

(c) Underutilized Amount. For purposes of calculating a Participant's underutilized amount, the Participant is treated as not having deferred compensation under the NACo Plan for a prior year if all annual deferrals made by the Participant under the NACo Plan have previously been withdrawn pursuant to a voluntary small account withdrawal described in Section 6.3.

(d) Declined Deferrals. If a Participant declined to defer any compensation under this NACo Plan for any year prior to 2002, such year shall nevertheless continue to be taken into account for purposes of determining the Participant's underutilized limitation, but only to the extent that the Participant's salary reduction contributions or elective deferrals under all Pre-2002 Coordination Plans have not exceeded the maximum deferral limitations in effect under Section 457(b) for that prior year.

4.6 Coordination With 401(k) and 403(b) Elective Deferral Limits. Except as provided in Section 4.5(b) above, the limits under this Article are independent of the limitations on any elective deferral contributions a Participant may make to a Code Section 401(k) or a Code Section 403(b) plan.

4.7 Distribution of Excess Deferrals. If for any reason the amount of the compensation deferred under this NACo Plan by a Participant for any calendar year exceeds any deferral limit imposed under this Article 4, then the amount of the deferral in excess of the applicable limit, plus any net income allocable to such excess, shall be distributed to the Participant as soon as administratively practicable after the Plan Administrator establishes the fact and amount of such excess deferral. If a Participant in this NACo Plan also participates in one or more other Eligible Deferred Compensation Plans maintained by another employer or a plan of a tax-exempt entity, and if the sum of the deferrals under this NACo Plan and the compensation deferred under such other plans exceeds any deferral limitation applicable to such Participant on an individual basis, then upon the request of such Participant, the NACo Plan shall distribute to the Participant all or a portion of the amount of the excess deferral, plus any net income allocable thereto.

4.8 Rollover Contributions.

(a) The following provisions of this Section 4.8 regarding Rollover Contributions, and other provisions of the Plan that involve such contributions, shall become operative only if and when the Employer, acting through the County Administrator, directs in writing that they become so. Until such time, if any, that Section 4.8 becomes operative, Rollover Contributions shall not be permitted to be made to the Plan.

(b) Subject to the following terms and conditions of this Section 4.8, a Participant shall be permitted to make a Rollover Contribution to the Plan (other than a rollover of after-tax contributions) from any of the following eligible retirement arrangements:

(i) Another Eligible Governmental Plan;

(ii) A retirement plan qualified under Code Section 401(a) (including a Code Section 401(k) plan);

(iii) An annuity plan or annuity contract described in Code Section 403(a) or (b); or

(iv) An Individual Retirement Account or Individual Retirement Annuity described in Code Section 408(a) or (b), but only to the extent that the amount would otherwise be includible in gross income (without regard to the rollover).

(c) The Plan shall not accept rollovers of amounts representing after-tax contributions from any source.

(d) A Participant whose spouse has died may elect a Rollover Contribution of the distribution of the spouse's benefits under a plan, subject to the conditions prescribed in this Section 4.8.

(e) A Rollover Contribution must be made either from the Participant concerned within 60 days of the Participant's receipt thereof, or directly from the eligible retirement arrangement to which it pertains.

(f) Any Rollover Contribution made by a Participant to the Plan during a Plan Year shall be allocated as of the date received to a separate Rollover Account established and maintained on the Participant's behalf. A Participant shall at all times be fully vested and have a nonforfeitable interest in the balance of his or her Rollover Account.

(g) Two forms of a Rollover Contribution Account shall be maintained under the Plan, as described below.

(i) A "Participant 457 Rollover Account" established to hold qualified rollovers from an Eligible Governmental Plan (other than amounts held in such a plan that had previously been rolled over from an eligible retirement arrangement other than an Eligible Governmental Plan); and

(ii) A "Participant Non-457 Rollover Account" established to hold qualified rollovers from an eligible retirement arrangement other than an Eligible Governmental Plan (or amounts held in such a plan that had previously been rolled over from an eligible retirement arrangement other than an Eligible Governmental Plan).

(h) If the Plan accepts an amount as a Rollover Contribution based on the Plan Administrator's reasonable conclusion that the contribution is a valid Rollover Contribution, but the Plan Administrator later determines that the Rollover Contribution did not satisfy the statutory or regulatory rollover rules, then the Plan Administrator shall cause a distribution to be made to the affected Participant in an amount equal to such invalid Rollover Contribution, plus any earnings attributable thereto.

4.9 Employer Contributions. The Employer is permitted to make a contribution to the Plan on behalf of Participants or groups of Participants. Any such Employer contributions made on behalf of Participants shall be treated as deferred compensation that is subject to the limitations prescribed in the foregoing sections of this Article 4. Such contributions shall be fully vested at all times. Subject to collective bargaining considerations, the Employer is not obligated to make a contribution to the Plan on behalf of Participants for any year, and the amount of the contribution may differ from year to year. Different rates of contributions may be made on behalf of Participants within differing employee groups. Such employee groups shall be established on the basis of nondiscriminatory employment classifications.

4.10 Aggregation of Plans. For purposes of applying the compensation deferral limitations prescribed under this Article 4 with respect to any Participant, all Eligible Deferred Compensation Plans in which the Participant participates by virtue of his or her relationship with the Employer shall be treated as a single plan.

ARTICLE 5

Accounts and Investments

5.1 Participants' Accounts. A separate Account shall be maintained for each Participant. Each Account shall be credited with the amount of the contributions made by or on behalf of the Participant under the NACo Plan, and the interest and earnings thereon, and shall be charged with all distributions, withdrawals and losses allocable to the Account. A written statement reporting the status of each Participant's Account shall be provided to the Participant at least annually.

5.2 Investment Funds and Elections.

(a) Each Participant shall have the right to have the value of his or her Account invested in one or more investment funds to be made available from time to time under the NACo Plan.

(b) Upon becoming eligible to participate in the NACo Plan, a Participant shall make an election directing that the contributions to be made by or on behalf of the Participant under the NACo Plan be credited to one or more of the investment funds. Each Participant may also thereafter elect to change the investment of all future deferred compensation contributions to the NACo Plan, and may elect to transfer amounts from one investment fund to another. In order to be effective, any such election must be submitted to Nationwide or its delegate within a reasonable time before the applicable election effective date.

(c) A Beneficiary (including an "alternate payee" under a Qualified Domestic Relations Order) shall have the same rights as Participants in regard to the direction of the investment of his or her Accounts under the NACo Plan.

(d) In the absence of any investment election by a Participant or Beneficiary, the Plan Administrator shall cause the Participant's or Beneficiary's interest in the Plan to be invested in a "total return fund," or a fund that is relatively similar to a "total return fund."

(e) The Plan Administrator in its discretion may adopt administrative rules and procedures, and may impose other guidelines and limitations pertaining to investment elections as the Plan Administrator shall deem to be appropriate for the efficient administration of the NACo Plan. Any costs charged by an investment fund with respect to a transfer of assets may be charged to the Account of the Participant electing such transfer.

(f) Neither the Employer nor the Plan Administrator (nor any other person) shall be liable for any losses incurred by reason of following such directions as a result of the investment election made by a Participant (or Beneficiary of a deceased Participant), or as a result of any reasonable administrative delay in implementing such directions.

5.3 Holding of Plan Assets. Notwithstanding any provision of the NACo Plan to the contrary, all compensation deferred under the NACo Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property or rights shall be held either in one or more annuity contracts, as defined in Code Section 401(f), issued by an insurance company qualified to do business in the state of Oregon, or in trust. Any such trust shall be established pursuant to a written agreement that constitutes a valid trust under the laws of the State of Oregon. All amounts of compensation deferred under the NACo Plan shall be transferred to such annuity contract or trust as soon as is administratively feasible.

ARTICLE 6

Distributions

6.1 Eligibility for Distributions. Pursuant to Code Section 457, and as more fully discussed in this Article 6, a distribution from a Participant's Account may be made only on account of one of the following events incurred by or with respect to the Participant:

- (a) The Participant's death, retirement or other termination of employment with the Employer;
- (b) An approved Unforeseeable Emergency described in Section 6.2;
- (c) A qualified small account distribution described in Section 6.3;
- (d) The attainment of age 70½, as described in Section 6.4(a);
- (e) A request for a withdrawal from the Participant's Rollover Contribution Account pursuant to Section 6.4(b);
- (f) An approved direct plan-to-plan transfer, as described in Section 6.5; or
- (g) The assignment of the Participant's benefits pursuant to a Qualified Domestic Relations Order, as described in Section 9.4.

6.2 Unforeseeable Emergency Withdrawal. A Participant, or a Beneficiary of a Participant on whose behalf an Account is maintained under the NACo Plan, who incurs an Unforeseeable Emergency (as defined below) may submit a request to the Plan Administrator for a withdrawal equal to that portion (or all) of the individual's Account as then needed to alleviate the financial hardship resulting therefrom. Such withdrawals shall be subject to the following provisions of this Section 6.2.

(a) For purposes of this Section 6.2, an "Unforeseeable Emergency," as with respect to a Participant or Beneficiary, means a severe financial hardship of such individual resulting from a sudden and unexpected illness or accident of the individual, or of the spouse or a dependent (as defined in Code Section 152(a)) of the individual; the loss of the individual's property due to casualty; or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the individual.

(b) The circumstances that will constitute an Unforeseeable Emergency will depend upon the facts of each case. Examples of circumstances that may qualify as an Unforeseeable Emergency (provided that the other conditions of this Section 6.2 are satisfied) are:

- (i) The imminent foreclosure of or eviction from the Participant's or Beneficiary's primary residence;

(ii) The need to pay for medical expenses, including non-refundable deductibles or the cost of prescription drugs; and

(iii) The need to pay for the funeral expenses of the spouse or dependent (as defined in Code Section 152(a)) of the Participant or Beneficiary.

Except in extraordinary circumstances, the purchase of a home and the payment of college tuition are not Unforeseeable Emergencies.

(c) A withdrawal shall not be permitted under this Section 6.2 to the extent that the hardship resulting from the Unforeseeable Emergency is or may be relieved:

(i) Through the reimbursement or compensation by insurance or otherwise;

(ii) By the liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship; or

(iii) By the cessation of deferrals under the NACo Plan.

(d) The Plan Administrator may, but is not required, to seek the advice of the Deferred Compensation Advisory Committee in regard to a request for an Unforeseeable Emergency withdrawal.

(e) The amount of any Unforeseeable Emergency withdrawal shall be limited to that which the Plan Administrator determines is reasonably necessary to alleviate the hardship resulting from the occurrence of the Unforeseeable Emergency (which may include any amount necessary to pay any federal or state income taxes or penalties reasonably anticipated to result from the distribution).

(f) The decision of the Plan Administrator concerning the determination of an Unforeseeable Emergency or the amount reasonably needed to satisfy the concomitant financial hardship shall be final and binding upon the Participant or Beneficiary and other persons.

6.3 Small Account Distribution. A Participant who has not terminated employment with the Employer may nevertheless elect to receive a distribution of all or a portion of the Participant's Account balance under the NACo Plan, provided that the following conditions are satisfied:

(a) No amount has been deferred under the NACo Plan by or for the Participant during the two-year period ending on the date of the distribution;

(b) The value of the Participant's Account under the NACo Plan (other than amounts attributable to any Rollover Contribution) does not exceed \$5,000 (or, if greater, the applicable dollar limit then in effect under Code Section 411(a)(11)); and

(c) The Participant has not previously received a voluntary small account distribution from the NACo Plan.

At the direction of the Plan Administrator, a Participant otherwise described above whose Account balance under the NACo Plan is less than \$1,000 will receive an involuntary distribution of such balance from the NACo Plan.

6.4 Age 70½ and Rollover Contribution Withdrawals.

(a) A Participant who has not terminated employment with the Employer as of the first day of the calendar year in which the Participant shall attain age 70½ may then or anytime thereafter withdraw part or all of the balance of his or her Account.

(b) A Participant on whose behalf a Rollover Contribution Account is maintained may withdraw part or all of the balance of such Account at any time.

6.5 Plan-to-Plan Transfers.

(a) A Participant or Beneficiary may elect to have part or all of his or her distributable benefits under the NACo Plan transferred directly to a defined benefit governmental plan (as defined in Code Section 414(d)), but only if the transfer is either applied toward:

(i) The purchase of permissive past service credit (as defined under Code Section 415(n)(3)(A)) from the receiving defined benefit governmental plan; or

(ii) The repayment of a prior cash-out from the defined benefit governmental plan, as described in Code Section 415(k)(3).

The benefit transfer described in this subsection (a) may be made prior to the Participant's termination of employment with the Employer.

(b) The NACo Plan may directly transfer the benefits of a Participant or Beneficiary to another Eligible Governmental Plan, and may accept a direct transfer of benefits from another Eligible Governmental Plan on behalf of a Participant or Beneficiary, provided that the transfer of benefits satisfies the applicable conditions of Treasury Regulation Section 1.457-10(b).

6.6 Commencement of Distributions.

(a) Except as otherwise provided in this Section 6.6, a Participant who is eligible for a distribution from the NACo Plan may request to receive all or part of the distributable balance of his or her Accounts at any time. The processing of such distribution request shall be subject to administrative rules and procedures established by Nationwide or other financial institution maintaining such Account, and shall be expressly conditioned upon the submission of a properly completed distribution election form and other documents prescribed by the administrative practices of such financial institution, the NACo Plan or applicable law.

(b) Any method or form of distribution selected by the Participant must be designed to pay the Participant the value of his or her benefits under the NACo Plan over a period not to exceed the Participant's life or life expectancy or the joint lives or life expectancy of the Participant and the Participant's designated beneficiary. The life expectancy of a Participant and the joint life expectancy of a Participant and the Participant's designated beneficiary shall be determined in accordance with applicable law and regulations; provided that the life expectancy of a Participant or the Participant's spouse (if the designated beneficiary) may from time to time be redetermined, but not more frequently than annually.

(c) Distributions to a Participant shall commence on or before the April 1 following the Participant's Required Distribution Year. The amount of such initial distribution, and the amount and timing of any subsequent distributions, shall be made in accordance with the provisions of the Code Section 401(a)(9) and the regulations promulgated thereunder (including the incidental death benefit provisions of IRS Regulation §1.409(a)-5), which statutory provisions and regulations are specifically incorporated by reference herein and override any inconsistent distribution option prescribed under the NACo Plan.

(d) Distributions of benefits to, or with respect to, the surviving spouse of a Participant who is the Participant's sole beneficiary shall be made as prescribed in this subsection (d).

(i) Subject to paragraph (ii) below, distributions to a surviving spouse who is the Participant's sole beneficiary shall be made, if so directed by the spouse, within a reasonable time after the Participant's death, and, in all events, shall be made (or, if payable over the life or life expectancy of the beneficiary, shall commence) on or before the last day of the calendar year in which falls the later of (A) the date the Participant would have attained age 70½ had the Participant survived, or (B) the first anniversary of the Participant's date of death.

(ii) Notwithstanding the foregoing, in lieu of receiving the Participant's benefits in the time and manner prescribed in paragraph (i) above, the surviving spouse may elect to receive the entire amount of the Participant's survivorship benefits by the last day of the calendar year in which falls the fifth anniversary of the Participant's date of death. Such election must be made by the earlier of (A) September 30 of the calendar year in which distributions to the surviving spouse would otherwise begin to be made pursuant to paragraph (i) above, or (B) September 30 of the calendar year in which falls the fifth anniversary of the Participant's date of death. If the surviving spouse does not timely make the foregoing election, then distributions to the surviving spouse shall be made in accordance with paragraph (i) above.

(iii) If the sole beneficiary of a deceased Participant is the Participant's surviving spouse, and if such surviving spouse dies (A) prior to receiving the full amount of survivorship benefits payable to such spouse, and (B) before the date distributions were required to commence pursuant to paragraph (i) or (ii) above, as applicable, then the entire remaining balance of such survivorship benefits shall be distributed to the spouse's beneficiary on or before the last day of the calendar year in which falls the fifth anniversary of the spouse's date of death.

(e) Distributions of benefits to a beneficiary who is not the surviving spouse of a Participant (including, if applicable, to the beneficiary of the deceased beneficiary of a Participant) or to the surviving spouse if the spouse is not the Participant's sole beneficiary, shall be made on or before the last day of the calendar year in which falls the fifth anniversary of the Participant's date of death.

(f) If distribution of a Participant's Accounts has commenced and the Participant dies (i) before the entire balance of the Participant's Accounts have been distributed and (ii) on or after April 1 following the Participant's Required Distribution Year, then the remaining balance of such Accounts shall be distributed to the Participant's beneficiaries as least as rapidly as under the method of distribution in effect at the time of the Participant's death.

(g) Notwithstanding anything in this Section 6.6 to the contrary, if the amount of any distribution required to commence on a certain date cannot be ascertained by such date, a payment retroactive to such date may be made no later than 60 days after the earliest date on which such amount can be ascertained.

(h) Within a reasonable period of time before the benefit distribution date of a Participant, or of the spouse of a deceased Participant, the Plan Administrator or its delegate shall furnish the Participant or spouse with a written notice of the distribution options then available to such distributee, the general income tax treatment applicable to each form of distribution, and the right to have the distribution transferred directly to an Individual Retirement Account or other eligible retirement plan.

6.7 Optional Forms of Distributions.

(a) Benefits under the NACo Plan which become distributable to any Participant or to the Beneficiary of a deceased Participant shall be distributed, as the Participant or Beneficiary, as the case may be, may elect, in any of the forms then made available by Nationwide or other financial institution with which the Participant's Accounts are maintained including, in the case of an eligible rollover distribution, by a direct transfer to an eligible retirement plan.

(b) For purposes of this Section 6.7, an "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the Participant, except that an eligible rollover distribution does not include:

(i) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy)

of the Participant or the joint lives (or joint life expectancies) of the Participant and the Participant's designated Beneficiary, or for a specified period of ten years or more;

(ii) Any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and

(iii) An Unforeseeable Emergency withdrawal made pursuant to Section 6.2.

(c) Also for purposes of this Section 6.7, an "eligible retirement plan" means:

(i) A trust described in Section 401(a) of the Code, which is exempt from tax under Section 501(a) of the Code, and which forms part of a qualified retirement plan, the terms of which permit the acceptance of rollover contributions;

(ii) An Individual Retirement Account or an Individual Retirement Annuity (other than an endowment contract) described, respectively, in Sections 408(a) and (b) of the Code;

(iii) An annuity plan or an annuity contract described, respectively, in Sections 403(a) and (b) of the Code;

(iv) An Eligible Governmental Plan.

(d) Any benefits under the NACo Plan which are payable in the form of an annuity may be paid by distributing to the Participant or Beneficiary, as the case may be, an annuity contract purchased by the Employer at the direction of the Plan Administrator for an amount (including taxes and related purchase costs) equal to the adjusted balance of the Participant's Accounts as of the valuation date immediately preceding the date such contract is purchased on the distributee's behalf. Benefits distributed under such annuity contract shall be subject to the same conditions that would apply if such benefits were paid in the applicable annuity form directly from the Employer. Delivery of any such contract shall be in full satisfaction of the rights of the distributee under this NACo Plan, and upon the delivery of any such contract, the distributee shall not have any interest in the NACo Plan, but shall look solely to the insurer issuing such contract for the payment of benefits.

(e) A Participant may at any time modify a benefit distribution election on a prospective basis (including to effect a suspension of the receipt of benefit payments elected prior to January 1, 2002), subject to the otherwise applicable provisions of the NACo Plan.

6.8 Designation of Beneficiaries.

(a) Benefits under the NACo Plan that are distributable by reason of a Participant's death shall be distributed to the person effectively designated by the Participant as his or her Beneficiary. To be effective, a Beneficiary designation must be filed with the Employer or its delegate in such written form as the Employer requires, and may include contingent or successive Beneficiaries. A Participant may change his or her Beneficiary designation at any time by filing with the Employer or its delegate a new Beneficiary designation.

(b) A designation of beneficiary form filed by a Participant or Beneficiary with Nationwide with which all or a portion of such individual's Account is maintained shall be deemed to be filed with the Employer. Such designation shall be effective only with respect to the amounts so held by Nationwide, and then only if such designation has not been superceded by a designation subsequently filed with the Employer.

(c) If a Participant dies and has not filed an effective Beneficiary designation or has revoked all such designations, or has filed an effective designation but the designated Beneficiary or Beneficiaries predeceased the Participant, the distributable portion of the Participant's Accounts shall be paid to the Participant's estate.

(d) If a Beneficiary survives the Participant but dies prior to distribution of the entire balance of the Participant's Accounts, the remaining balance shall be paid to the Beneficiary's estate unless the Participant's beneficiary designation provides for a contingent beneficiary.

(e) A Beneficiary may either be a natural person or a trust, the beneficiary of which is a natural person.

6.9 Facility of Payment. When in the Plan Administrator's opinion a Participant or Beneficiary is under a legal disability or is incapacitated in any way so as to be unable to manage his or her affairs, the Plan Administrator may direct that payments be made:

- (a) Directly to the Participant or Beneficiary;
- (b) To a duly appointed guardian or conservator of the Participant or Beneficiary;
- (c) To a custodian for the Participant or Beneficiary under the Uniform Gifts to Minors Act;
- (d) To an adult relative of the Participant or Beneficiary; or
- (e) Directly for the benefit of the Participant or Beneficiary.

Any such payment shall constitute a complete discharge therefor with respect to the Employer, the Plan Administrator and the NACo Plan.

ARTICLE 7

Treatment of Reemployed Military Personnel

7.1 General. The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) requires that an eligible Participant who leaves covered employment to perform services in a Uniformed Service, and who thereafter timely returns to work with the Employer, generally be provided the same benefits under the NACo Plan that such individual would have been entitled had such individual remained in covered employment throughout that period of military service. Accordingly, notwithstanding any provision of the NACo Plan to the contrary, the following provisions of this Article 7 shall be applicable with respect to any Reemployed Uniformed Service Participant who applies for reemployment or otherwise reports back to work with the Employer.

7.2 Reemployed Uniformed Service Participant. For purposes of this Article 7, a "Reemployed Uniformed Service Participant" means an individual:

(a) Who was an active Participant in the NACo Plan, or an Eligible Employee, and who becomes absent from the employ of the Employer in order to perform service in a Uniformed Service;

(b) Whose cumulative period of service in the Uniformed Services has not exceeded five years (or such extended period as permitted in special circumstances under the USERRA, such as where the individual is ordered to active duty by reason of a national emergency);

(c) Who upon the completion of such service in such Uniformed Service timely reports back to work with, and is thereupon reemployed by, the Employer;

(d) Whose separation from the Uniformed Services is not based on other than honorable conditions; and

(e) Who otherwise is eligible for the reemployment rights prescribed under the USERRA.

7.3 Definitions. For purposes of this Article 7:

(a) The term "Uniformed Services" means:

(i) The Armed Forces;

(ii) The Army National Guard and the Air National Guard as with respect to an individual who is then engaged in active duty for training, in active duty training, or full-time National Guard duty;

(iii) The commission corps of the Public Health Service; and

(iv) Any other category of persons designated by the President in time of war or emergency.

(b) "Service in the Uniformed Services" means the performance of duty on a voluntary or involuntary basis in a Uniformed Service, and specifically includes active duty, active duty for training, initial active duty for training, inactive duty training, and full-time National Guard duty. A period for which a Participant is absent from a position of employment for the purpose of an examination to determine the fitness to perform any of the above-described duties is also to be treated as service in the Uniformed Services.

(c) "Qualified Military Service" means any service in the Uniformed Services by a Reemployed Uniformed Service Participant if such Participant is entitled to reemployment rights under the USERRA with respect to such service.

7.4 Report Back to Work Period. A Participant's entitlement to the restorative benefits prescribed under this Article 7 is expressly conditioned upon the Participant's timely applying for reemployment or reporting back to work, as applicable, upon the Participant's completion of the Qualified Military Service. In this regard, the time period for submitting an application for reemployment or reporting back to work is determined by reference to the length of the period of the Participant's Qualified Military Service, as prescribed below.

(a) Short-Term Absences. If the period of the Participant's Qualified Military Service was less than 31 days, or if the Participant was absent from employment for the purpose of an examination to determine the Participant's fitness to perform service in the Uniformed Services (regardless of the length of such absence), then the Participant must generally have reported back to work not later than the second work day following the completion of the period of such Qualified Military Service. However, if through no fault of the Participant it was impossible or unreasonable for the Participant to report back to work by the otherwise applicable deadline, then the Participant must have reported back to work as soon as was possible.

(b) Intermediate Absences. If the period of the Participant's Qualified Military Service was for more than 30 days but less than 181 days, then the Participant generally must have applied for reemployment not later than 14 days after the completion of such service. However, if through no fault of the Participant it was impossible or unreasonable for the Participant to comply with this deadline, then the Participant must have applied for reemployment at the earliest possible date.

(c) Long-Term Absences. In the case of a Participant whose period of Qualified Military Service exceeded 180 days, then the Participant's application for reemployment must have been submitted not later than 90 days after the completion of such service.

(d) Extension for Disabled Individuals. In the case of a Participant who as of the otherwise applicable reemployment application deadline was hospitalized for, or convalescing from, an illness or injury incurred or aggravated during the period of Qualified Military Service, then such reemployment application deadline shall be extended to the end of the period that was necessary for the Participant to recover from such illness or injury. This disability extension period is limited to two years, or such greater period as may be warranted in order to accommodate any circumstances beyond the Participant's control, which made the applying for reemployment within the two-year period impossible or unreasonable.

(e) Effect of Employer Policy. The time periods described above shall be extended in accordance with any established rules and policies, and the general practices, of the Employer as pertaining to absences from scheduled work.

7.5 Documentation. As an express condition to a Reemployed Uniformed Service Participant's entitlement to the restoration of benefits prescribed under this Article 7, the Participant must, upon request, provide to the Employer such documentation as may be necessary to establish that:

(a) The Participant's reemployment application was timely made;

(b) The length of the Participant's absence did not exceed the maximum five-year (or extended) period of leave; and

(c) The Participant is not ineligible for such restorative benefits by reason, for example, of a dishonorable discharge from the Uniformed Services.

7.6 Restoration of Deferred Compensation Contributions. A Reemployed Uniformed Service Participant shall be entitled to make restorative deferred compensation contributions to the NACo Plan in an amount not to exceed the amount of the deferred compensation contributions that such Participant could have so made had such Participant continued to be employed as an employee during the Qualified Military Service period. A Participant's restorative deferred compensation contributions must be made during the period commencing on the Participant's reemployment date and extending through a period equal to the lesser of (i) three times the period of the Participant's most recent Qualified Military Service, and (ii) five years. Notwithstanding the foregoing, a Participant shall not be permitted to make restorative deferred compensation contributions to the NACo Plan after the date the Participant subsequently terminates employment with the Employer, unless the Participant again becomes reemployed during the repayment period set forth above.

7.7 Restoration of Employer Contributions. A Reemployed Uniformed Service Participant shall be entitled to an allocation of the additional Employer contributions that such Participant would have received under the Plan (if any) had such Participant continued to be employed as an Eligible Employee during the period of Qualified Military Service.

7.8 No Restoration of Lost Earnings. A Reemployed Uniformed Service Participant shall not be entitled to the crediting of any amounts representing the earnings that would have been realized on any restorative contributions had such contributions been made during the period of the Participant's Qualified Military Service. Restorative contributions, once so made to the NACo Plan and allocated to a Participant's Accounts, shall thereafter be credited with earnings and losses in accordance with the general terms of the NACo Plan.

7.9 Application of Plan and Code Limits. Any restorative contributions made by or on behalf of any Reemployed Uniformed Services Participant shall be subject to the applicable limitations and conditions operative under the NACo Plan with respect to the NACo Plan Year or other applicable period to which the restorative contribution relates, and not with respect to the NACo Plan Year or period during which such contribution was actually made or allocated under the NACo Plan. For purposes of applying any applicable limitations or conditions that are implicated by a Participant's restorative contributions, such restorative contributions shall be treated as having been made in equal monthly installments over the period of the Participant's absence for Qualified Military Service.

7.10 Deemed Compensation. For purposes of both determining the amount of restorative contributions which may be made with respect to a Reemployed Uniformed Service Participant and applying any Plan limits or conditions as described in Section 7.9 above, such Participant shall be deemed to have received compensation from the Employer during the period of Qualified Military Service equal to the compensation that the Participant would have earned had the Participant remained in the employ of the Employer throughout such period. Such deemed compensation shall be determined on the basis of the basic rate of pay for the position held by the Participant immediately prior to the commencement of the Qualified Military Service absence. If the Participant's deemed compensation cannot be reasonably ascertained, then the Participant's deemed compensation shall be equal to the Participant's average compensation for the 12-month period immediately preceding the commencement of the Participant's Qualified Military Service absence (or, if shorter, for the actual period of the Participant's employment with the Employer preceding such Qualified Military Service absence).

ARTICLE 8

Plan Administration

8.1 Plan Sponsor. The Employer, acting through its Board of Commissioners, shall be responsible for all fiduciary and administrative functions under the NACo Plan only insofar as any such authority or responsibility is not assigned by or pursuant to the NACo Plan to the Plan Administrator, or is not delegated to the Plan Administrator or other person or committee as prescribed herein. The authority and responsibility presumptively reserved to the Employer shall include the following:

- (a) The design of the NACo Plan;
- (b) The funding of the NACo Plan;
- (c) The right to amend or terminate the NACo Plan;
- (d) The engagement of a Fund Provider to make investment funds available to Participants under the IMCA Plan;
- (e) The employment of persons to provide services and advice necessary to the performance of the foregoing functions; and
- (f) All rights and powers necessary or convenient to the carrying out of its functions hereunder, whether or not such rights and powers are specifically enumerated herein.

8.2 Plan Administrator.

(a) The Employer has appointed the County Administrator (the "Plan Administrator") to serve as the administrator of the NACo Plan. The Plan Administrator has the responsibility and authority to control the operation and administration of the NACo Plan in accordance with the terms of the NACo Plan, including the following:

- (i) Maintaining all records of the NACo Plan other than those required to be maintained by Nationwide or other entity;
- (ii) Issuing of instructions to Nationwide to pay benefits as provided in the NACo Plan;
- (iii) Qualifying and continuing to qualify under applicable law, any amendments to the NACo Plan and documents relating to the NACo Plan;
- (iv) Receiving from the Employer and from Participants such information as may be necessary for the proper administration of the NACo Plan; and
- (v) Performing such other duties as are assigned to the Plan Administrator under the NACo Plan or which are delegated to it by the Employer.

(b) The Plan Administrator is expressly reposed with the discretionary authority and powers in regard to all facets of any claims for benefits made under the NACo Plan. Such authority and powers include, but are not limited to, the following:

(i) Construing and interpreting the terms of the NACo Plan and of any documents pertaining to the NACo Plan;

(ii) Construing and interpreting all laws and regulations as applicable to any claims for benefits made under the NACo Plan;

(iii) Making any factual determinations, and applying such determinations to the terms of the NACo Plan and issues arising under the NACo Plan;

(iv) Making a determination as to an individual's status as an Eligible Employee within the meaning of the NACo Plan, which determination may take into account, but need not adhere to, a determination by a federal agency of such person's employee status for purposes other than participation under the NACo Plan;

(v) Deciding all questions regarding an individual's benefit entitlements under the NACo Plan, and the manner and timing of any payments to be made to or with respect to any individual under the NACo Plan; and

(vi) Considering and deciding all appeals of benefit claims which have been denied, including affording a reasonable opportunity to any Participant or Beneficiary whose claim for benefits has been denied for a full and fair review of the decision denying the claim.

(c) The County Administrator, on behalf of the Employer, is authorized to take all actions and make all decisions under the NACo Plan that are to be taken or made by the Employer, including but not limited to the power to amend or terminate the NACo Plan granted in Section 8.1. However, an amendment by the County Administrator may not restrict the Employer's right to amend or terminate the NACo Plan.

(d) The Plan Administrator may also be a Participant, but the Plan Administrator shall not have power to take part in any discretionary decision or action affecting his own interest as a Participant under this NACo Plan unless such decision or action is upon a matter which affects all other Participants similarly situated and confers no special right, benefit or privilege not simultaneously conferred upon all other such Participants.

(e) The Plan Administrator shall not have any discretionary authority in regard to the investment funds to be made available to Participants under the NACo Plan, except to the extent, if any, that such authority is granted to the Plan Administrator by a Fund Provider.

8.3 Trustee. A Trustee appointed under the NACo Plan shall serve as the custodian and legal owner of the NACo Plan's beneficial interest in the NACo Retirement Trust. The Trustee, in its role as such, shall have no discretion as to the selection of the investment funds to be made available under the NACo Plan.

8.4 Fund Provider. The Employer, or the Plan Administrator on its behalf, shall engage one or more Fund Providers from whom investment funds shall be made available to Participants. A Fund Provider with respect to the NACo Plan shall be a life insurance company authorized to do business in Oregon, or the sponsor of a public instrumentality trust described in Section 2(b) of the Investment Company Act of 1940. The Fund Provider shall determine the particular investment funds to be made available to Participants under the NACo Plan, except to the extent, if any, that it has allowed the Plan Administrator to select any such investment funds.

8.5 Deferred Compensation Advisory Committee. The Employer has established a Deferred Compensation Advisory Committee (the "Committee") to assist the Plan Administrator in regard to the administration and management of the NACo Plan. The Committee, the members of which are appointed by the Employer, shall serve solely in an advisory capacity, and thus shall have no discretionary responsibility and authority to control the operation and administration of the NACo Plan. Accordingly, the members of the Committee shall not be fiduciaries with respect to the NACo Plan.

8.6 Engagement of Advisors. The Employer may employ on behalf of the NACo Plan one or more persons to render advice with regard to any responsibility it may have under the NACo Plan. Toward that end, the Employer may appoint, employ and consult with legal counsel, actuaries, accountants, investment consultants, physicians or other advisors (who may be counsel, actuaries, accountants, consultants, physicians or other advisors for the Employer) and may also from time to time utilize the services of employees and agents of the Employer in the discharge of its responsibilities.

8.7 Indemnification. To the full extent permitted by law, the Employer shall indemnify the Plan Administrator and employees of the Employer for any liability or expenses, including attorneys' fees, arising from any threatened or pending action, suit or proceeding brought by the Participant or any Beneficiary thereof under the NACo Plan or to enforce the individual's rights under the NACo Plan, including any amendments, modification or termination hereof.

8.8 Claims Procedure.

(a) Any person who believes that he or she is entitled to receive a benefit under the NACo Plan, including one greater than that initially determined to be payable, may file a claim in writing with the Plan Administrator or its delegate.

(b) The Plan Administrator shall within 90 days of the receipt of a claim either allow or deny the claim in writing. A denial of a claim shall be written in a manner calculated to be understood by the claimant and shall include:

(i) The specific reason or reasons for the denial;

(ii) 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 information is necessary; and

(iv) An explanation of the NACo Plan's claim review procedure.

(c) A claimant whose claim is denied (or his duly authorized representative) may, within 60 days after receipt of denial of his or her claim:

(i) Submit a written request for review to the Plan Administrator;

(ii) Review pertinent documents; and

(iii) Submit issues and comments in writing.

(d) The Plan Administrator shall notify the claimant of its decision on review within 60 days of receipt of a request for review. The decision on review shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision and specific references to the pertinent Plan provisions on which the decision is based.

(e) The 90-day and 60-day periods described in subsections (b) and (d), respectively, may be extended at the discretion of the Plan Administrator for a second 90-day or 60-day period, as the case may be, provided that written notice of the extension is furnished to the claimant prior to the termination of the initial period, indicating the special circumstances requiring such extension of time and the date by which a final decision is expected.

(f) Participants and Beneficiaries shall not be entitled to challenge the Plan Administrator's determinations in judicial or administrative proceedings without first complying with the procedures in this Section 8.8. The Plan Administrator's decisions made pursuant to this section are intended to be final and binding on Participants, Beneficiaries and others. Any judicial proceedings in regard to a claim under the NACo Plan must be filed within 90 days of the date on which notice of the denial of the claim appeal has been sent to the claimant or the claimant's representative, as applicable.

8.9 Payment of Expenses. All expenses incident to the administration or protection of the NACo Plan, and the management of the assets of the NACo Plan, including but not limited to, investment fund management expenses, and investment consulting and legal fees, shall be paid from the assets of the NACo Plan, unless the Employer chooses to pay such expenses directly. To the extent permitted by law, the Employer may be reimbursed from the NACo Plan for any direct expenses properly and actually incurred in connection with the performance of services for the NACo Plan.

ARTICLE 9

Declaration of Trust

9.1 Scope of Trust Provisions. The provisions of this Article 9 shall apply only if and to the extent that the NACo Plan has any assets that are not held in a group annuity contract, or in any other custodial account or contract described in Code Section 401(f) (which accounts or contracts are hereafter referred to as "Exempt Contracts").

9.2 Designation of Trust and Trustee. The trust maintained under this NACo Plan shall be known as the "Lane County Deferred Compensation Trust" (the "Trust"). The Employer shall serve, without compensation for service, as Trustee of the Trust. The Employer as Trustee of the Trust shall act through the County Administrator and such other person or persons designated in writing from time to time by the County Administrator. Any one of them may act for the Employer as Trustee without the consent of the others.

9.3 Assets to be held in Trust. All amounts of compensation deferred under this NACo Plan, all amounts transferred to this NACo Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property or rights, shall be held in the Trust, unless such amounts are held in an Exempt Contract described in Section 9.1 above.

9.4 Management and Control of Trust Fund. The Fund Providers shall determine the particular investment funds to be made available to Participants under the NACo Plan, except to the extent, if any, that it has allowed the Plan Administrator to select any such investment funds. Accordingly, the Trustee shall have no authority, discretion and responsibility to manage and control the assets of the Trust Fund.

9.5 Limitation on Reversions. The Employer has no beneficial interest in the Trust Fund and no part of the Trust Fund shall ever revert or be repaid to the Employer directly or indirectly, provided, however, that if a contribution or any portion thereof is made by the Employer through a mistake of fact, the Trustee shall, upon written request of the Employer, return the contribution or such portion, reduced by any losses attributable thereto.

9.6 Interest Non-Transferable. No Participant shall have any right to sell, assign, pledge, hypothecate, anticipate or in any way create a lien upon any part of the Trust Fund. No interest in the Trust Fund shall be assignable in or by operation of law, or be liable in any way for the debts or defaults of Participants, their beneficiaries, spouses, or heirs-at-law, whether to the Employer or to others. Notwithstanding the foregoing, the Trustee shall distribute a Participant's benefits under the NACo Plan, or any portion thereof, in accordance with the terms of any domestic relations order to the extent required, but subject to, ORS 243.507.

9.7 Appointment of Successor Trustee. The Employer may resign as Trustee, but only if the Employer has appointed a successor Trustee and the successor Trustee agrees in writing to serve as such.

9.8 Protection of Persons Dealing with the Trust. No person dealing with the Trustee shall be required or entitled to monitor the application of any money paid or properly delivered to the Trustee, or determine whether or not the Trustee is acting pursuant to authorities granted to it hereunder or to authorizations or directions herein required.

9.9 Tax-Exempt Status. The Trust is hereby designated as constituting a part of the NACo Plan intended to qualify under Section 457 and to be exempt from taxation pursuant to Sections 457(g)(2)(A) of the Code. Until advised otherwise, the Trustee may presume that the Trust is so qualified and tax exempt.

9.10 Fiscal Year. The fiscal year of the Trust shall be the twelve-month period beginning on January 1 and ending on December 31.

ARTICLE 10

Miscellaneous

10.1 Amendment or Termination. This NACo Plan may be modified, amended or terminated in whole or in part (including retroactive amendments) at any time by the Employer, or by the County Administrator as authorized under Section 8.2(c). No amendment or termination of the NACo Plan shall reduce or impair the rights of any Participant or his or her Beneficiary that have already accrued, except as may be permitted or required by law. Any amendment to the NACo Plan or to any part of the NACo Plan, or the termination of the NACo Plan, shall be effectuated by an instrument in writing reflecting that such change has been authorized by the Employer or County Administrator. Any such amendment will be effective as of the date specified in said instrument, or, if no date is so specified, as of the date of execution or adoption of said instrument. An instrument regarding the amendment or termination of the NACo Plan that is executed by or ratified in writing by the County Administrator shall be conclusive evidence of the adoption and effectiveness of the instrument. Upon termination of the NACo Plan, the Employer shall distribute all amounts credited to each Participant's Accounts in accordance with the provisions of Article 6.

10.2 No Guarantee of Employment, etc. Neither the creation of the NACo Plan, nor anything contained in the NACo Plan, shall be construed as giving any Participant hereunder or other employee of the Employer any right to remain in the employ of the Employer, any equity or other interest in the assets, business or affairs of the Employer, or any right to complain about any action taken or any policy adopted or pursued by the Employer.

10.3 Non-Alienation of Benefits. Subject to Section 10.4 below, no Participant shall have the power to alienate, transfer, assign, anticipate, mortgage or otherwise encumber the Participant's interest in the NACo Plan. No interest of the Participant in the NACo Plan shall be subject to garnishment, attachment or other seizure of sequestration for the payment of debts, judgments, alimony or a separate maintenance owed by such Participant or be transferred by operation of law in the event of bankruptcy, insolvency or otherwise.

10.4 Qualified Domestic Relations Order. Notwithstanding the provisions of Section 10.3 above, a Participant's Accounts, or any portion thereof, shall be distributed in accordance with the terms of any domestic relations order that the Plan Administrator determines to be a Qualified Domestic Relations Order (QDRO) described in Section 414(p) of the Code. Such distribution may be made as soon as practicable, irrespective of whether or not the Participant has then attained "earliest retirement age" as defined under Section 414(p)(4)(B) of the Code. An "alternate payee" with respect to a QDRO who is the spouse or former spouse of the Participant shall be treated for tax purposes as the distributee of any distribution made to such alternate payee pursuant to the QDRO, and shall have the same rights as a Participant in regard to the direct transfer of distributions to an eligible retirement plan as prescribed in Section 6.7.

10.5 Receipts by Participants. Prior to the time that distributions are to be made hereunder, the Participants, their spouses, Beneficiaries, alternate payees, heirs-at-law or legal representatives shall have no right to receive cash or other things of value from the Employer from or as a result of the NACo Plan.

10.6 Interpretation. The terms of this NACo Plan shall be interpreted and administered in a manner consistent with the requirements of Code Section 457, in order that the NACo Plan qualify as an Eligible Deferred Compensation Plan within the meaning of said Code Section.

10.7 Controlling Law. The laws of the State of Oregon shall be controlling state law in all matters relating to the NACo Plan and Trust.

10.8 Severability. If any provision of this NACo Plan shall be held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining parts of this NACo Plan, but this NACo Plan shall be construed and enforced as if said illegal or invalid provision had never been included herein.

10.9 Gender and Number. Whenever used in the NACo Plan, unless the context otherwise indicates, words in the masculine form shall be deemed to include the feminine, and the singular shall be deemed to include the plural.

This Lane County, Oregon NACo Deferred Compensation Plan, as Amended and Restated effective as of January 1, 2004, is approved and accepted.

LANE COUNTY, OREGON

By: _____
William A. Van Vactor
County Administrator

Dated: _____, 2005

00096247.DOC