the Participant's vested Accrued Benefit is zero, the Participant shall be deemed to have received a distribution of such vested benefit on the date his employment with the Employer ends.

#### 5.07 Commencement of Benefit Payments

Subject to the provisions of Section 7.02 and Section 7.03, but notwithstanding any other provisions of the Plan, the payment of benefits shall commence not later than 60 days after the Anniversary Date following the latest of the following:

- (a) The Participant's Normal Retirement Date;
- (b) The 10th anniversary of the date of the Participant's initial participation in the Plan;  
or
- (c) The Participant's termination of employment.

#### 5.08 Death of Participant Prior to Retirement

In the event of the death of a Participant for whom a Mandatory Contributions Account is maintained, payment in accordance with the following provisions shall be made to his surviving Beneficiary:

- (a) If the Participant's death occurs prior to his Severance from Service Date and no Surviving Spouse Annuity is payable in accordance with the provisions of Article VI, his Mandatory Contributions Account as of the date of his death shall be paid in one lump sum.
- (b) If the Participant's death occurs prior to his Severance from Service Date and a Surviving Spouse Annuity is payable in accordance with the provisions of Article VI, upon the death of the spouse there shall be paid in one lump sum the Participant's Mandatory Contributions Account at the date of his death less any Surviving Spouse Annuity payments made.
- (c) If the Participant's death occurs after benefit payments have commenced (or, if applicable, in the event an Optional Form of benefit is in effect in accordance with Article VII, upon the later death of a surviving payee entitled to further benefits under such Optional Form), there shall be paid in one lump sum the Participant's Mandatory Contributions Account accumulated to his benefit commencement date, less any payments made to such Participant and to any other payee under an Optional Form of Benefit.

#### 5.09 Maximum Annual Benefit

Notwithstanding anything in this Article V to the contrary, the annual benefit with respect to a Participant, when expressed as a benefit payable annually using a straight life annuity with no ancillary benefits may not exceed the limitation described in P.R. Code Section 1081.01(a)(11)(A).

## **ARTICLE VI SURVIVING SPOUSE ANNUITY**

### **6.01 Automatic 50% Surviving Spouse Annuity**

In lieu of the retirement benefits otherwise payable to a Participant who is married upon the commencement of retirement benefit payments, such married Participant shall automatically receive a reduced monthly retirement benefit under a 50% Contingent Annuitant Option determined in accordance with Section 7.01 to provide for the continuation of 50% of such reduced retirement benefit to his Eligible Surviving Spouse. Such 50% continuance shall commence on the first day of the month following the date of death of the Participant and shall continue during the lifetime of such Eligible Surviving Spouse.

The reduced retirement benefit initially payable to the Participant shall be the Actuarial Equivalent of the retirement benefit otherwise payable for the lifetime of the Participant in accordance with Article V.

### **6.02 Prevention of Automatic 50% Surviving Spouse Annuity**

A Participant may prevent the automatic election as provided in Section 6.01 by making a specific rejection in writing executed at the time he applies for his retirement benefit commencement, after having received written explanation of the terms and conditions of such Automatic 50% Surviving Spouse Annuity as provided under Section 6.04. If he prevents such automatic election, the Participant shall be entitled to the retirement benefit provided under Article V and Article VII.

Notwithstanding the preceding paragraph, the election by a Participant (who has been legally married to his then current spouse for at least twelve months preceding benefit commencement) of an Optional Form of Benefit Payment other than one described in Section 6.01 with his then current spouse as Contingent Annuitant shall not be deemed to be effective unless the Participant's spouse consents to such election in writing and such spousal consent is witnessed by a member of the Administrative Committee or a notary public. In the absence of such witnessed spousal consent, the Participant shall be deemed to have elected the Automatic 50% Surviving Spouse Annuity.

### **6.03 Payment of Death Benefits to Surviving Spouse**

If the Beneficiary of a deceased Participant is an Eligible Spouse, death benefits shall be distributed in the form of monthly payments to such Eligible Spouse, continuing for her lifetime. An Eligible Spouse shall be defined as the spouse of a Participant who:

(a) Died, whether or not such Participant was as of the date of his death in the employ of the Employer;

(b) Was eligible to receive an Early, Normal, Late, Disability or Deferred Vested Retirement Benefit as of the date of his death; and

(c) Had been married to his spouse for at least 12 months as of the date of his death.

The monthly benefit to which the Participant's spouse shall be entitled shall be equal to the monthly benefit which the Participant's spouse would have received had the Participant retired as of the day of his death and elected the Automatic 50% Surviving Spouse Annuity (as described in Section 6.01) commencing on the first day of the month coincident with or next following the earliest possible date the Participant could have elected benefit commencement had he survived, based on his Service at the time of his death.

#### 6.04 Election Procedures Upon Retirement

An official marriage certificate and birth certificate of the Participant and his spouse and/or other documentation must be submitted to the Administrative Committee showing evidence of the legal marriage, the date thereof and the ages of the Participant and his spouse.

Within ninety days before a Participant becomes eligible for commencement of retirement benefits, such Participant shall be given by the Administrative Committee an explanation, written in nontechnical terms, of the availability of such options and, in addition, the Administrative Committee shall notify the Participant that, upon request, he shall be given a written explanation of its financial effect. The election may be made at any time before the date of the commencement of the payment of the retirement benefits of the Participant.

#### 6.05 Death Benefits for Retirees

In the event of the death of an Inactive Participant subsequent to the commencement of retirement benefits, no death benefits shall be payable except as may be provided under the Form of Benefit Payment elected by the Participant.

### **ARTICLE VII PAYMENT OF RETIREMENT BENEFITS**

#### 7.01 Normal Form of Benefit Payment

The Normal Form of Benefit Payment shall be monthly payments continuing for the lifetime of the Participant, with the provision that, upon the death of the Participant, his Beneficiary shall receive an amount equal to the excess of the Participant's Mandatory Contributions Account determined as of the date benefit payments commenced over the aggregate retirement benefit payments received by the Participant.

If a Participant fails to make any written election of the Normal Form of Benefit Payment or one of the Optional Forms of Benefit Payment described in Section 7.02, he shall be deemed to have elected the Automatic 50% Surviving Spouse Annuity Form of Benefit Payment as described in Section 6.01.

## 7.02 Optional Forms of Benefit Payment

Subject to the provisions of Section 5.06(b), the following Optional Forms of Benefit Payment shall be made available to all Participants:

(a) Option I - “Contingent Annuity Option”, under which a monthly benefit is payable to the Participant during his lifetime, with the provision that after his death either (i) 100%, (ii) 75%, or (iii) 50% of such monthly benefit shall continue to be paid to his Contingent Annuitant for the remainder of her lifetime, and with the further provision that in the event of the Contingent Annuitant’s death while receiving monthly benefits or the Participant’s death following the death of the Contingent Annuitant, the Beneficiary of the person last in receipt of benefits shall receive the excess, if any, of the Participant’s Mandatory Contributions Account determined as of the date benefit payments commenced over the aggregate retirement benefits received by the Participant and Contingent Annuitant.

(b) Option 2 - “Life Annuity Option,” under which a monthly benefit is payable for the lifetime of the Participant, and all benefits cease upon the Participant’s death.

The benefit payable under the Normal Form of Benefit Payment shall be the monthly amount determined in accordance with the applicable provisions of Article V. The benefit payable under any other Optional Form of Benefit Payment shall be the Actuarial Equivalent of the benefit payable under the Normal Form of Benefit Payment. In no event may a Participant, or his Beneficiaries, receive benefits from the Plan which are less, in the aggregate, than his Mandatory Contributions Account determined as of his benefit commencement date.

## 7.03 Election Procedures

(a) No less than thirty (30) days and no more than ninety (90) days before the Annuity Starting Date, the Plan Administrator shall provide a Participant with a written explanation in nontechnical language, of the terms and conditions of: (1) Automatic 50% Surviving Spouse Annuity, (2) his right to elect to waive the benefit and the effect of such election, (3) the rights of the Participant’s Spouse with respect to such election, (4) the right to make and effect of, a revocation of a previous election, and (5) the relative values of the various forms of benefit under the Plan.

However, if the Participant, after having received the written explanation described above, affirmatively elects a form of distribution and the spouse consents to that form of distribution (if necessary), the Annuity Starting Date may be less than thirty (30) days after the written explanation was provided to the Participant, provided that the following requirements are met:

(i) the Plan Administrator provides information to the Participant clearly indicating that the Participant has a right to at least thirty (30) days to consider whether to waive the Automatic 50% Surviving Spouse Annuity and consent to another form of distribution;

(ii) the Participant is permitted to revoke an affirmative distribution election until the later of the Annuity Starting Date or the eighth day following the date the foregoing explanation is provided to the Participant;

(iii) the Annuity Starting Date is after the date the foregoing explanation is provided to the Participant. The Annuity Starting Date may be before the affirmative distribution election is made and before distribution commences; and

(iv) distribution in accordance with the affirmative election does not commence before the eighth day after the foregoing explanation is provided to the Participant.

(b) A Participant may elect to waive the Automatic 50% Surviving Spouse Annuity and to receive payment under another payment form only if the following conditions are met:

(i) the waiver is made within the ninety (90) day period ending on the Participant's Annuity Starting Date.

(ii) the Participant's Spouse consents in writing to such waiver and to the designation of the beneficiary or the form of benefit elected. Such consent must be witnessed by a notary public or plan representative, must be filed with the Plan Administrator and must acknowledge the effect of such waiver. No consent is required if it is established to the satisfaction of the Plan Administrator that the Participant does not have a Spouse or that the Spouse cannot be located.

The election to waive the Automatic 50% Surviving Spouse Annuity may be revoked by the Participant at any time prior to his Annuity Starting Date.

(c) Notwithstanding any other provision in the Plan, no benefit payment will be made prior to the time the notice requirements of subsection (b) have been satisfied. Any benefit payment which is delayed by operation of this subsection shall be paid to the Participant once the benefit amount is calculated. In addition, no benefit payment will be made unless the Participant receiving such benefit executes a release and waiver of any and all claims and rights, from whatever source derived, releasing the Plan, the Board, the Employer and its officers, employees and agents from any liability with respect to Plan benefits.

#### 7.04 Rollovers

To the extent the Plan offers a lump sum payment option and a Participant or Beneficiary requests to receive a distribution as a lump sum, at the election of the Participant or Beneficiary, the provisions of P.R. Code Section 1080.01(b)(1) shall not apply to that portion or to all of the total distribution that the Plan transfers directly or that the

Participant or Beneficiary contributes to (i) another employer's retirement plan that is qualified under P.R. Code Section 1081.01(a); (ii) an individual retirement account or annuity under the provisions of P.R. Code Section 1081.02; or (iii) to a nondeductible individual retirement account under the provisions of P.R. Code Section 1081.03, no later than sixty (60) days after having received such payment or distribution. In the case of a rollover to a nondeductible individual retirement account, the exception to which this paragraph refers shall only apply to those distributions described in P.R. Code Section 1081.03(d)(5)(A). Nonetheless, rollover contributions to a nondeductible individual retirement account shall be subject to the tax provided in P.R. Code Section 1081.03(d)(5) and, it shall be considered that the requirements thereof are met if a sum equal to the total amount received from the Plan by the Participant or Beneficiary, reduced by the tax imposed by P.R. Code Section 1081.03(d)(5) that was withheld as therein provided, is contributed to the nondeductible individual retirement account.

#### 7.05 Investing Rules

To the extent the Plan offers a lump sum payment option and a Participant or Beneficiary requests to receive a distribution as a lump sum, such distribution shall be subject to a ten percent (10%) tax rate, provided (a) and (b) below are satisfied:

(a) the Plan's trust is organized under the laws of the Government of Puerto Rico or has a Puerto Rico resident trustee and uses such trustee as payment agent; and

(b) at least ten percent (10%) of all trust assets attributable to Puerto Rico resident participants, is invested in qualifying investments described in P.R. Code Section 1081.01(b)(1)(B).

### **ARTICLE VIII PLAN ADMINISTRATION**

#### 8.01 Appointment of an Administrative Committee

The Employer shall appoint an Administrative Committee to serve as Plan Administrator. The Administrative Committee shall consist of no less than three persons, and shall serve at the pleasure of, and may be removed at any time, by the Employer. The Employer shall designate one of such persons to serve as Chairman. Participants may be members of the Administrative Committee. No member of the Administrative Committee shall receive compensation for his services as such.

#### 8.02 Operation of the Administrative Committee

A majority of the members of the Administrative Committee at the time in office shall constitute a quorum for the transaction of business. All resolutions or other action taken by the Administrative Committee shall be by vote of a majority of its members present at any meeting, or without a meeting, by instrument in writing signed by all its members.

The Chairman of the Administrative Committee shall appoint a Secretary who may but need not be a member of the Administrative Committee. The Administrative Committee may delegate any of its powers or duties among its members or to others as it shall determine. It may authorize one or more of its members to execute or deliver any instrument or to make any payment in its behalf. It may employ such counsel, agents, clerical, accounting and actuarial services as it may require in carrying out the provisions of the Plan, and to the extent permitted by law it shall be entitled to rely upon all tables, valuations, certificates, opinions, or other reports furnished by such persons.

#### 8.03 Powers and Duties of the Administrative Committee

The Administrative Committee shall have all powers necessary to administer the Plan except to the extent any such powers are vested in any other fiduciary by the Plan or by the Administrative Committee. The Administrative Committee may from time to time establish rules for the administration of the Plan, shall have the exclusive right to interpret the Plan and in its discretion to decide any matters arising in connection with the administration and operation of the Plan including eligibility to participate or to receive benefits and to determine the amount of benefits payable under the Plan and to remedy ambiguities, inconsistencies or omissions. The Administrative Committee shall share authority with the Employer to appoint an investment manager or manage (including the power to acquire and dispose of) any assets of the Plan. All its rules, interpretations and decisions shall be applied in a uniform manner to all Employees similarly situated and shall be conclusive and binding on the Employer and on Participants and Beneficiaries to the extent permitted by law.

The Administrative Committee shall compute and certify to the Trustees the amount of retirement benefits payable under the provisions of the Plan to any Participant terminating his employment with a retirement benefit or to any Beneficiary

#### 8.04 Delegation of Responsibility

Each fiduciary shall discharge his duties with respect to the Plan solely in the interest of the Participants and Beneficiaries, for the exclusive purpose of providing benefits to such persons and defraying reasonable expenses of administering the Plan, while using the care, skill, prudence, and diligence, under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims.

The members of the Administrative Committee and any person to whom the Administrative Committee may delegate any of its powers under the Plan may employ persons to render advice with regard to any responsibility he has under the Plan. No fiduciary shall be liable for any act or omission of another person in carrying out any fiduciary responsibility where such fiduciary responsibility is allocated to such other person by or pursuant to the Plan. If an investment manager or managers have been appointed, neither the Employer nor the Administrative Committee shall be liable for the acts or omissions of such investment manager or managers. The investment manager or

managers so appointed shall be liable for its/their own acts or omissions regarding the investment and disposition of the assets of the Plan.

#### 8.05 Indemnification

The Employer may indemnify each member of the Administrative Committee against all liabilities and expenses, including attorneys' fees, reasonably incurred by him in connection with any legal action to which he may be a party, or any threatened legal action to which he might have become a party, by reason of his membership on the Administrative Committee, except with regard to any matters as to which he shall be adjudged to be liable for willful misconduct in the performance of his duties as such a member.

Neither the Employer nor the Administrative Committee shall be liable for the negligent acts or omissions of the Trustee nor for such acts or omissions of the Trustee which violate the Trustee's fiduciary duties under the Trust Agreement.

### **ARTICLE IX CLAMS PROCEDURE**

#### 9.01 Notification of Benefit Eligibility

The Administrative Committee shall notify Participants of the retirement benefits to which they are entitled as soon as is practical following each Participants' termination of employment. Filing of a claim shall not be required for benefit commencement.

#### 9.02 Initial Review of Claims

The claims procedure shall be as follows:

(a) Claim. A Participant or Beneficiary or other person who believes that he is being denied a benefit to which he is entitled (hereinafter referred to as "Claimant") may file a written request for such benefit with the Plan Administrator setting forth his claim. Such written request must be filed within four (4) years of the Participant having knowledge of the claim. A claim filed after the passage of four (4) years shall be timed barred. The Participant shall be so notified.

(b) Response to Claim. The Plan Administrator shall respond within ninety (90) days (45 days in the case of a claim for a Disability Retirement Benefit) of receipt of the claim. However, upon written notification to the Claimant, the response period may be extended, for an additional ninety (90) days (two additional 30-day periods in the case of a claim for a Disability Retirement Benefit). The extension notice shall indicate the special circumstances requiring an extension of time and the date by which the plan expects to render the determination. In the case of a claim for a Disability Retirement Benefit, the notice of an extension shall specifically explain the standards on which entitlement to a

benefit is based, the unresolved issues that prevent a decision on the claim, and the additional information needed to resolve those issues, and the claimant shall be afforded at least 45 days within which to provide the specified information. If the claim is denied in whole or in part, the Claimant shall be provided with a written opinion using nontechnical language calculated to be understood by the Participant setting forth:

- (i) the specific reason or reasons for denial;
- (ii) the specific references to pertinent Plan provisions on which the denial is based;
- (iii) a description of any additional material or information necessary for the Claimant to perfect the claim and an explanation of why such material or such information is necessary;
- (iv) appropriate information as to the steps to be taken if the Claimant wishes to submit the claim for review;
- (v) the time limits for requesting a review; and
- (vi) a statement of the Claimant's right to bring a civil action under applicable Puerto Rico law following the adverse benefit determination on review.

### 9.03 Review of Claim Denial

(a) Within sixty (60) days (180 days in the case of a claim for a Disability Retirement Benefit) after the receipt by the Claimant of the written opinion described above, the Claimant may request in writing that the Plan Administrator review the determination.

The Claimant or his duly authorized representative may review the pertinent documents and submit written comments, documents, records, and other information for consideration by the Plan Administrator. The Claimant shall be provided, upon request and free of charge, reasonable access to and copies of, all documents, records, and other information relevant to the Claimant's claim for benefits. If the Claimant does not request a review of the Plan Administrator's determination within such sixty (60) day period (180 days in the case of a claim for a Disability Retirement Benefit), he shall be barred and stopped from challenging the Plan Administrator's determination.

The Plan Administrator shall review the determination within sixty (60) days (45 days in the case of a claim for a Disability Retirement Benefit) after receipt of a Claimant's request for review; provided, however, that for reasonable cause such period may be extended due to special circumstances for an additional sixty (60) days (45 days in the case of a Claim for a Disability Retirement Benefit). In the case of a claim for a Disability Retirement Benefit, the notice of an extension shall specifically explain the standards on which entitlement to a benefit is based, the unresolved issues that prevent a decision on the claim, and the additional information needed to resolve those issues, and the claimant shall be afforded at least 45 days within which to provide the specified information. In the case of a committee that meets at least on a regular quarterly basis, the committee shall

make a benefit determination no later than the meeting date that immediately follows the Plan's receipt of the request for a review, unless the request for review is filed within 30 days before the meeting date. In such case, the benefit determination may be made no later than the date of the second meeting following the Plan's receipt of the request for review. After considering all materials presented by the Claimant, the Plan Administrator will render a written opinion, written in a manner calculated to be understood by the Claimant setting forth the specific reasons for the decision and containing specific references to the pertinent Plan provisions on which the decision is based. If the claim is denied in whole or in part, the Claimant shall be provided with a written opinion using nontechnical language setting forth:

- (i) the specific reason or reasons for denial;
- (ii) the specific references to pertinent Plan provisions on which the denial is based;
- (iii) a statement that the Claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits;
- (iv) a statement describing any voluntary appeal procedures offered by the Plan and the claimant's right to obtain the information about such procedures; and
- (v) a statement of the Claimant's right to bring an action under applicable Puerto Rico law.

(b) Procedures (General). The following procedures shall apply to any claim filed or reviewed pursuant to this Section:

- (i) Any Claimant may be represented by an authorized representative; however, the Administrator may determine reasonable procedures to determine whether any individual is authorized to act on behalf of another individual.
- (ii) The Administrator or any other person or persons acting as a named fiduciary for this purpose shall determine administrative safeguards designed to ensure and verify that all determinations are made in accordance with governing Plan documents and that all Plan provisions are applied consistently with respect to similarly situated claimants.
- (iii) The response periods described in subsections (2) and (4) shall be tolled for periods during which the Claimant is responding to a request for additional information that the Administrator or other named fiduciary has determined is necessary to process the claimant's claim. The claimant shall have not less than 45 days to provide the requested information. The response periods described in subsections (2) and (4) shall recommence when the claimant provides the requested information.

**ARTICLE X**  
**AMENDMENT OR TERMINATION OF THE PLAN OR**  
**DISCONTINUANCE OF CONTRIBUTIONS**

**10.01 Right to Amend or Terminate the Plan**

The Employer may amend the Plan, retroactively or otherwise, at any time. No such amendment may have the effect of vesting in the Employer any part of the Trust Fund, or of diverting any part of the Trust Fund to purposes other than for the exclusive benefit of Participants and Beneficiaries, until all liabilities with respect to such persons have been satisfied or provided for. No amendment shall reduce or otherwise deprive any Participant or Beneficiary of any retirement benefit theretofore vested in him.

The Employer may delegate the right to amend the Plan from time to time to the President of the Employer if such amendment provides a limited time period within which certain Plan Participants and Beneficiaries shall be entitled to elect a lump sum benefit payment from the Plan, on such terms as the President shall decide, including the offer of less than the full value of the Accrued Benefits of such Participants and Beneficiaries (to the extent the Plan is less than fully funded at the time of such offer). Any such amendment shall be included in an Appendix to the Plan.

The continuance of the Plan and the payment of contributions under the Plan are entirely voluntary and are not assumed as contractual obligations of the Employer. The Employer reserves the right to terminate the Plan in whole or in part or to discontinue contributions thereunder

**10.02 Allocation of Trust Fund Upon Termination**

In the event of termination or partial termination of the Plan, the Accrued Benefits of all affected Participants on the date of such termination or partial termination shall be fully vested to the extent funded, and, to the extent the assets of the Plan are not sufficient to pay such Accrued Benefits in full, the Employer shall adopt a plan of distribution that allocates such assets among groups of Participants based on a method of allocation that, in the Board's sole and exclusive determination, reflects a fair and equitable distribution of such assets, based on such factors as the Board deems appropriate. The Employer shall not be liable for payment of any insufficiency of assets to pay Accrued Benefits upon termination or partial termination of the Plan; upon the occurrence of either of such events, the assets of the Plan shall be the only source for payment of all Plan Accrued Benefits.

**10.03 Return of Trust Fund Assets to Employer**

Any Trust Fund assets remaining after the full satisfaction of all liabilities under the Plan shall be returned to the Employer.

## **ARTICLE XI MISCELLANEOUS PROVISIONS**

### **11.01 Contract of Employment**

The Plan shall not be deemed to constitute an employment contract between any Employee and the Employer or to be a consideration or an inducement to any Employee for his employment by the Employer. Nothing contained in the Plan shall be deemed to give any Employee the right to be retained in the employ of the Employer or to interfere with the right of the Employer to discharge or to terminate the employment of an Employee at any time without regard to the effect of such action on his rights under the Plan. No Participant or Beneficiary shall have any rights against the Employer for benefits payable under the Plan other than rights, if any, which he may have with respect to the Trust Fund.

### **11.02 Furnishing of Information**

Unless otherwise expressly provided in the Plan, all benefits to which any Participant may be entitled shall be determined in accordance with the provisions of the Plan as in effect on such Participant's Severance from Service Date. In order to receive any benefits under the Plan, a Participant must furnish the Administrative Committee with such information as may reasonably be required for purposes of the proper administration of the Plan.

### **11.03 Assignment or Alienation of Benefits**

Any benefit payable under the Plan shall not be subject in any manner to assignment, alienation, anticipation, sale, transfer, pledge, encumbrance, lien or charge, and any attempt to cause any such benefit to be so subjected shall not be recognized except to such extent as may be required by law. Merger of Plans

In the event of any merger or consolidation of the Plan with, or transfer of assets or liabilities of the Plan to, any other pension plan, each Participant shall (if such other plan then terminates) be entitled to receive a benefit immediately after any such merger, consolidation or transfer which is equal to or greater than the benefit to which he would have been entitled immediately before such merger, consolidation or transfer (if the Plan had then terminated).

### **11.04 Substitute Payee**

If a Participant or Beneficiary entitled to receive any retirement benefits from the Plan is in his minority, or is, in the judgment of the Administrative Committee, legally, physically or mentally incapable of personally receiving and receipting for any distribution, the Administrative Committee may make distributions to his legally appointed guardian, or to such other person, persons or institutions as it may judge to be then maintaining or to have custody of the payee.

#### 11.05 Domestic Relations Order

For purposes of this Article XI, a Domestic Relations Order shall refer to a judgment, decree or order (including the approval of a property settlement agreement) that is made pursuant to a domestic relations or community property law of the applicable jurisdiction, and which relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child or other dependent of a Participant.

#### 11.06 Benefit Statements

A Participant has the right to request a statement from the Plan Administrator indicating his current Accrued Benefit under the Plan. This statement must be requested in writing and is not required to be provided more than once a year.

#### 11.07 Qualified Domestic Relations Order

For purposes of this Article XI, a Qualified Domestic Relations Order shall refer to a Domestic Relations Order that (a) clearly specifies (i) the name and last known mailing address of the Participant and of each person given rights under such Domestic Relations Order, (ii) the amount or percentage of the Participant's benefits under this Plan to be paid to each person covered by such Domestic Relations Order, (iii) the number of payments or the period to which such Domestic Relations Order applies, and (iv) the name of this Plan; and (b) does not require the payment of a benefit in a form or amount that is (i) not otherwise provided for under the Plan, (ii) an increased benefit (determined on the basis of actuarial value), or (iii) inconsistent with a previous Qualified Domestic Relations Order.

#### 11.08 Procedures Involving Domestic Relations Orders

Notwithstanding the provisions of Section 11.05 to the contrary, upon receiving a Domestic Relations Order, the Administrative Committee shall segregate in a separate account or in an escrow account the amounts payable to any person pursuant to such Domestic Relations Order, pending a determination whether such Domestic Relations Order constitutes a Qualified Domestic Relations Order, and shall give notice of the receipt of the Domestic Relations Order to the Participant and each other person affected thereby.

If, within 18 months after receipt of such Domestic Relations Order, it is determined by the Administrative Committee, by a court of competent jurisdiction, or otherwise, that such Domestic Relations Order constitutes a Qualified Domestic Relations Order, the Administrative Committee shall direct the Trustee to pay the segregated amounts (plus any interest thereon) to the person (or persons) entitled thereto under the Qualified Domestic Relations Order. To the extent the Plan or the Qualified Domestic Relations Order does not permit payment at that time, such person shall become a Participant entitled to deferred benefits. If it is determined that the Domestic Relations Order is not a Qualified Domestic Relations Order or if no determination is made within the prescribed 18-month period, the segregated amounts shall be distributed as though the

Domestic Relations Order had not been received, and any later determination that such Domestic Relations Order constitutes a Qualified Domestic Relations Order shall be applied only with respect to benefits that remain undistributed on the date of such determination. The Administrative Committee shall be authorized to establish such reasonable administrative procedures as is deemed necessary or appropriate to administer this Section 11.09.

#### 11.09 Gender and Number

The masculine pronoun, whenever used herein, shall include the feminine pronoun, and the singular number shall include the plural number, unless the context of the Plan clearly indicates otherwise.

#### 11.10 Governing Law

The Plan and Trust shall be governed by the laws of the Commonwealth of Puerto Rico.

### **ARTICLE XII CESSATION OF ACCRUALS**

#### 12.01 Cessation of Accruals

Effective October 31, 2006, the following provisions shall apply.


(a) No Employee hired or rehired on or after October 31, 2006, shall become a Participant or be included in the Pension Plan.

(b) No additional contributions shall be made to the Plan by Participants pursuant to Section 3.02.

(c) The Accrued Benefit, Normal Retirement Benefit, Early Retirement Benefit, Disability Retirement Benefit, and Deferred Vested Retirement Benefit of each Plan Participant shall be frozen as of October 31, 2006 and shall not increase for any reason. The Years of Credit and Average Final Compensation of each Plan Participant shall be frozen as of such date as if the Participant terminated employment on that date.

Notwithstanding the above, Years of Service employed for Eligibility for Benefits in Article IV well as the early retirement reductions of Section 5.03 of Article V shall continue accruing after October 31, 2006.

**IN WITNESS WHEREOF**, the Employer has caused this Plan to be effective as of July 1, 2021, and executed on August 25, 2021.

  
By: Gilberto J. Marxuach Torros  
Title: President

## **APPENDIX A**

### **LUMP SUM WINDOW PROGRAM FOR ACTIVE EMPLOYEES**

This Appendix A provides an opportunity (“Window Program”) for certain Participants to receive, during a limited period of time, their entire vested Plan benefit in the form of an immediate lump sum. Standard Plan provisions (including the Early Retirement and Normal Retirement provisions, respectively set out in Sections 5.03 and 5.01 of the Plan) apply to this Window Program. If a standard Plan provision is inconsistent with this Appendix A, this Appendix A shall control.

- (a) Eligibility for Window Program. In order to make an election under this Window Program, an individual must be an “Eligible Participant” as defined in this subsection (a). An Eligible Participant includes a Participant who satisfies both of the following conditions:
  - 1. is an Employee on August 26, 2021; and
  - 2. (A) has attained age sixty-five (65) and completed at least five (5) Years of Service (as defined in the Plan) by January 1, 2022; or  
(B) has attained age fifty-five (55) and completed at least twenty-five (25) Years of Service by January 1, 2022.
- (b) Condition of Window Program. In order for an Eligible Participant to be entitled to receive a lump sum payment of his or her Plan Benefit as described herein, he or she must agree to resign all positions of employment with the Employer, with his or her last date of employment to be January 1, 2022; provided, however, if an Eligible Participant makes a timely election to participate in the Window Program but dies prior to January 1, 2022, such election shall be null and void, and the provisions of the Plan shall apply to such deceased Eligible Participant as if no election had been made. If an Eligible Participant makes a timely election to participate in the Window Program and becomes disabled, and his or her employment with the Employer terminates prior to January 1, 2022, such election shall continue to be effective, the lump sum benefit due such disabled Eligible Participant shall be paid, and Section 5.04 of the Plan shall be disregarded.
- (c) Duration of Window Program. The Window Program will be available for elections made by Eligible Participants between August 27, 2021, and September 8, 2021.
- (d) Forms of Payment Available. Subject to subsection (e) below, an Eligible Participant in this Window Program shall receive an immediate payment of his/her Plan benefit in the form of a single lump sum payment.

- (e) Calculation of Benefit. Any benefit under this Window Program shall be calculated pursuant to standard Plan provisions unless provided otherwise, below.
1. Lump Sum Payment means, for purposes of this Appendix, an immediate, single-sum payment of the present value, as of January 1, 2022, of the vested Normal Retirement Benefit of an Eligible Participant, or the actuarially adjusted late retirement benefit for Eligible Participants who have reached Normal Retirement Age; provided, however, such present value shall not include any early retirement subsidy that may be payable to an Eligible Participant who is age fifty-five (55) and who has completed twenty-five (25) Years of Service. This Lump-Sum Payment will be calculated using “Program Factors” as defined in the immediately following subparagraph (2). In addition, only eighty-two and one-half percent (82.5%) of the present value of an Eligible Participant’s vested Normal Retirement Benefit will be paid under the Window Program, or otherwise, such percentage being equal to the estimated Funding Level (as defined below) of the Plan on July 1, 2021, as determined by the Plan’s actuaries.
  2. The term “Program Factors,” as used in this Appendix, means an interest rate of five percent (5%) and the Applicable Mortality Table (as defined in Section 1.06 of the Plan).
  3. The term “Funding Level” is the percentage obtained by dividing the amount of the Plan’s assets on July 1, 2021, by the amount of the Plan’s liabilities on such date.
- (f) Election Procedure. A Window Program election must be made on forms provided by the Employer (or its authorized delegate) and must be received by the Employer (or its authorized delegate) no later than September 8, 2021. An Eligible Participant who chooses not to complete or fails to properly complete a Window Program election or who does not sign the Confidential Agreement and General Release on a timely basis will continue to be eligible to receive his or her benefit under the terms of the Plan without respect to this Appendix A.

**APPENDIX B: LUMP SUM WINDOW PROGRAM FOR  
FOR TERMINATED VESTED PARTICIPANTS  
Effective as of July 1, 2021**

This Appendix B provides an opportunity (“Window Program”) for certain Participants to receive, during a limited period of time, their entire vested Plan benefit in the form of an immediate lump sum. Standard Plan provisions (including the Normal Retirement provision set out in Section 5.01 of the Plan) apply to this Window Program. If a standard Plan provision is inconsistent with this Appendix B, this Appendix B shall control.

- (a) Eligibility for Window Program. To make an election under this Window Program, an individual must be an “Eligible Participant” as defined in this subsection (a). An Eligible Participant is a Participant who is a former employee who has a vested benefit in the Plan and who has not elected to begin to receive his or her Plan benefits.
- (b) Death of Electing Eligible Participant. If an Eligible Participant makes a timely election to participate in the Window Program but dies prior to January 1, 2022, such election shall be null and void, and the provisions of the Plan shall apply to such deceased Eligible Participant as if no election had been made.
- (c) Duration of Window Program. The Window Program will be available for elections made by Eligible Participants between October 22, 2021, and November 12, 2021. The Administrative Committee (or its authorized delegate) shall have the discretion to extend the election period. Any such extension shall be granted on a nondiscriminatory basis.
- (d) Forms of Payment Available. Subject to subsection (e) below, an Eligible Participant in this Window Program shall receive an immediate payment of his/her Plan benefit in the form of a single Lump Sum Payment (as defined in subsection (e) below).
- (e) Calculation of Benefit. Any benefit under this Window Program shall be calculated pursuant to standard Plan provisions unless provided otherwise, below.
  - 1. “Lump Sum Payment” means, for purposes of this Appendix, an immediate, single-sum payment of the present value, as of January 1, 2022, of the vested Normal Retirement Benefit of an Eligible Participant, or the actuarially adjusted Late Retirement Benefit for Eligible Participants who have reached Normal Retirement Age. This Lump-Sum Payment will be calculated using “Program Factors” as defined in the immediately following subparagraph (2). In addition,

only eighty-two and one-half percent (82.5%) of the present value of an Eligible Participant's vested Normal Retirement Benefit or Late Retirement Benefit will be paid under the Window Program, or otherwise, such percentage being equal to the Funding Level (as defined below) of the Plan on July 1, 2021, as determined by the Plan's actuaries.

2. The term "Program Factors," as used in this Appendix, means an interest rate of five percent (5%) and the Applicable Mortality Table (as defined in Section 1.06 of the Plan).
3. The term "Funding Level" is the percentage obtained by dividing the amount of the Plan's assets on July 1, 2021, by the amount of the Plan's liabilities on such date.

- (f) Election Procedure. A Window Program election must be made on forms provided by the Administrative Committee (or its authorized delegate) and must be received by the Administrative Committee (or its authorized delegate) no later than November 12, 2021. An Eligible Participant who chooses not to complete or fails to properly complete a Window Program election on a timely basis will continue to be eligible to receive his or her benefit under the terms of the Plan without respect to this Appendix B.