

11.18 Mergers, Consolidations and Transfers. In the event of a merger or consolidation of the Plan with, or transfer, in whole or in part, of the assets and liabilities of the Trust to another trust held under another plan of deferred compensation maintained or to be established for the benefit of some or all of the Members, the assets of the Trust with respect to such Members shall be transferred to the other trust only if

(a) each Member would (if either this Plan or the other plan then terminated) receive a benefit immediately after the merger, consolidation or transfer that is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation or transfer;

(b) actions of the Sponsor, or of any new or successor sponsor for the affected Members, authorize such transfer of assets, and in the case of the new or successor sponsor, its resolutions include an assumption of liabilities with respect to such Members' inclusion in the new sponsor's plan; and

(c) such other plan and trust satisfy the requirements of Code Sections 401(a) and 501(a).

11.19 Named Fiduciaries. The Named Fiduciaries of this Plan are (a) the Sponsor, (b) the Employer, (c) the Committee, (d) the Trustee and (e) any Investment Manager appointed under Section 8.2(b). The Named Fiduciaries shall have only those specific powers, duties, responsibilities and obligations as are specifically given them under the Plan. In general, the Sponsor shall have sole authority to appoint and remove the Trustee and the Committee, and to amend or terminate the Plan, in whole or in part. The Employer shall have sole responsibility for making contributions for Members who are its Employees, as provided under Article 4. The Committee shall have sole responsibility for the administration of the Plan, which responsibility is specifically described in the Plan. The Trustee shall have sole responsibility for management of the Trust assets, except those assets the management of which has been assigned to an Investment Manager, who shall be solely responsible for the management of the assets assigned to it, all as specifically provided herein. Each Named Fiduciary warrants that any direction given, information furnished or action taken by it is in accordance with the Plan's provisions, authorizing or providing for such direction, information or action. Furthermore, each Named Fiduciary may rely upon any direction, information or action of another Named Fiduciary as being proper under the Plan, and is not required to inquire into the propriety of any such direction, information or action. It is intended that each Named Fiduciary shall be responsible for the proper exercise of its own powers, duties, responsibilities and obligations under the Plan. Any person or group may serve in more than one fiduciary capacity.

11.20 Successors. In the event of the dissolution, merger, consolidation or reorganization of the Sponsor or an Employer, provision may be made by which the Plan will be continued by the successor to the Sponsor or the Employer. In this case, the successor shall be substituted for the Sponsor or the Employer, as the case may be, under the Plan. The substitution of the successor shall constitute an assumption of Plan liabilities by the successor, and the successor shall have all of the powers, duties and responsibilities of the Sponsor or the Employer under the Plan.

11.21 Fiduciaries Not Insurers. The Fiduciaries under the Plan in no way guarantee the Trust from investment loss or depreciation. The Employer does not guarantee the payment of any benefit that may be or become due to any person from the Trust. The liability of the Committee and the Trustee to make any payment from the Trust at any time is limited to the then available Trust assets.

11.22 Notice and Waiver of Notice. Whenever written notice concerning a matter under the Plan is required to be given hereunder, it shall be deemed given on the date deposited at a United States Postal Service station, first class postage paid. Notice may be waived by any party otherwise entitled thereto.

11.23 Returned Payments. If no one claims a payment or distribution made from the Trust, or if a payment that was mailed to the last known address of a Member or Beneficiary is returned because the addressee failed to claim the payment, the Trustee shall promptly cease benefit payments, redeposit into the Trust such payment or payments that remain unclaimed and notify the Committee. The Committee and/or the Trustee shall conduct a reasonable search for the Member or Beneficiary, but if after a reasonable search there is no success, the provisions of Section 9.5 shall apply to the benefit payments.

11.24 Release of Claims. Any payment to a Member, his legal representative, Beneficiary, or to any guardian or committee appointed for such Member or Beneficiary shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Sponsor, Employer, Committee, Plan and Trustee, any of whom may require such Member, legal representative, Beneficiary, guardian or committee, as a condition precedent to such payment, to execute a receipt and release thereof in such form as shall be determined by the Sponsor, Employer, Committee, Plan or Trustee

11.25 Payments to Minors or Incompetents. In the event a distribution is to be made to a minor Beneficiary, or to the custodian for the minor Beneficiary under the Uniform Gift to Minors Act or Gift to Minors Act, if permitted by the laws of the state in which the Beneficiary resides, the distribution to the legal guardian, custodian or parent of the minor Beneficiary shall fully discharge the Sponsor, Employer, Committee, Plan and Trustee from further liability on account thereof.

If the Committee receives satisfactory evidence (a) that any person entitled to a benefit under the Plan is physically, mentally or legally incompetent to receive the benefit and give a valid receipt for the benefit at the time it is payable, and (b) that an individual or institution is then maintaining or has custody of the person and/or that a guardian or other representative of the person has been appointed to see to his affairs, the Committee may direct the Trustee to pay the benefit to the individual or institution maintaining or then having custody of the person and/or the guardian or other representative of the person, and the receipt by that individual, institution, guardian or other representative shall fully discharge the Sponsor, Employer, Committee, Plan and Trustee from further liability to such person.

11.26 Multiple Copies of Plan and/or Trust Documents. This Plan and the Trust Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same Plan or Trust Agreement (as the case may be), and shall be binding on the respective successors and assigns of the Employer and other Fiduciaries.

ARTICLE 12
RESTRICTIONS ON CERTAIN BENEFIT PAYMENTS

12.1 Application of Assets on Termination or Discontinuance. If the Plan is terminated by the Employer, the Trustee shall liquidate all assets of the Plan and shall determine the value of the Trust as of the business day next following the date of such termination. Subject to the provisions of Sections 12.2 through 12.10, the Committee shall allocate assets of the Plan among Members and Beneficiaries according to the following priorities:

(a) to defray all costs and charges (including those of counsel, the Trustee and any other persons engaged by the Committee or Trustee, with the Committee's approval, providing services to the Plan) for the orderly liquidation and distribution of the Trust as provided in this Section 12.1;

(b) to a Member's benefits payable from his Employee contributions (if any);

(c) to benefits payable as an annuity:

(1) in the case of a benefit of a Member or Beneficiary that was in pay status as of the beginning of the three-year period ending on the Plan's termination date, each such benefit, based on the Plan's provisions (as in effect during the five-year period ending on such date) under which such benefit would be the least; or

(2) in the case of a Member's or Beneficiary's benefit (other than a benefit described in Section 12.1(c)(1)) that would have been in pay status as of the beginning of such three-year period if the Member had retired prior to the beginning of the three-year period and if his benefits had commenced (in the normal form of annuity under the Plan) as of the beginning of such period, each such benefit based on the provisions of the Plan (as in effect during the five-year period ending on such date) under which such benefit would be the least.

For purposes of Section 12.1(c)(1), the lowest benefit in pay status during a three-year period is the benefit in pay status for such period.

(d) all other Plan benefits insured by the PBGC;

(e) all other Vested benefits under the Plan; and

(f) any other benefits under the Plan (but not any benefits to which a Member does not have a Vested right thereto or which a Member has not yet satisfied the requirements therefor).

If assets are insufficient to provide all benefits under the Plan, the Committee shall cause the Plan assets to be allocated to satisfy obligations within each category by order of priority. If assets are insufficient to provide all benefits under a priority category, the Plan assets shall be allocated to Members within that category in the ratio that each Member's total benefits bears to the total benefits of all Members within that category. The Committee shall cause the assets that are not required to be allocated under ERISA Sections 4044(a)(1), (2), (3) and (4)(A) to be allocated in a manner that shall reduce to the extent possible discrimination as described in Code Section 401(a)(4).

In the event that funds are insufficient, Members shall have no recourse against the Sponsor, the Employer, the Committee, the Trust, the Trustee or any other Fiduciary, Employee or organization providing services to the Plan.

12.2 Surplus After Termination. If the Employer has overfunded the Plan as of the time the Plan is terminated, the Trustee may return the amount by which the Employer has overfunded the Plan to the Employer. The Employer shall state by written request to the Trustee the amount of the overfunding it wishes the Trustee to return after satisfying all liabilities under the terminated Plan.

12.3 Recapture of Certain Payments. If the Plan is terminated as to the Employer, there shall be repaid to the Trust the following amount in respect of any benefit whose payment commenced within the three-year period immediately preceding the date of termination;

(a) the payments received by a Member in respect of benefits during the three-year period minus

(b) the sum of

(1) the total of the benefits that would have been received by a Member in the three-year period if payments were made in the form of a life annuity,

(2) total of the excesses for each of the three years of \$10,000 (or the actual payment of such benefits in the year, if less) over the amount in Section 12.3(b)(1) applicable to the year, and

(3) the present value at the date of Plan termination of the portion of the benefits guaranteed by the PBGC as if the benefits commenced as a life annuity.

Repayment under this Section 12.3 shall only be required to provide a full allocation in respect of all benefits in Sections 12.1(a) and (b) and shall not be required in respect of any amount whose repayment would, in the determination of the PBGC, cause substantial economic hardship to a Member or his Beneficiary.

12.4 Benefit Restrictions for Certain Employees Before 1992. Notwithstanding any other provision of the Plan to the contrary, the Employer contributions that the Trustee may use

to provide benefits for Members who are among the 25 highest paid Employees (the "Original 25 Employees") as of the Effective Date (including any Employees who are not Members on the Effective Date but who later may become Members) and whose annual retirement benefits shall exceed \$1,500 shall not exceed the greatest of

(a) \$20,000,

(b) an amount equal to 20 percent of the first \$50,000 of the Member's Average Annual Compensation multiplied by the number of years elapsed between the Effective Date and the earliest to occur of:

(1) the date the Plan terminates,

(2) the date the Member's retirement benefit becomes payable, or

(3) the date the Employer fails to meet the full current costs of the Plan, or

(c) if an Employee is a substantial owner (as defined in ERISA Section 4022(b)(5)), the present value of his guaranteed benefit under ERISA Section 4022, or the present value of the benefit he would be guaranteed under ERISA Section 4022 if the Plan terminated on the date benefits commence (determined in accordance with PBGC regulations). If an Employee is not a substantial owner, the present value of his maximum benefit under ERISA Section 4022(b)(3)(B) on the earlier of the date the Plan terminated or the date his benefits commence (determined in accordance with PBGC regulations) regardless of any other limitations in ERISA Section 4022.

12.5 Substantial Changes in Plan. If the Employer changes the Plan so as to increase substantially the extent of possible discrimination as to contributions and as to benefits actually payable in the event of the subsequent termination of the Plan or the subsequent discontinuance of contributions under the Plan, the Employer shall apply the provisions of Section 12.4 to the 25 highest paid Employees (the "New 25 Employees") as of the date of the change (including any Employees who later may become Members) and whose annual retirement benefit shall exceed \$1,500.

The Committee shall continue the restrictions described in Section 12.4 to the Original 25 Employees for the period the restrictions apply to them despite imposing restrictions on the New 25 Employees.

The Committee shall apply the restrictions in Section 12.4 to the New 25 Employees as if the Effective Date is the date of the change described in the first paragraph of this Section 12.5. Further, the Committee shall apply the restrictions of Section 12.4 to the New 25 Employees substituting for Section 12.4(b) the greater of the following:

(a) the Employer contributions (or the funds attributable to Employer contributions) the Trustee would have applied to provide a Member's retirement benefit if the Employer had not changed the Plan, or

(b) the sum of

(1) the Employer contributions (or the funds attributable to Employer contributions) the Trustee would have applied to provide a Member's retirement benefit if the Employer had terminated the Plan the day before the date of the change, and

(2) the product of the number of years the Employer satisfied the full current costs of the Plan after the date of the change multiplied by the smaller of \$10,000 or 20 percent of a Member's annual Compensation.

12.6 Termination of Certain Members. If a Member to whom the limitations of Section 12.4 or 12.5 apply terminates employment while the limitations are in effect, the Member may nevertheless receive a lump sum payment of benefits in excess of such limitations provided the Member enters into an agreement with the Trustee requiring the Member to repay to the Trustee all amounts he has received in excess of such limitations. The Member's requirement to repay shall apply in the event the Plan terminates within the restricted ten-year period or if within such period the Employer has not met the Plan's full current costs. The Trustee shall not pay any benefit to a Member under this Section 12.6 unless the Member provides adequate security for his contingent repayment obligation. Such security shall be in the form required by regulations or promulgations of the IRS.

12.7 Full Payment While Plan in Effect. The restrictions in Section 12.4 shall not prevent the current payment of full retirement benefits called for by the Plan for any retired Member while the Plan is in full effect and the Employer has met its full current costs.

12.8 Restrictions Not to Apply to Death Benefits. The restrictions in Section 12.4 shall not prevent the full payment of any insurance, death or survivor's benefits on behalf of a Member who dies while the Plan is in full effect and the Employer has met its full current costs.

12.9 Lapse on Restrictions. The Section 12.4 restrictions shall only apply if

(a) the Employer terminates the Plan within ten years of the Effective Date, or

(b) one of the Original 25 Employees' retirement benefits becomes payable within ten years of the Effective Date.

If one of the Original 25 Employees' benefits is subject to restriction under Section 12.4 because of Section 12.9(b), then the Trustee shall apply the restrictions only until the date that is ten years from the Effective Date.

12.10 Benefit Restrictions for Certain Employees.

(a) For Plan Years beginning on or after January 1, 1992 and before January 1, 2008, benefits distributed to any of the 25 most Highly Compensated Employee and highly compensated former employees with the greatest compensation in the current or prior year are restricted such that the monthly payments are no greater than an amount equal to the monthly payment that would be made on behalf of such individual under a straight life annuity that is the actuarial equivalent of the sum of the individual's Accrued Benefit, the individual's other benefits under the Plan (other than a Social Security supplement within the meaning of Regulation Section 1.411(a)-7(c)(4)(ii)), and the amount the individual is entitled to receive under a Social Security supplement. However, the limitation of this Section 12.10 shall not apply if

(1) after payment of the benefit to an individual described above, the value of Plan assets equals or exceeds 110 percent of the value of current liabilities, as defined in Code Section 412(1)(7);

(2) the value of the benefits for an individual described above is less than one percent of the value of current liabilities before distribution; or

(3) the value of the benefits payable under the Plan to an individual described above does not exceed \$5,000 (\$3,500 for Plan Years beginning prior to August 5, 1997).

(b) For purposes of this Section 12.10, benefit includes any periodic income, any withdrawal values payable to a living Member, and any death benefits not provided for by insurance on the individual's life.

(c) An individual's otherwise restricted benefit may be distributed in full to the affected individual if, prior to receipt of the restricted amount, the individual enters into a written agreement with the Committee to secure repayment to the Plan of the restricted amount. The restricted amount is the excess of the amounts distributed to the individual (accumulated with reasonable interest) over the amounts that could have been distributed to the individual under the straight life annuity described above (accumulated with reasonable interest). The individual may secure repayment of the restricted amount upon distribution by

(1) entering into an agreement for promptly depositing in escrow with an acceptable depository, property having a fair market value equal to at least 125 percent of the restricted amount;

(2) providing a bank letter of credit in an amount equal to at least 100 percent of the restricted amount; or

(3) posting a bond equal to at least 100 percent of the restricted amount. The bond must be furnished by an insurance company, bonding company or other surety for federal bonds.

(d) The escrow arrangement may permit an individual to withdraw from escrow amounts in excess of 125 percent of the restricted amount. If the market value of the property in an escrow account falls below 110 percent of the remaining restricted amount, the individual must deposit additional property to bring the value of the property held by the depository up to 125 percent of the restricted amount. The escrow arrangement may provide that the individual has the right to receive any income from the property placed in escrow, subject to the individual's obligation to deposit additional property, as set forth in the preceding sentence.

(e) A surety or bank may release any liability on a bond or letter of credit in excess of 100 percent of the restricted amount.

(f) If the Committee certifies to the depository, surety or bank that the individual (or the individual's estate) is no longer obligated to repay any restricted amount, a depository may deliver to the individual any property held under an escrow arrangement, and a surety or bank may release any liability on an individual's bond or letter of credit.

(g) Notwithstanding the foregoing, with respect to Plan Years beginning prior to January 1, 1992, compliance with the Plan and Treasury Regulations then in effect shall be deemed compliance with this Section 12.10.

12.11 No Decrease in Benefits by Change in Social Security. In the case of a Member or Beneficiary who is receiving benefits under the Plan or a Member who has terminated employment with the Employer and has a nonforfeitable Accrued Benefit under the Plan, any increase in the taxable wage base or the benefit level payable under Title 11 of the federal Social Security Act shall not affect in any way the benefits payable under the Plan to the Member or Beneficiary. The Plan does not permit the recalculation of any benefits accrued before the Member's termination of employment on the basis of change in Social Security benefit levels or the taxable wage base in effect during years of Benefit Accrual Service after re-employment with the Employer.

ARTICLE 13

LIMITATIONS APPLICABLE IF THE PLAN'S AFTAP IS LESS THAN 80 PERCENT OR IF THE SPONSOR IS IN BANKRUPTCY

13.1 Limitations Applicable if the Plan's AFTAP is Less than 80 Percent, But Not Less than 60 Percent. Notwithstanding any other provisions of the Plan, if the Plan's AFTAP for a Plan Year is less than 80 percent (or would be less than 80 percent to the extent described in Section 13.1(b) below) but is not less than 60 percent, then the limitations set forth in this Section 13.1 shall apply.

(a) **50 Percent Limitation on Single Sum Payments, Other Accelerated Forms of Distribution, and Other Prohibited Payments.** A Member or Beneficiary is not permitted to elect, and the Plan shall not pay, a single sum payment or other optional form of benefit that includes a prohibited payment with an annuity starting date on or after the applicable section 436 measurement date, and the Plan shall not make any payment for the purchase of an irrevocable commitment from an insurer to pay benefits or any other payment or transfer that is a prohibited

payment, unless the present value of the portion of the benefit that is being paid in a prohibited payment does not exceed the lesser of:

- (1) 50 percent of the present value of the benefit payable in the optional form of benefit that includes the prohibited payment; or
- (2) 100 percent of the PBGC maximum benefit guarantee amount (as defined in Regulation Section 1.436-1(d)(3)(iii)(C)).

The limitation set forth in this Section 13.1(a) does not apply to any payment of a benefit which under Code Section 411(a)(11) may be immediately distributed without the consent of the Member. If an optional form of benefit that is otherwise available under the terms of the Plan is not available to a Member or Beneficiary as of the annuity starting date because of the application of the requirements of this Section 13.1(a), the Member or Beneficiary is permitted to elect to bifurcate the benefit into unrestricted and restricted portions (as described in Regulation Section 1.436-1(d)(3)(iii)(D)). The Member or Beneficiary may also elect any other optional form of benefit otherwise available under the Plan at that annuity starting date that would satisfy the 50 percent/PBGC maximum benefit guarantee amount limitation described in this Section 13.1(a), or may elect to defer the benefit in accordance with any general right to defer commencement of benefits under the Plan.

(b) Plan Amendments Increasing Liability for Benefits. No amendment to the Plan that has the effect of increasing liabilities of the Plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable shall take effect in a Plan Year if the AFTAP for the Plan Year is

- (1) less than 80 percent; or
- (2) 80 percent or more, but would be less than 80 percent if the benefits attributable to the amendment were taken into account in determining the AFTAP.

The limitation set forth in this Section 13.1(b) does not apply to any amendment to the Plan that provides a benefit increase under a plan formula that is not based on compensation, provided that the rate of such increase does not exceed the contemporaneous rate of increase in the average wages of Members covered by the amendment.

13.2 Limitations Applicable if the Plan's AFTAP is Less than 60 Percent. Notwithstanding any other provisions of the Plan, if the Plan's AFTAP for a Plan Year is less than 60 percent (or would be less than 60 percent to the extent described in Section 13.2(b)), then the limitations in this Section 13.2 apply.

(a) Single Sums, Other Accelerated Forms of Distribution, and Other Prohibited Payments Not Permitted. A Member or Beneficiary is not permitted to elect, and the Plan shall not pay, a single sum payment or other optional form of benefit that includes a prohibited payment with an annuity starting date on or after the applicable section 436 measurement date, and the Plan shall not make any payment for the purchase of an irrevocable

commitment from an insurer to pay benefits or any other payment or transfer that is a prohibited payment. The limitation set forth in this Section 13.2(a) does not apply to any payment of a benefit which under Code Section 411(a)(11) may be immediately distributed without the consent of the Member.

(b) Shutdown Benefits and Other Unpredictable Contingent Event Benefits Not Permitted to be Paid. An unpredictable contingent event benefit with respect to an unpredictable contingent event occurring during a Plan Year shall not be paid if the AFTAP for the Plan Year is

(1) less than 60 percent; or

(2) 60 percent or more, but would be less than 60 percent if the AFTAP were redetermined applying an actuarial assumption that the likelihood of occurrence of the unpredictable contingent event during the Plan Year is 100 percent.

(c) Benefit Accruals Frozen. Benefit accruals under the Plan shall cease as of the applicable section 436 measurement date. In addition, if the Plan is required to cease benefit accruals under this Section 13.2(c), then the Plan is not permitted to be amended in a manner that would increase the liabilities of the Plan by reason of an increase in benefits or establishment of new benefits.

13.3 Limitations Applicable if the Sponsor is in Bankruptcy. Notwithstanding any other provisions of the Plan, a Member or Beneficiary is not permitted to elect, and the Plan shall not pay, a single sum payment or other optional form of benefit that includes a prohibited payment with an annuity starting date that occurs during any period in which the Sponsor is a debtor in a case under title 11, United States Code, or similar federal or state law, except for payments made within a Plan Year with an annuity starting date that occurs on or after the date on which the Plan's enrolled actuary certifies that the Plan's AFTAP for that Plan Year is not less than 100 percent. In addition, during such period in which the Sponsor is a debtor, the Plan shall not make any payment for the purchase of an irrevocable commitment from an insurer to pay benefits or any other payment or transfer that is a prohibited payment, except for payments that occur on a date within a Plan Year that is on or after the date on which the Plan's enrolled actuary certifies that the Plan's AFTAP for that Plan Year is not less than 100 percent. The limitation set forth in this Section 13.3 does not apply to any payment of a benefit which under Code Section 411(a)(11) may be immediately distributed without the consent of the Member.

13.4 Provisions Applicable After Limitations Cease to Apply.

(a) Resumption of Prohibited Payments. If a limitation on prohibited payments under Section 13.1(a), 13.2(a) or 13.3 applied to the Plan as of a section 436 measurement date, but that limit no longer applies to the Plan as of a later section 436 measurement date, then that limitation does not apply to benefits with annuity starting dates that are on or after that later section 436 measurement date.

(b) Resumption of Benefit Accruals. If a limitation on benefit accruals under Section 13.2(c) applied to the Plan as of a section 436 measurement date, but that limitation no longer applies to the Plan as of a later section 436 measurement date, then benefit accruals shall resume prospectively and that limitation does not apply to benefit accruals that are based on service on or after that later section 436 measurement date, except as otherwise provided under the Plan. The Plan shall comply with the rules relating to partial years of participation and the prohibition on double proration under Department of Labor Regulation 29 CFR Section 2530.204-2(c) and (d).

(c) Shutdown and Other Unpredictable Contingent Event Benefits. If an unpredictable contingent event benefit with respect to an unpredictable contingent event that occurs during the Plan Year is not permitted to be paid after the occurrence of the event because of the limitation of Section 13.2(b), but is permitted to be paid later in the same Plan Year (as a result of additional contributions or pursuant to the enrolled actuary's certification of the AFTAP for the Plan Year that meets the requirements of Regulation Section 1.436-1(g)(5)(ii)(B)), then that unpredictable contingent event benefit shall be paid, retroactive to the period that benefit would have been payable under the terms of the Plan (determined without regard to Section 13.2(b)). If the unpredictable contingent event benefit does not become payable during the Plan Year in accordance with the preceding sentence, then the Plan is treated as if it does not provide for that benefit.

(d) Treatment of Plan Amendments That Do Not Take Effect. If a plan amendment does not take effect as of the effective date of the amendment because of the limitation of Section 13.1(b) or Section 13.2(c), but is permitted to take effect later in the same Plan Year (as a result of additional contributions or pursuant to the enrolled actuary's certification of the AFTAP for the Plan Year that meets the requirements of Regulation Section 1.436-1(g)(5)(ii)(C)), then the plan amendment must automatically take effect as of the first day of the Plan Year (or if later, the original effective date of the amendment). If the plan amendment cannot take effect during the same Plan Year, then it shall be treated as if it were never adopted, unless the plan amendment provides otherwise.

13.5 Notice Requirement. See ERISA Section 101(j) for rules requiring the plan administrator of a single employer defined benefit pension plan to provide a written notice to participants and beneficiaries within 30 days after certain specified dates if the plan has become subject to a limitation described in Section 13.1(a), 13.2 or 13.3.

13.6 Methods to Avoid or Terminate Benefit Limitations. See Code Sections 436(b)(2), (c)(2), (e)(2) and (f) and Regulation Section 1.436-1(f) for rules relating to employer contributions and other methods to avoid or terminate the application of the limitations set forth in Sections 13.1 through 13.3 for a plan year. In general, the methods a plan sponsor may use to avoid or terminate one or more of the benefit limitations under Sections 13.1 through 13.3 for a plan year include employer contributions and elections to increase the amount of plan assets which are taken into account in determining the AFTAP, making an employer contribution that is specifically designated as a current year contribution that is made to avoid or terminate application of certain of the benefit limitations, or providing security to the plan.

13.7 Special Rules.

(a) Rules of Operation for Periods Prior to and After Certification of Plan's AFTAP.

(1) In General. Code Section 436(h) and Regulation Section 1.436-1(h) set forth a series of presumptions that apply (A) before the Plan's enrolled actuary issues a certification of the Plan's AFTAP for the Plan Year, and (B) if the Plan's enrolled actuary does not issue a certification of the Plan's AFTAP for the Plan Year before the first day of the tenth month of the Plan Year (or if the Plan's enrolled actuary issues a range certification for the Plan Year pursuant to Regulation Section 1.436-1(h)(4)(ii) but does not issue a certification of the specific ATAP for the Plan by the last day of the Plan Year). For any period during which a presumption under Code Section 436(h) and Regulation Section 1.436-1(h) applies to the Plan, the limitations under Sections 13.1 through 13.3 are applied to the Plan as if the AFTAP for the Plan Year were the presumed AFTAP determined under the rules of Code Section 436(h) and Regulation Section 1.436-1(h)(1), (2) or (3). These presumptions are set forth in Sections 13.7(a)(2) through (4).

(2) Presumption of Continued Underfunding Beginning First Day of Plan Year. If a limitation under Section 13.1, 13.2 or 13.3 applied to the Plan on the last day of the preceding Plan Year, then, commencing on the first day of the current Plan Year and continuing until the Plan's enrolled actuary issues a certification of the AFTAP for the Plan for the current Plan Year, or if earlier, the date Section 13.7(a)(3) or 13.7(a)(4) applies to the Plan:

(A) The AFTAP of the Plan for the current Plan Year is presumed to be the AFTAP in effect on the last day of the preceding Plan Year; and

(B) The first day of the current Plan Year is a section 436 measurement date.

(3) Presumption of Underfunding Beginning First Day of Fourth Month. If the Plan's enrolled actuary has not issued a certification of the AFTAP for the Plan Year before the first day of the fourth month of the Plan Year and the Plan's AFTAP for the preceding Plan Year was either at least 60 percent but less than 70 percent or at least 80 percent but less than 90 percent, or is described in Regulation Section 1.436-1(h)(2)(ii), then, commencing on the first day of the fourth month of the current Plan Year and continuing until the Plan's enrolled actuary issues a certification of the AFTAP for the Plan for the current Plan Year, or if earlier, the date Section 13.7(a)(4) applies to the Plan:

(A) The AFTAP of the Plan for the current Plan Year is presumed to be the Plan's AFTAP for the preceding Plan Year reduced by ten percentage points; and

(B) The first day of the fourth month of the current Plan Year is a section 436 measurement date.

(4) Presumption of Underfunding On and After First Day of Tenth Month. If the Plan's enrolled actuary has not issued a certification of the AFTAP for the Plan Year before the first day of the tenth month of the Plan Year (or if the Plan's enrolled actuary has issued a range certification for the Plan Year pursuant to Regulation Section 1.436-1(h)(4)(ii) but has not issued a certification of the specific AFTAP for the Plan by the last day of the Plan Year), then, commencing on the first day of the tenth month of the current Plan Year and continuing through the end of the Plan Year:

(A) The AFTAP of the Plan for the current Plan Year is presumed to be less than 60 percent; and

(B) The first day of the tenth month of the current Plan Year is a section 436 measurement date.

(b) New Plans, Plan Termination, Certain Frozen Plans and Other Special Rules.

(1) First Five Plan Years. The limitations in Sections 13.1(b), 13.2(b) and 13.2(c) do not apply to a new plan for the first five plan years of the plan, determined under the rules of Code Section 436(i) and Regulation Section 1.436-1(a)(3)(i).

(2) Plan Termination. The limitations on prohibited payments in Sections 13.1(a), 13.2(a) and 13.3 do not apply to prohibited payments that are made to carry out the termination of the Plan in accordance with applicable law. Any other limitations under this Article 13 do not cease to apply as a result of termination of the Plan.

(3) Exception to Limitations on Prohibited Payments under Certain Frozen Plans. The limitations on prohibited payments set forth in Sections 13.1(a), 13.2(a) and 13.3 do not apply for a Plan Year if the terms of the Plan, as in effect for the period beginning September 1, 2005, and continuing through the end of the Plan Year, provide for no benefit accruals with respect to any Members. This Section 13.7(b)(3) shall cease to apply as of the date any benefits accrue under the Plan or the date on which a Plan amendment that increases benefits takes effect.

(4) Special Rules Relating to Unpredictable Contingent Event Benefits and Plan Amendments Increasing Benefit Liability. During any period in which none of the presumptions under Section 13.7(a) apply to the Plan and the Plan's enrolled actuary has not yet issued a certification of the Plan's AFTAP for the Plan Year, the limitations under Section 13.1(b) and Section 13.2(b) shall be based on the inclusive presumed AFTAP for the Plan, calculated in accordance with Regulation Section 1.436-1(g)(2)(iii).

(c) Special Rules under Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010.

(1) Payments under Social Security Leveling Options. For purposes of determining whether the limitations under Section 13.1(a) or 13.2(a) apply to payments under a

Social Security leveling option, within the meaning of Code Section 436(j)(3)(C)(i), the AFTAP for a Plan Year shall be determined in accordance with the "Special Rule for Certain Years" under Code Section 436(j)(3) and any Regulations or other published guidance thereunder issued by the IRS.

(2) Limitation on Benefit Accruals. For purposes of determining whether the accrual limitation under Section 13.2(c) applies to the Plan, the AFTAP for a Plan Year shall be determined in accordance with the "Special Rule for Certain Years" under Code Section 436(j)(3) (except as provided under Section 203(b) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, if applicable).

(d) Interpretation of Provisions. The limitations imposed by this Article 13 shall be interpreted and administered in accordance with Code Section 436 and Regulation Section 1.436-1.

13.8 Definitions. The definitions in the following Regulations apply for purposes of Sections 13.1 through 13.7: Section 1.436-1(j)(1) defining adjusted funding target attainment percentage; Section 1.436-1(j)(2) defining annuity starting date; Section 1.436-1(j)(6) defining prohibited payment; Section 1.436-1(j)(8) defining section 436 measurement date; and Section 1.436-1(j)(9) defining an unpredictable contingent event and an unpredictable contingent event benefit.

13.9 Effective Date. The provisions of Sections 13.1 through 13.8 are effective for Plan Years beginning after December 31, 2007.

ARTICLE 14 RETIREE HEALTH CARE SEPARATE ACCOUNTS

14.1 Establishment. Effective February 1, 2020, a separate account within the meaning of Code Section 401(h) ("Separate Account") is established and maintained under the Plan to provide post-retirement medical, hospital, vision care and prescription drug benefits that are considered sickness, accident, hospitalization and medical expenses under Code Section 401(h) (hereinafter, "post-retirement health benefits") to participants under the El Paso Electric Company Retiree Welfare Benefits Plan ("Retiree Medical Plan") (and their eligible spouses and dependents) who are Members under the Plan and who satisfy the eligibility requirements set forth in Section 14.2. In no event shall the Plan discriminate in favor of officers, shareholders, supervisory employees or highly compensated employees with respect to post-retirement health benefits provided under this Article 14 or with respect to contributions to the Separate Account or any Key Employee Separate Accounts established under Section 14.3 (collectively, the "Separate Accounts"). The benefits and time periods with respect to which post-retirement health benefits provided under the Separate Accounts will be paid shall be determined under the Retiree Medical Plan, without Employer discretion as to the timing or amount of benefit payments. As used in this Article 14, "dependent" shall mean a child, as defined in Code Section 152(f)(1), of an eligible retiree, as determined under Section 14.2, who as of the end of the calendar year has not attained age 27; provided, however, that under the current terms of the Retiree Medical Plan, in general, dependents who have attained age 26 are not eligible.

14.2 Eligible Retirees. The Separate Accounts will be available to provide post-retirement health benefits under the Retiree Medical Plan for Members under the Plan (and their eligible spouses and dependents) (a) who are eligible for coverage under the Retiree Medical Plan, (b) who are non-collectively bargained employees who retire under the terms of the Plan and are eligible to receive retirement benefits under the Plan, (c) who are under age 60 as of January 1, 2020, and (d) who terminate employment on or after January 1, 2020. Post-retirement health benefits under the Retiree Medical Plan for all other retired employees will not be covered or funded by the Separate Accounts. Notwithstanding the foregoing, no amounts shall be payable from the Separate Accounts to the extent that such liabilities are funded by the Employer under a voluntary employees' beneficiary association or any other funding arrangement.

14.3 Key Employees. No amount shall be payable from the assets of the Separate Account established under Section 14.1 for post-retirement health benefits for an individual (or his eligible spouse and dependents) who at any time has been a Key Employee (as defined in Code Section 416(i)), and post-retirement health benefits for Key Employees shall be payable directly from the general assets of the Employer or another funding vehicle established by the Employer. The preceding provisions of this Section 14.3 notwithstanding, the Employer may establish and maintain "Key Employee Separate Accounts" under the Plan for the payment of post-retirement health benefits under the Retiree Medical Plan for Members who are Key Employees and who satisfy the eligibility requirements set forth in Section 14.2 (and their eligible spouses and dependents), and post-retirement health benefits shall be payable from each such Key Employee Separate Account only to such Key Employee for whom the Key Employee Separate Account is established (and his eligible spouse and dependents).

14.4 Funding.

(a) **Reasonable and Ascertainable.** Amounts contributed to the Separate Accounts shall be reasonable and ascertainable. Contributions to the Separate Accounts shall be determined using reasonable actuarial assumptions, which include consideration of the terms and coverage of the Retiree Medical Plan, the Retiree Medical Plan's funding, and any forfeitures arising due to employee turnover, deaths or items of like nature. In determining how much may be contributed to the Plan to provide post-retirement health benefits, the Plan's enrolled actuary may take into account reasonably projected increases in health care costs due to inflation and other factors. In no case shall Separate Account forfeitures prior to termination of the Plan serve to increase the benefits payable under the Retiree Medical Plan. Forfeitures of individual interests in Separate Accounts maintained under this Article 14 that occur prior to termination of the Plan must be applied as soon as possible to reduce Employer contributions to fund post-retirement health benefits under this Article 14.

(b) **Subordinate Benefits.** Post-retirement health benefits paid by the Separate Accounts shall be subordinate to the Plan's retirement benefits. Accordingly, subject to Section 14.4(a), the aggregate actual contributions to the Separate Accounts for providing post-retirement health benefits under the Retiree Medical Plan shall not exceed 25 percent of the total aggregate actual contributions made to the Plan (other than contributions to fund past service credits) after the date on which the Separate Account is established under Section 14.1 The

amount of any contribution returned to the Employer under Section 4.5 shall not be taken into account in applying the 25 percent limit on contributions to provide post-retirement health benefits.

14.5 Separate Account Contributions. The Employer shall designate which contributions to the Plan are being made for post-retirement health benefits at the time the contributions are made, and these contributions shall be credited to the Separate Accounts established under this Article 14. Although contributions to the Separate Accounts are currently provided entirely from Employer contributions, the Employer may, in the future, require Members to make contributions to the Separate Accounts established under this Article 14.

14.6 Commingling of Separate Account Assets for Investment Purposes. All contributions to the Separate Accounts may be commingled with Plan assets held for retirement benefits for investment and custody purposes, but, for recordkeeping purposes, all contributions to the Separate Accounts and earnings thereon, if any, together with all disbursements from the Separate Accounts, shall be recorded and accounted for in one or more Separate Accounts relating solely to the provision of post-retirement health benefits under the Retiree Medical Plan. If the Employer makes a contribution to the Trust that includes amounts allocable both to retirement benefits under the Plan and post-retirement health benefits under the Plan's Separate Accounts, the Employer shall clearly specify the portion of such contribution allocable to such retirement benefits and the portion allocable to such post-retirement health benefits allocable to each of the Plan's Separate Accounts.

14.7 Post-Retirement Health Benefits Not Vested. Neither Retiree Medical Plan nor Separate Account benefits (a) constitute any portion of a Member's "accrued benefit" under the Plan, (b) are subject to the vesting requirements of Code Section 411 or the vesting schedules set forth under Section 5.1, (c) are subject to protection under Code Section 411(d)(6) from reduction or elimination, or (d) are protected by corresponding provisions of ERISA. The Employer expressly reserves the right to change, reduce or eliminate the benefits provided under the Retiree Medical Plan (and the corresponding post-retirement health benefits provided under the Separate Accounts) at any time and in any fashion, and no person may rely on the future continuation of the Retiree Medical Plan (or the corresponding post-retirement health benefits provided under the Separate Accounts). Post-retirement health benefits shall be provided under the Plan only to the extent they can be paid from assets then credited to the Separate Accounts.

14.8 Exclusive Benefit. Separate Account assets shall be used solely for the purpose of (a) providing post-retirement health benefits for Members under the Plan who satisfy the eligibility requirements set forth in Section 14.2, and (b) paying any necessary or appropriate expenses attributable to the administration of the Separate Accounts. No part of the corpus or income of the Separate Accounts shall be used for, or diverted to, any purpose other than the provision of post-retirement health benefits at any time prior to the satisfaction of all liabilities for post-retirement health benefits under this Article 14. Notwithstanding Code Section 401(a)(2), upon the satisfaction of all post-retirement health benefit liabilities incurred with respect eligible retirees, as determined under Section 14.2, any amounts that remain in the Separate Accounts shall be returned to the Employer by the Trustee. If the Separate Accounts in their entireties are ever terminated (even though the Plan continues in existence) or if the Plan in

its entirety is ever terminated, upon the satisfaction of all liabilities arising out of the operation of the Separate Accounts, any surplus remaining in the Separate Accounts shall be returned to the Employer to the extent required by Code Section 401(h).

14.9 Modification, Amendment and Termination. The Employer reserves the right to modify, amend or terminate the Retiree Medical Plan at any time. The establishment and operation of the Separate Accounts do not obligate the Employer in any way to continue to maintain any health care plans of any nature or to provide post-retirement health care coverage of any kind. In the event that the Employer terminates post-retirement health coverage, this Plan shall have no liability to provide further health coverage for current or future retirees, for purposes of determining the amount to be returned to the Employer under Section 14.8. No amendment, modification or termination of the Retiree Medical Plan, nor change in Employer contributions under this Article 14, shall retroactively, adversely affect any participant's benefit under the Retiree Medical Plan.

IN WITNESS WHEREOF, this amended and restated Plan has been executed this 14 day of August, 2020.

EL PASO ELECTRIC COMPANY

By: 
Officer

2021

Summary of Benefits

**Humana Group Medicare Advantage PPO Plan
PPO 079/388**

El Paso Electric Company

Humana®

EL PASO ELECTRIC COMPANY
2021 TEXAS RATE CASE FILING
SCHEDULE G-2: GENERAL EMPLOYEE BENEFIT INFORMATION
SPONSOR: CYNTHIA S. PRIETO
PREPARER: MYRNA A. ORTIZ
FOR THE TEST YEAR ENDED DECEMBER 31, 2020

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Our service area includes specific counties within the United States, Puerto Rico and the Virgin Islands.



Let's talk about the **Humana Group Medicare Advantage PPO Plan.**

Find out more about the Humana Group Medicare Advantage PPO plan – including the services it covers – in this easy-to-use guide.

The benefit information provided is a summary of what we cover and what you pay. It doesn't list every service that we cover or list every limitation or exclusion. For a complete list of services we cover, refer to the "Evidence of Coverage".

To be eligible

To join the Humana Group Medicare Advantage PPO plan, you must be entitled to Medicare Part A, be enrolled in Medicare Part B, and live in our service area.

Humana Group Medicare Advantage PPO plan has a network of doctors, hospitals, and other providers. For more information, please call Group Medicare Customer Care.

Plan name:

Humana Group Medicare Advantage PPO plan

How to reach us:

Members should call toll-free
1-866-396-8810 for questions
(TTY/TDD 711)

Call Monday – Friday, 8 a.m. – 9 p.m.
Eastern Time.

Or visit our website: **Humana.com**



A healthy partnership

Get more from your plan — with extra services and resources provided by Humana!



Monthly Premium, Deductible and Limits

	IN-NETWORK	OUT-OF-NETWORK
PLAN COSTS		
Monthly premium You must keep paying your Medicare Part B premium.	For information concerning the actual premiums you will pay, please contact your employer/union group.	
Medical deductible	\$330 per year for some combined in- and out-of-network services	\$330 per year for some combined in- and out-of-network services
Maximum out-of-pocket responsibility The most you pay for copays, coinsurance and other costs for medical services for the year.	In-Network Maximum Out-of-Pocket \$2,000 out-of-pocket limit for Medicare-covered services. The following services do not apply to the maximum out-of-pocket: Part D Pharmacy, COVID-19 Care Package ; COVID-19 Testing ; COVID-19 Treatment ; Fitness Program ; Health Education Services ; Meal Benefit ; Smoking Cessation (Additional) and the Plan Premium. If you reach the limit on out-of-pocket costs, we will pay the full cost for the rest of the year on covered hospital and medical services.	Combined In and Out-of-Network Maximum Out-of-Pocket \$2,000 out-of-pocket limit for Medicare-covered services. In-Network Exclusions: Part D Pharmacy, COVID-19 Care Package ; COVID-19 Testing ; COVID-19 Treatment ; Fitness Program ; Health Education Services ; Meal Benefit ; Smoking Cessation (Additional) and the Plan Premium do not apply to the combined maximum out-of-pocket. Out-of-Network Exclusions: Part D Pharmacy, COVID-19 Testing ; COVID-19 Treatment ; Worldwide Coverage and the Plan Premium do not apply to the combined maximum out-of-pocket. Your limit for services received from in-network providers will count toward this limit. If you reach the limit on out-of-pocket costs, we will pay the full cost for the rest of the year on covered hospital and medical services.

Note: some services require prior authorization.

Covered Medical and Hospital Benefits

	IN-NETWORK	OUT-OF-NETWORK
ACUTE INPATIENT HOSPITAL CARE		
Our plan covers an unlimited number of days for an inpatient hospital stay. Except in an emergency, your doctor must tell the plan that you are going to be admitted to the hospital.	\$250 per admit	\$250 per admit
OUTPATIENT HOSPITAL COVERAGE		
Outpatient hospital visits	\$0 to \$35 copay	\$0 to \$35 copay
Ambulatory surgical center	\$10 copay	\$10 copay
DOCTOR OFFICE VISITS		
Primary care provider (PCP)	\$15 copay	\$15 copay
Specialists	\$25 copay	\$25 copay
PREVENTIVE CARE		
Including: Annual Wellness Visit, flu vaccine, colorectal cancer and breast cancer screenings. Any additional preventive services approved by Medicare during the contract year will be covered.	Covered at no cost.	\$0 copay for Medicare-covered preventive services \$0 copay for a supplemental annual physical exam
EMERGENCY CARE		
Emergency room If you are admitted to the hospital within 24 hours for the same condition, you do not have to pay your share of the cost for emergency care. See the "Inpatient Hospital Care" section of this booklet for other costs.	\$75 copay for Medicare-covered emergency room visit(s)	\$75 copay for Medicare-covered emergency room visit(s)
Urgently needed services Urgently needed services are care provided to treat a non-emergency, unforeseen medical illness, injury or condition that requires immediate medical attention.	\$15 to \$40 copay	\$15 to \$40 copay

Note: some services require prior authorization.

Covered Medical and Hospital Benefits

	IN-NETWORK	OUT-OF-NETWORK
DIAGNOSTIC SERVICES, LABS AND IMAGING		
Diagnostic radiology	\$10 to \$25 copay	\$10 to \$25 copay
Lab services	\$0 copay	\$0 copay
Diagnostic tests and procedures	\$0 to \$40 copay	\$0 to \$40 copay
Outpatient X-rays	\$10 to \$40 copay	\$10 to \$40 copay
Radiation therapy	\$10 to \$25 copay	\$10 to \$25 copay
HEARING SERVICES		
Medicare-covered hearing	\$25 copay	\$25 copay
Routine hearing	<ul style="list-style-type: none"> \$2000 combined in and out of network maximum benefit coverage amount for both hearing aid(s) (all types) up to 2 every 3 years. 	<ul style="list-style-type: none"> \$2000 combined in and out of network maximum benefit coverage amount for both hearing aid(s) (all types) up to 2 every 3 years. Benefits received out-of-network are subject to any in-network benefit maximums, limitations, and/or exclusions.
DENTAL SERVICES		
Medicare-covered dental	\$25 copay	\$25 copay
VISION SERVICES		
Medicare-covered vision services	\$25 copay	\$25 copay
Medicare-covered diabetic eye exam	\$0 copay	\$0 copay
Medicare-covered glaucoma screening	\$0 copay	\$0 copay
Medicare-covered eyewear (post-cataract)	\$25 copay	\$25 copay

Note: some services require prior authorization.

Covered Medical and Hospital Benefits

	IN-NETWORK	OUT-OF-NETWORK
MENTAL HEALTH SERVICES		
Inpatient The inpatient hospital care limit applies to inpatient mental services provided in a general hospital. Except in an emergency, your doctor must tell the plan that you are going to be admitted to the hospital. 190 day lifetime limit in a psychiatric facility	\$250 per admit	\$250 per admit
Outpatient group and individual therapy visits	\$15 to \$40 copay	\$15 to \$40 copay
SKILLED NURSING FACILITY		
Our plan covers up to 100 days in a SNF.	\$0 copay per day for days 1-20 \$30 copay per day for days 21-100	\$0 copay per day for days 1-20 \$30 copay per day for days 21-100
No 3-day hospital stay is required. Plan pays \$0 after 100 days		
PHYSICAL THERAPY		
	\$25 to \$35 copay	\$25 to \$35 copay
AMBULANCE		
Per date of service regardless of the number of trips. Limited to Medicare-covered transportation.	\$10 copay	\$10 copay
PART B PRESCRIPTION DRUGS		
	\$0 to \$10 copay	\$0 to \$10 copay
ACUPUNCTURE SERVICES		
Medicare-covered acupuncture	\$25 copay Limit 20 visit(s) per year	\$25 copay Limit 20 visit(s) per year
ALLERGY		
Allergy shots & serum	\$15 to \$25 copay	\$15 to \$25 copay
CHIROPRACTIC SERVICES		
Medicare-covered chiropractic visit(s)	\$20 copay	\$20 copay

Note: some services require prior authorization.



Covered Medical and Hospital Benefits

	IN-NETWORK	OUT-OF-NETWORK
COVID-19		
Testing and Treatment	\$0 copay for testing and treatment services for COVID-19	
Health Essentials Kit	Kit includes over the counter items useful for preventing the spread of COVID-19 and other viruses. Limited one per year.	
DIABETES MANAGEMENT TRAINING		
	\$0 copay	\$0 copay
FOOT CARE (PODIATRY)		
Medicare-covered foot care	\$25 copay	\$25 copay
HOME HEALTH CARE		
	\$0 copay	\$0 copay
MEDICAL EQUIPMENT/SUPPLIES		
Durable medical equipment (like wheelchairs or oxygen)	\$10 copay	\$10 copay
Medical supplies	\$10 copay	\$10 copay
Prosthetics (artificial limbs or braces)	\$10 copay	\$10 copay
Diabetes monitoring supplies	\$0 to \$10 copay	\$0 to \$10 copay
OUTPATIENT SUBSTANCE ABUSE		
Outpatient group and individual substance abuse treatment visits	\$15 to \$40 copay	\$15 to \$40 copay
REHABILITATION SERVICES		
Occupational and speech therapy	\$25 to \$35 copay	\$25 to \$35 copay
Cardiac rehabilitation	\$25 to \$35 copay	\$25 to \$35 copay
Pulmonary rehabilitation	\$25 to \$30 copay	\$25 to \$30 copay
RENAL DIALYSIS		
Renal dialysis	\$10 copay	\$10 copay
Kidney disease education services	\$0 copay	\$0 copay
TELEHEALTH SERVICES (in addition to Original Medicare)		
Primary care provider (PCP)	\$0 copay	Not Covered
Specialist	\$25 copay	Not Covered

Note: some services require prior authorization.

Covered Medical and Hospital Benefits

	IN-NETWORK	OUT-OF-NETWORK
Urgent care services	\$0 copay	Not Covered
Substance abuse or behavioral health services	\$0 copay	Not Covered
FITNESS AND WELLNESS		
	SilverSneakers® Fitness Program - Basic fitness center membership including fitness classes.	
HOSPICE		
You must get care from a Medicare-certified hospice. You must consult with your plan before you select hospice.		

Note: some services require prior authorization.

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[illegible]

Important!

At Humana, it is important you are treated fairly.

Humana Inc. and its subsidiaries do not discriminate or exclude people because of their race, color, national origin, age, disability, sex, sexual orientation, gender, gender identity, ancestry, marital status or religion. Discrimination is against the law. Humana and its subsidiaries comply with applicable Federal Civil Rights laws. If you believe that you have been discriminated against by Humana or its subsidiaries, there are ways to get help.

- You may file a complaint, also known as a grievance:
Discrimination Grievances, P.O. Box 14618, Lexington, KY 40512-4618.
If you need help filing a grievance, call **1-866-396-8810** or if you use a TTY, call **711**.
- You can also file a civil rights complaint with the **U.S. Department of Health and Human Services**, Office for Civil Rights electronically through their Complaint Portal, available at <https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>, or at **U.S. Department of Health and Human Services**, 200 Independence Avenue, SW, Room 509F, HHH Building, Washington, DC 20201, **1-800-368-1019**, **800-537-7697 (TDD)**. Complaint forms are available at <https://www.hhs.gov/ocr/office/file/index.html>.
- **California residents:** You may also call California Department of Insurance toll-free hotline number: **1-800-927-HELP (4357)**, to file a grievance.

Auxiliary aids and services, free of charge, are available to you.
1-866-396-8810 (TTY: 711)

Humana provides free auxiliary aids and services, such as qualified sign language interpreters, video remote interpretation, and written information in other formats to people with disabilities when such auxiliary aids and services are necessary to ensure an equal opportunity to participate.

Language assistance services, free of charge, are available to you.
1-866-396-8810 (TTY: 711)

Español (Spanish): Llame al número arriba indicado para recibir servicios gratuitos de asistencia lingüística.

繁體中文 (Chinese): 撥打上面的電話號碼即可獲得免費語言援助服務。

Tiếng Việt (Vietnamese): Xin gọi số điện thoại trên đây để nhận được các dịch vụ hỗ trợ ngôn ngữ miễn phí.

한국어 (Korean): 무료 언어 지원 서비스를 받으려면 위의 번호로 전화하십시오.

Tagalog (Tagalog - Filipino): Tawagan ang numero sa itaas upang makatanggap ng mga serbisyo ng tulong sa wika nang walang bayad.

Русский (Russian): Позвоните по номеру, указанному выше, чтобы получить бесплатные услуги перевода.

Kreyòl Ayisyen (French Creole): Rele nimewo ki pi wo la a, pou resevwa sèvis èd pou lang ki gratis.

Français (French): Appelez le numéro ci-dessus pour recevoir gratuitement des services d'aide linguistique.

Polski (Polish): Aby skorzystać z bezpłatnej pomocy językowej, proszę zadzwonić pod wyżej podany numer.

Português (Portuguese): Ligue para o número acima indicado para receber serviços linguísticos, grátis.

Italiano (Italian): Chiamare il numero sopra per ricevere servizi di assistenza linguistica gratuiti.

Deutsch (German): Wählen Sie die oben angegebene Nummer, um kostenlose sprachliche Hilfsdienstleistungen zu erhalten.

日本語 (Japanese): 無料の言語支援サービスをご要望の場合は、上記の番号までお電話ください。

فارسی (Farsi)

برای دریافت تسهیلات زبانی بصورت رایگان با شماره فوق تماس بگیرید.

Diné Bizaad (Navajo): Wóda'í beésh bee hani'í bee wolta'ígíí bich'í' hódíílnih éí bee t'áá jiik'eh saad bee áká'ánída'áwo'déé niká'adoowot.

العربية (Arabic)

الرجاء الاتصال بالرقم المبين أعلاه للحصول على خدمات مجانية للمساعدة بلغتك



Find out **more**



You can see your plan's provider directory at **Humana.com** or call us at the number listed at the beginning of this booklet and we will send you one.

Humana is a Medicare Advantage PPO plan with a Medicare contract. Enrollment in this Humana plan depends on contract renewal.

If you want to compare our plan with other Medicare health plans, you can call your employer or union sponsoring this plan to find out if you have other options through them.

If you want to know more about the coverage and costs of Original Medicare, look in your current "Medicare & You" handbook. View it online at <http://www.medicare.gov> or get a copy by calling 1-800-MEDICARE (1-800-633-4227), 24 hours a day, 7 days a week. TTY users should call 1-877-486-2048.

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Humana.com

PPO 079/388

EL PASO ELECTRIC COMPANY
2021 TEXAS RATE CASE FILING
SCHEDULE G-2: GENERAL EMPLOYEE BENEFIT INFORMATION
SPONSOR: CYNTHIA S. PRIETO
PREPARER: MYRNA A. ORTIZ
FOR THE TEST YEAR ENDED DECEMBER 31, 2020

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El Paso Electric Company

Your Group Life Insurance Plan

Identification No. 415381 021

Underwritten by Unum Life Insurance Company of America

11/12/2013

CERTIFICATE OF COVERAGE

Unum Life Insurance Company of America (referred to as Unum) welcomes you as a client.

This is your certificate of coverage as long as you are eligible for coverage and you become insured. You will want to read it carefully and keep it in a safe place.

Unum has written your certificate of coverage in plain English. However, a few terms and provisions are written as required by insurance law. If you have any questions about any of the terms and provisions, please consult Unum's claims paying office. Unum will assist you in any way to help you understand your benefits.

If the terms and provisions of the certificate of coverage (issued to you) are different from the Summary of Benefits (issued to the Employer), the Summary of Benefits will govern. The Summary of Benefits may be changed in whole or in part. Only an officer or registrar of Unum can approve a change. The approval must be in writing and endorsed on or attached to the Summary of Benefits. Any other person, including an agent, may not change the Summary of Benefits or waive any part of it.

The Summary of Benefits is delivered in and is governed by the laws of the governing jurisdiction and to the extent applicable by the Employee Retirement Income Security Act of 1974 (ERISA) and any amendments.

For purposes of effective dates and ending dates under the group Summary of Benefits, all days begin at 12:01 a.m. and end at 12:00 midnight at the Employer's address.

Unum Life Insurance Company of America
2211 Congress Street
Portland, Maine 04122

EL PASO ELECTRIC COMPANY
2021 TEXAS RATE CASE FILING
SCHEDULE G-2: GENERAL EMPLOYEE BENEFIT INFORMATION
SPONSOR: CYNTHIA S. PRIETO
PREPARER: MYRNA A. ORTIZ
FOR THE TEST YEAR ENDED DECEMBER 31, 2020

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The insurance Summary of Benefits under which this certificate is issued is not a policy of Workers' Compensation Insurance. You should consult your Employer to determine whether your Employer is a subscriber to the Workers' Compensation system.

IMPORTANT NOTICE

To obtain information or make a complaint:

You may call Unum's toll-free telephone number for information or to make a complaint at:

**1-800-321-3889
OPTION NUMBER 2**

You may also write to Unum at:

Deborah J. Jewett, Manager
Customer Relations
Unum Life Insurance Company of America
2211 Congress Street
Portland, Maine 04122

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may also write the Texas Department of Insurance
P.O. Box 149104
Austin, TX 78714-9104
FAX: (512) 475-1771

Web: <http://www.tdi.state.tx.us>

E-mail: ConsumerProtection@tdi.state.tx.us

PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim, you should contact the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance (TDI).

ATTACH THIS NOTICE TO YOUR CERTIFICATE OF COVERAGE:

This notice is for information only and does not become a part or condition of the attached document.

AVISO IMPORTANTE

Para obtener informacion o para someter una queja:

Usted puede llamar al numero de telefono gratis de Unum's para informacion o para someter una queja al:

**1-800-321-3889
OPCION NUMERO 2**

Usted tambien puede escribir a Unum:

Deborah J. Jewett
Gerente de Relaciones al
Cliente
Unum Life Insurance Company of America
2211 Congress Street
Portland, Maine 04122

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas
P.O. Box 149104
Austin, TX 78714-9104
FAX: (512) 475-1771

Web: <http://www.tdi.state.tx.us>

E-mail: ConsumerProtection@tdi.state.tx.us

DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concemiente a su prima o a un reclamo, debe comunicarse con el la compania primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

SUJETE ESTA NOTICIA A SU CERTIFICADO DE BENEFICIOS:

Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

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BENEFITS AT A GLANCE

LIFE INSURANCE PLAN

This life insurance plan provides financial protection for your beneficiary(ies) by paying a benefit in the event of your death. The amount your beneficiary(ies) receive(s) is based on the amount of coverage in effect just prior to the date of your death according to the terms and provisions of the plan.

EMPLOYER'S ORIGINAL PLAN

EFFECTIVE DATE: January 1, 2014

IDENTIFICATION

NUMBER: 415381 021

ELIGIBLE GROUP(S):

Retirees

WHO PAYS FOR THE COVERAGE:

Your Employer pays the cost of your coverage.

LIFE INSURANCE BENEFIT:

AMOUNT OF LIFE INSURANCE FOR YOU

\$10,000

SOME LOSSES MAY NOT BE COVERED UNDER THIS PLAN.

OTHER FEATURES:

Conversion

Continuity of Coverage

The above items are only highlights of this plan. For a full description of your coverage, continue reading your certificate of coverage section.

CLAIM INFORMATION

LIFE INSURANCE

WHEN DO YOU OR YOUR AUTHORIZED REPRESENTATIVE NOTIFY UNUM OF A CLAIM?

We encourage you or your authorized representative to notify us as soon as possible, so that a claim decision can be made in a timely manner.

Written notice and proof of claim must be sent no later than 90 days after the date of death.

If it is not possible to give proof within this time limit, it must be given no later than 1 year after the proof is required as specified above. These time limits will not apply during any period you or your authorized representative lacks the legal capacity to give us proof of claim.

The claim form is available from your Employer, or you or your authorized representative can request a claim form from us. If you or your authorized representative does not receive the form from Unum within 15 days of the request, send Unum written proof of claim without waiting for the form.

WHAT INFORMATION IS NEEDED AS PROOF OF YOUR CLAIM?

Proof of claim, provided at your or your authorized representative's expense, must show the cause of death. Also a certified copy of the death certificate must be given to us.

In some cases, you will be required to give Unum authorization to obtain additional medical and non-medical information as part of your proof of claim. Unum will deny your claim if the appropriate information is not submitted.

WHEN CAN UNUM REQUEST AN AUTOPSY?

Unum will have the right and opportunity to request an autopsy where not forbidden by law.

HOW DO YOU DESIGNATE OR CHANGE A BENEFICIARY? (Beneficiary Designation)

At the time you become insured, you should name a beneficiary on your enrollment form for your death benefits under your life insurance. You may change your beneficiary at any time by filing a form approved by Unum with your Employer. The new beneficiary designation will be effective as of the date you sign that form. However, if we have taken any action or made any payment before your Employer receives that form, that change will not go into effect.

It is important that you name a beneficiary and keep your designation current. If more than one beneficiary is named and you do not designate their order or share of payments, the beneficiaries will share equally. The share of a beneficiary who dies before you, or the share of a beneficiary who is disqualified, will pass to any surviving beneficiaries in the order you designated.

If you do not name a beneficiary, or if all named beneficiaries do not survive you, or if your named beneficiary is disqualified, your death benefit will be paid to your estate.

Instead of making a death payment to your estate, Unum has the right to make payment to the first surviving family members of the family members in the order listed below:

- spouse;
- child or children;
- mother or father; or
- sisters or brothers.

If we are to make payments to a beneficiary who lacks the legal capacity to give us a release, Unum may pay up to \$2,000 to the person or institution that appears to have assumed the custody and main support of the beneficiary. This payment made in good faith satisfies Unum's legal duty to the extent of that payment and Unum will not have to make payment again.

Also, at Unum's option, we may pay up to \$1,000 to the person or persons who, in our opinion, have incurred expenses for your last sickness and death.

HOW WILL UNUM MAKE PAYMENTS?

If your life claim is at least \$10,000, Unum will make available to the beneficiary a **retained asset account** (the Unum Security Account).

Payment for the life claim may be accessed by writing a draft in a single sum or drafts in smaller sums. The funds for the draft or drafts are fully guaranteed by Unum.

If the life claim is less than \$10,000, Unum will pay it in one lump sum to your beneficiary.

Also, your beneficiary may request the life claim to be paid according to one of Unum's other settlement options. This request must be in writing in order to be paid under Unum's other settlement options.

WHAT HAPPENS IF UNUM OVERPAYS YOUR CLAIM?

Unum has the right to recover any overpayments due to:

- fraud; and
- any error Unum makes in processing a claim.

You must reimburse us in full. We will determine the method by which the repayment is to be made.

Unum will not recover more money than the amount we paid you.

WHAT ARE YOUR ASSIGNABILITY RIGHTS FOR THE DEATH BENEFITS UNDER YOUR LIFE INSURANCE? (Assignability Rights)

The rights provided to you by the plan for life insurance are owned by you, unless:

- you have previously assigned these rights to someone else (known as an "assignee"); or
- you assign your rights under the plan(s) to an assignee.

We will recognize an assignee as the owner of the rights assigned only if:

- the assignment is in writing, signed by you, and acceptable to us in form; and
- a signed or certified copy of the written assignment has been received and registered by us at our home office.

We will not be responsible for the legal, tax or other effects of any assignment, or for any action taken under the plan(s) provisions before receiving and registering an assignment.

GENERAL PROVISIONS

WHAT IS THE CERTIFICATE OF COVERAGE?

This certificate of coverage is a written statement prepared by Unum and may include attachments. It tells you:

- the coverage for which you may be entitled;
- to whom Unum will make a payment; and
- the limitations, exclusions and requirements that apply within a plan.

WHEN ARE YOU ELIGIBLE FOR COVERAGE?

The date you are eligible for coverage is the later of:

- the plan effective date; or
- the date you retire.

WHEN DOES YOUR COVERAGE BEGIN?

Your Employer pays 100% of the cost of your coverage. You will be covered at 12:01 a.m. on the date you are eligible for coverage.

WHEN DOES YOUR COVERAGE END?

Your coverage under the Summary of Benefits or a plan ends on the earliest of:

- the date the Summary of Benefits or a plan is cancelled;
- the date you no longer are in an eligible group;
- the date your eligible group is no longer covered; or
- the last day of the period for which any required contributions are made.

Unum will provide coverage for a payable claim which occurs while you are covered under the Summary of Benefits or plan.

WHAT ARE THE TIME LIMITS FOR LEGAL PROCEEDINGS?

You or your authorized representative can start legal action regarding a claim 60 days after proof of claim has been given and up to 3 years from the time proof of claim is required, unless otherwise provided under federal law.

HOW CAN STATEMENTS MADE IN YOUR APPLICATION FOR THIS COVERAGE BE USED?

Unum considers any material statements you or your Employer make in signed application for coverage or an evidence of insurability form a representation and not a warranty. If any of the material statements you or your Employer make are not complete and/or not true at the time they are made, we can:

- reduce or deny any claim; or
- cancel your coverage from the original effective date.

As a basis for doing this, we will use only statements made in an application signed by the Employer, or an application or evidence of insurability form signed by you, a copy of which has been given to you or your beneficiary, if any.

Except in the case of fraud, Unum can take action only in the first 2 years coverage is in force.

If the Employer gives us information about you that is incorrect, we will:

- use the facts to decide whether you have coverage under the plan and in what amounts; and
- make a fair adjustment of the premium.

HOW WILL UNUM HANDLE INSURANCE FRAUD?

Unum wants to ensure you and your Employer do not incur additional insurance costs as a result of the undermining effects of insurance fraud. Unum promises to focus on all means necessary to support fraud detection, investigation, and prosecution.

It is a crime if you knowingly, and with intent to injure, defraud or deceive Unum, or provide any information, including filing a claim, that contains any false, incomplete or misleading information. These actions, as well as submission of materially false information, will result in denial of your claim, and are subject to prosecution and punishment to the full extent under state and/or federal law. Unum will pursue all appropriate legal remedies in the event of insurance fraud.

DOES THE SUMMARY OF BENEFITS REPLACE OR AFFECT ANY WORKERS' COMPENSATION OR STATE DISABILITY INSURANCE?

The Summary of Benefits does not replace or affect the requirements for coverage by any workers' compensation or state disability insurance.

DOES YOUR EMPLOYER ACT AS YOUR AGENT OR UNUM'S AGENT?

For the purposes of the Summary of Benefits, your Employer acts on its own behalf or as your agent. Under no circumstances will your Employer be deemed the agent of Unum.

LIFE INSURANCE BENEFIT INFORMATION

WHEN WILL YOUR BENEFICIARY RECEIVE PAYMENT?

Your beneficiary(ies) will receive payment when Unum approves your death claim.

WHAT DOCUMENTS ARE REQUIRED FOR PROOF OF DEATH?

Unum will require a certified copy of the death certificate, enrollment documents and a Notice and Proof of Claim form.

HOW MUCH WILL UNUM PAY YOUR BENEFICIARY IF UNUM APPROVES YOUR DEATH CLAIM?

Unum will determine the payment according to the amount of insurance shown in the LIFE INSURANCE "BENEFITS AT A GLANCE" page.

WHAT INSURANCE IS AVAILABLE WHEN COVERAGE ENDS? (Conversion Privilege)

When coverage ends under the plan, you can convert your coverage to an individual life policy, without evidence of insurability. The maximum amount that you can convert is the amount you are insured for under the plan. You may convert a lower amount of life insurance.

You must apply for individual life insurance under this life conversion privilege and pay the first premium within 31 days after the date:

- your coverage terminates; or
- you no longer are eligible to participate in the coverage of the plan.

Converted insurance may be of any type of the level premium whole life plans then in use by Unum. You may elect one year of Preliminary Term insurance under the level premium whole life policy. The individual policy will not contain disability or other extra benefits.

WHAT LIMITED CONVERSION IS AVAILABLE IF THE SUMMARY OF BENEFITS OR THE PLAN IS CANCELLED? (Conversion Privilege)

You may convert a limited amount of life insurance if you have been insured under your Employer's group plan with Unum for at least five (5) years and the Summary of Benefits or the plan:

- is cancelled with Unum; or
- changes so that you no longer are eligible.

The individual life policy maximum will be the lesser of:

- \$10,000; or
- your coverage amount under the plan less any amount that becomes available under any other group life plan offered by your Employer within 31 days after the date the Summary of Benefits or the plan is cancelled.

PREMIUMS

Premiums for the converted insurance will be based on:

- your then attained age on the effective date of the individual life policy;
- the type and amount of insurance to be converted;
- Unum's customary rates in use at that time; and
- the class of risk to which you belong.

If the premium payment has been made, the individual life policy will be effective at the end of the 31 day conversion application period.

DEATH DURING THE THIRTY-ONE DAY CONVERSION APPLICATION PERIOD

If you die within the 31 day conversion application period, Unum will pay the beneficiary(ies) the amount of insurance that could have been converted. This coverage is available whether or not you have applied for an individual life policy under the conversion privilege.

APPLYING FOR CONVERSION

Ask your Employer for a conversion application form which includes cost information.

When you complete the application, send it with the first premium amount to:

Unum - Conversion Unit
2211 Congress Street
Portland, Maine 04122-1350
1-800-343-5406

WHAT LOSSES ARE NOT COVERED UNDER YOUR PLAN?

Your plan does not cover any losses where death is caused by, contributed to by, or results from:

- suicide occurring within 24 months after your initial effective date of insurance; and
- suicide occurring within 24 months after the date any increases or additional insurance becomes effective for you.

The suicide exclusion will apply to any amounts of insurance for which you pay all or part of the premium.

The suicide exclusion also will apply to any amount that is subject to evidence of insurability requirements and Unum approves the evidence of insurability form and the amount you applied for at that time.

LIFE INSURANCE

OTHER BENEFIT FEATURES

WHAT IF YOU ARE NOT IN ACTIVE EMPLOYMENT WHEN YOUR EMPLOYER CHANGES GROUP INSURANCE CARRIERS TO UNUM? (CONTINUITY OF COVERAGE)

Unum will provide coverage for you if you were covered by the prior policy on the day before the effective date of this Summary of Benefits, and if you would be eligible for coverage under this Summary of Benefits if you were in active employment on the effective date of this Summary of Benefits.

If you are on a covered layoff or leave of absence on the effective date of this Summary of Benefits, we will consider your layoff or leave of absence to have started on that date, and coverage for you under this provision will continue for the layoff or leave of absence period provided in this Summary of Benefits, or the layoff or leave of absence period remaining under the prior policy on the effective date of this Summary of Benefits, whichever period is shorter.

If you are absent from work due to injury or sickness on the effective date of this Summary of Benefits, then coverage under this provision will continue until the earliest of the date:

- you are no longer injured or sick,
- you return to active employment,
- you are approved for a disability extension of benefits or accrued liability under the prior policy, including premium waiver, or
- your employment ends.

Also, if you incur a covered loss but are not in active employment under this Summary of Benefits, any benefits payable under this Summary of Benefits will be limited to the amount that would have been paid by the prior carrier. Unum will reduce your payment by any amount for which the prior carrier is liable.

Coverage for you is subject to payment of required premium and all other terms of this Summary of Benefits.

GLOSSARY

EMPLOYER means the Employer/Applicant named in the Application For Participation in the Select Group Insurance Trust, on the first page of the Summary of Benefits and in all amendments. It includes any division, subsidiary or affiliated company named in the Summary of Benefits.

GRACE PERIOD means the period of time following the premium due date during which premium payment may be made.

INSURED means any person covered under a plan.

PAYABLE CLAIM means a claim for which Unum is liable under the terms of the Summary of Benefits.

PLAN means a line of coverage under the Summary of Benefits.

RETAINED ASSET ACCOUNT is an interest bearing account established through an intermediary bank in the name of your beneficiary, as owner.

RETIREE means a person who was in active employment in the United States with the Employer just prior to their date of retirement.

TRUST means the policyholder trust named on the first page of the Summary of Benefits and all amendments to the policy.

WE, US and OUR means Unum Life Insurance Company of America.

YOU means a person who is eligible for retiree coverage under this plan.

**THE FOLLOWING NOTICES AND CHANGES TO YOUR COVERAGE ARE
REQUIRED BY THE STATE OF WASHINGTON. PLEASE READ CAREFULLY.**

If you have a complaint about your insurance you may contact Unum at 1-800-321-3889, or the department of insurance in your state of residence. Links to the websites of each state department of insurance can be found at www.naic.org.

Si usted tiene alguna queja acerca de su seguro puede comunicarse con Unum al 1-800-321-3889, o al departamento de seguros de su estado de residencia. Puede encontrar enlaces a los sitios web de los departamentos de seguros de cada estado en www.naic.org.

If you are a resident of one of the states noted below, and the provisions referenced below appear in your Certificate in a form less favorable to you as an insured, they are amended as follows:

If you had group life coverage in place with your employer through another carrier when your employer changed carriers to Unum, your prior coverage may be continued under the Unum plan to the extent the laws of your resident state require such right to continue and within the design limits of the Unum plan.

Full effect will be given to your state's civil union, domestic partner and same sex marriage laws to the extent they apply to you under a group insurance policy issued in another state.

For residents of Washington

The ***WILL UNUM ACCELERATE YOUR OR YOUR DEPENDENT'S DEATH BENEFIT FOR THE PLAN IF YOU OR YOUR DEPENDENT BECOMES TERMINALLY ILL?*** (Accelerated Benefit) in the **Life Insurance Benefit Information** section is amended by changing the life expectancy requirement to 24 months or less, or such longer period as stated in the policy.

The ***WHAT LOSSES ARE NOT COVERED UNDER YOUR PLAN?*** provision in the **Life Insurance Benefit Information** section is amended to remove any exclusion for death caused by suicide.

ERISA

Additional Summary Plan Description Information

If this Summary of Benefits provides benefits under a Plan which is subject to the Employee Retirement Income Security Act of 1974 (ERISA), the following provisions apply. These provisions, together with your certificate of coverage, constitute the summary plan description. The summary plan description and the Summary of Benefits constitute the Plan. Benefit determinations are controlled exclusively by the Summary of Benefits, your certificate of coverage and the information contained in this document.

Name of Plan:

El Paso Electric Company Welfare Benefits Plan

Name and Address of Employer:

El Paso Electric Company
100 N. Stanton
El Paso, Texas
79901

Plan Identification Number:

- a. Employer IRS Identification #: 74-0607870
- b. Plan #: 510

Type of Welfare Plan:

Life

Type of Administration:

The Plan is administered by the Plan Administrator. Benefits are administered by the insurer and provided in accordance with the insurance Summary of Benefits issued to the Plan.

ERISA Plan Year Ends:

December 31

Plan Administrator, Name, Address, and Telephone Number:

El Paso Electric Company
100 N. Stanton
El Paso, Texas
79901
(915) 543-5985

El Paso Electric Company is the Plan Administrator and named fiduciary of the Plan, with authority to delegate its duties. The Plan Administrator may designate Trustees of the Plan, in which case the Administrator will advise you separately of the name, title and address of each Trustee.

Agent for Service of Legal Process on the Plan:

El Paso Electric Company
100 N. Stanton
El Paso, Texas
79901

Service of legal process may also be made upon the Plan Administrator, or a Trustee of the Plan, if any.

Funding and Contributions:

The Plan is funded by insurance issued by Unum Life Insurance Company of America, 2211 Congress Street, Portland, Maine 04122 (hereinafter referred to as "Unum") under identification number 415381 021. Contributions to the Plan are made as stated under "WHO PAYS FOR THE COVERAGE" in the Certificate of Coverage.

EMPLOYER'S RIGHT TO AMEND THE PLAN

The Employer reserves the right, in its sole and absolute discretion, to amend, modify, or terminate, in whole or in part, any or all of the provisions of this Plan (including any related documents and underlying policies), at any time and for any reason or no reason. Any amendment, modification, or termination must be in writing and endorsed on or attached to the Plan.

EMPLOYER'S RIGHT TO REQUEST SUMMARY OF BENEFITS CHANGE

The Employer can request a Summary of Benefits change. Only an officer or registrar of Unum can approve a change. The change must be in writing and endorsed on or attached to the Summary of Benefits.

MODIFYING OR CANCELLING THE SUMMARY OF BENEFITS OR A PLAN UNDER THE SUMMARY OF BENEFITS

The Summary of Benefits or a plan under the Summary of Benefits can be cancelled:

- by Unum; or
- by the Employer.

Unum may cancel or modify the Summary of Benefits or a plan if:

- there is less than 100% participation of those eligible employees for an Employer paid plan; or
- there is less than 75% participation of those eligible employees who pay all or part of the premium for a plan; or
- the Employer does not promptly provide Unum with information that is reasonably required; or
- the Employer fails to perform any of its obligations that relate to this Summary of Benefits; or
- fewer than 10 employees are insured under a plan; or
- the premium is not paid in accordance with the provisions of the Summary of Benefits that specify whether the Employer, the employee, or both, pay the premiums; or
- the Employer does not promptly report to Unum the names of any employees who are added or deleted from the eligible group; or
- Unum determines that there is a significant change, in the size, occupation or age of the eligible group as a result of a corporate transaction such as a merger, divestiture, acquisition, sale, or reorganization of the Employer and/or its employees; or

- the Employer fails to pay any premium within the 45 day grace period.

If Unum cancels or modifies the Summary of Benefits or a plan, for reasons other than the Employer's failure to pay premium, a written notice will be delivered to the Employer at least 31 days prior to the cancellation date or modification date. The Employer may cancel the Summary of Benefits or plan if the modifications are unacceptable.

If any portion of the premium is not paid during the grace period, Unum will either cancel or modify the Summary of Benefits or a plan automatically at the end of the grace period. The Employer is liable for premium for coverage during the grace period. The Employer must pay Unum all premium due for the full period each plan is in force.

The Employer may cancel the Summary of Benefits or a plan by written notice delivered to Unum at least 31 days prior to the cancellation date. When both the Employer and Unum agree, the Summary of Benefits or a plan can be cancelled on an earlier date. If Unum or the Employer cancels the Summary of Benefits or a plan, coverage will end at 12:00 midnight on the last day of coverage.

If the Summary of Benefits or a plan is cancelled, the cancellation will not affect a payable claim.

HOW TO FILE A CLAIM

If you wish to file a claim for benefits, you should follow the claim procedures described in your insurance certificate. To complete your claim filing, Unum must receive the claim information it requests from you (or your authorized representative), your attending physician and your Employer. If you or your authorized representative has any questions about what to do, you or your authorized representative should contact Unum directly.

CLAIMS PROCEDURES

In the event that your claim is denied, either in full or in part, Unum will notify you in writing within 90 days after your claim was filed. Under special circumstances, Unum is allowed an additional period of not more than 90 days (180 days in total) within which to notify you of its decision. If such an extension is required, you will receive a written notice from Unum indicating the reason for the delay and the date you may expect a final decision. Unum's notice of denial shall include:

- the specific reason or reasons for denial with reference to those Plan provisions on which the denial is based;
- a description of any additional material or information necessary to complete the claim and why that material or information is necessary; and
- a description of the Plan's procedures and applicable time limits for appealing the determination, including a statement of your right to bring a lawsuit under Section 502(a) of ERISA following an adverse determination from Unum on appeal.

Notice of the determination may be provided in written or electronic form. Electronic notices will be provided in a form that complies with any applicable legal requirements.

APPEAL PROCEDURES

If you or your authorized representative appeal a denied claim, it must be submitted within 90 days after you receive Unum's notice of denial. You have the right to:

- submit a request for review, in writing, to Unum;
- upon request and free of charge, reasonable access to and copies of, all relevant documents as defined by applicable U.S. Department of Labor regulations; and
- submit written comments, documents, records and other information relating to the claim to Unum.

Unum will make a full and fair review of the claim and all new information submitted whether or not presented or available at the initial determination, and may require additional documents as it deems necessary or desirable in making such a review. A final decision on the review shall be made not later than 60 days following receipt of the written request for review. If special circumstances require an extension of time for processing, you will be notified of the reasons for the extension and the date by which the Plan expects to make a decision. If an extension is required due to your failure to submit the information necessary to decide the claim, the notice of extension will specifically describe the necessary information and the date by which you need to provide it to us. The 60-day extension of the appeal review period will begin after you have provided that information.

The final decision on review shall be furnished in writing and shall include the reasons for the decision with reference, again, to those Summary of Benefits' provisions upon which the final decision is based. It will also include a statement describing your access to documents and describing your right to bring a lawsuit under Section 502(a) of ERISA if you disagree with the determination.

Notice of the determination may be provided in written or electronic form. Electronic notices will be provided in a form that complies with any applicable legal requirements.

Unless there are special circumstances, this administrative appeal process must be completed before you begin any legal action regarding your claim.

YOUR RIGHTS UNDER ERISA

As a participant in this Plan you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all Plan participants shall be entitled to:

Receive Information About Your Plan and Benefits

Examine, without charge, at the Plan Administrator's office and at other specified locations, all documents governing the Plan, including insurance contracts, and a copy of the latest annual report (Form 5500 Series) filed by the Plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Employee Benefits Security Administration.

Obtain, upon written request to the Plan Administrator, copies of documents governing the operation of the Plan, including insurance contracts, and copies of the latest annual report (Form 5500 Series) and updated summary plan description. The Plan Administrator may make a reasonable charge for the copies.

Receive a summary of the Plan's annual financial report. The Plan Administrator is required by law to furnish each participant with a copy of this summary annual report.

Prudent Actions by Plan Fiduciaries

In addition to creating rights for Plan participants, ERISA imposes duties upon the people who are responsible for the operation of the employee benefit plan. The people who operate your Plan, called "fiduciaries" of the Plan, have a duty to do so prudently and in the interest of you and other Plan participants and beneficiaries. No one, including your Employer or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a benefit or exercising your rights under ERISA.

Enforce Your Rights

If your claim for a benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of Plan documents or the latest annual report from the Plan and do not receive them within 30 days, you may file suit in a federal court. In such a case, the court may require the Plan Administrator to provide the materials and pay you up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Plan Administrator.

If you have a claim for benefits that is denied or ignored, in whole or in part, you may file suit in a state or federal court. If it should happen that Plan fiduciaries misuse the Plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, if, for example, it finds your claim is frivolous.

Assistance with Your Questions

If you have any questions about your Plan, you should contact the Plan Administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the Plan Administrator, you should contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.

**IMPORTANT INFORMATION ABOUT COVERAGE UNDER
THE TEXAS LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION
(For Insurers declared insolvent or impaired on or after September 1 2011)**

Texas law establishes a system to protect Texas policyholders if their life or health insurance company fails. The Texas Life and Health Insurance Guaranty Association ("the Association") administers this protection system. Only the policyholders of insurance companies that are members of the Association are eligible for this protection which is subject to the terms, limitations, and conditions of the Association law. (The law is found in the Texas Insurance Code, Chapter 463.)

It is possible that the Association may not protect all or part of your policy because of statutory limitations.

Eligibility for Protection by the Association

When a member insurance company is found to be insolvent and placed under an order of liquidation by a court or designated as impaired by the Texas Commissioner of Insurance, the Association provides coverage to policyholders who are:

- Residents of Texas (**regardless of where the policyholder lived when the policy was issued**)
- Residents of other states, **ONLY** if the following conditions are met:
 1. The policyholder has a policy with a company domiciled in Texas;
 2. The policyholder's state of residence has a similar guaranty association; and
 3. The policyholder is not eligible for coverage by the guaranty association of the policyholder's state of residence.

Limits of Protection by the Association

Accident, Accident and Health, or Health Insurance:

- For each individual covered under one or more policies: up to a total of \$500,000 for basic hospital, medical-surgical, and major medical insurance, \$300,000 for disability or long term care insurance, or \$200,000 for other types of health insurance.

Life Insurance:

- Net cash surrender value or net cash withdrawal value up to a total of \$100,000 under one or more policies on a single life; or
- Death benefits up to a total of \$300,000 under one or more policies on a single life; or
- Total benefits up to a total of \$5,000,000 to any owner of multiple non-group life policies.

Individual Annuities:

- Present value of benefits up to a total of \$250,000 under one or more contracts on any one life.

Group Annuities:

- Present value of allocated benefits up to a total of \$250,000 on any one life; or
- Present value of unallocated benefits up to a total of \$5,000,000 for one contractholder regardless of the number of contracts.

Aggregate Limit:

\$300,000 on any one life with the exception of the \$500,000 health insurance limit, the \$5,000,000 multiple owner life insurance limit, and the \$5,000,000 unallocated group annuity limit.

These limits are applied for each insolvent insurance company.

EL PASO ELECTRIC COMPANY
2021 TEXAS RATE CASE FILING
SCHEDULE G-2: GENERAL EMPLOYEE BENEFIT INFORMATION
SPONSOR: CYNTHIA S. PRIETO
PREPARER: MYRNA A. ORTIZ
FOR THE TEST YEAR ENDED DECEMBER 31, 2020

WP/G-2I
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Insurance companies and agents are prohibited by law from using the existence of the Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance. When you are selecting an insurance company, you should not rely on Association coverage. For additional questions on Association protection or general information about an insurance company, please use the following contact information.

Texas Life and Health
Insurance Guaranty Association
515 Congress Avenue, Suite 1875
Austin, TX 78701
800-982-6362 or www.txlifega.org

Texas Department of Insurance
P.O. Box 149104
Austin, TX 78714-9104
800-252-3439 or www.tdi.state.tx.us



**EL PASO ELECTRIC COMPANY
POST-RETIREMENT LIFE INSURANCE TRUST**

FIRST AMENDED AND RESTATED TRUST AGREEMENT

This Trust Agreement is amended and restated as of August 1, 2020 by and between El Paso Electric Company (the "Company"), and Wells Fargo Bank, N.A., a national banking association, as trustee (the "Trustee");

WITNESSETH:

WHEREAS, in order to provide retiree medical and life benefits for certain of its retired and disabled employees, the Company has established the El Paso Electric Company Retiree Welfare Benefits Plan (the "Plan") which provides post-retirement life and health benefits to non-collectively bargained and collectively bargained retired and disabled employees and active non-collectively bargained and collectively bargained employees of the Company who die during the course of their employment with the Company (collectively referred to as "Retirees"), the proceeds of which shall be payable to their eligible surviving spouses and dependents; and

WHEREAS, the Company and the Trustee had previously entered into a trust arrangement entitled "Second Amended and Restated Trust Agreement" (the "Original Trust") with respect to the funding of post-retirement life and health benefits payable to Retirees under the terms of the Plan; and

WHEREAS, pursuant to efforts to restructure the funding arrangements involving the Company and its post-retirement life and health benefits, the Company previously established separate trust arrangements for its collectively bargained post-retirement health benefits, its non-collectively bargained and collectively bargained post-retirement life insurance benefits, and its non-collectively bargained post-retirement health benefits, effective February 1, 2020; and

WHEREAS, the Company and the Trustee previously established the El Paso Electric Company Post-Retirement Life Insurance Trust (the "Trust"), effective February 1, 2020, to provide for the receipt of post-retirement life insurance assets to be transferred from the Original Trust to this Trust and for the payment of post-retirement life insurance benefits to Retirees under the terms of the Plan; and

WHEREAS, in view of the expected timing of the transfer of post-retirement life insurance assets for Retirees, the Company desires to amend and restate the Trust to include the approximate date by when assets will be transferred to the Trust; and

WHEREAS, the Company and the Trustee agree that the transfer of post-retirement life insurance assets from the Original Trust to this Trust will not permit the Company to recapture any such assets or permit the Company to receive a reversion of Original Trust or Trust assets at any time; and

WHEREAS, the Company intends that this Trust continue to be a welfare benefit fund that is to provide post-retirement life insurance benefits to eligible Retirees; and

WHEREAS, the parties wish to document the terms of the trust relationship by amending and restating this Trust Agreement ("Trust Agreement"); and

WHEREAS, this Trust Agreement sets forth the rights and duties of the Company and Trustee and the terms and conditions under which the post-retirement life insurance plan assets shall be held, administered, invested, reinvested, and disbursed;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained, the parties agree as follows:

ARTICLE I

GENERAL

Sec. 1.1 Establishment. The Company hereby continues the El Paso Electric Company Post-Retirement Life Insurance Trust (the "Trust"). The Trust shall constitute a voluntary employees' beneficiary association ("VEBA") as defined in Section 501(c)(9) of the Internal Revenue Code of 1986, as amended (the "Code"), and shall be administered and interpreted so as to comply with the requirements of Section 501(c)(9) of the Code.

Sec. 1.2 Acceptance of Trust. The Trustee accepts its continued appointment as such, effective as of the date set forth above.

Sec. 1.3 Part of Plan. This Trust incorporates and forms a part of the El Paso Electric Company Retiree Welfare Benefits Plan (the "Plan") for which funds are held hereunder to provide post-retirement life insurance benefits for the benefit of non-collectively bargained and collectively bargained retired and disabled employees and active non-collectively bargained and collectively bargained employees of the Company who die during the course of their employment with the Company (collectively referred to as "Retirees"), the proceeds of which will be payable to their eligible surviving spouses and dependents. The Company warrants that promptly upon the adoption of any amendment to the Plan it will furnish the Trustee with a copy of the executed amendment. The Company further agrees that no amendment of the Plan shall have the effect of changing the rights, duties, and liabilities of the Trustee without its written consent. The Trustee may rely on the latest Plan documents furnished it as above provided without further inquiry or verification. In the event of any conflict between the Plan and this Trust Agreement, with respect to the duties of the Trustee this Trust Agreement shall govern and control.

Sec. 1.4 Certification of Fiduciaries and Administrator. The Secretary or an Assistant Secretary of the Company will advise the Trustee in writing of the name of the person or persons who have authority to act on behalf of the Company under this Trust Agreement, including the right to direct the Trustee as to investments of and disbursements from the "Trust Fund," as such term is defined in Section 2.1 of this Trust Agreement. The Trustee shall recognize the "Committee," as such term is defined in Section 1.7 of this Trust Agreement, as the administrator of the Plan within the meaning of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), with the authority to direct the Trustee as to the investments of and disbursements from the Trust Fund. The Company shall provide the Trustee with a specimen signature of each of the persons referred to above. The Trustee may rely on such designations and delegated authority until the Company advises it otherwise in writing.

Sec. 1.5 Construction and Applicable Law. The Trust is intended to constitute an organization defined under Section 501(c)(9) of the Code and to be entitled to tax-exemption under section 501(a) of the Code. The Trustee may assume until advised to the contrary that the Trust is so recognized and entitled to tax exemption. It is also intended that the Trust be in full compliance with the applicable requirements of ERISA and other applicable federal law. To the extent federal law is inapplicable, this Trust Agreement shall be construed and administered under the laws of the State of Texas, without reference to its conflicts of law or choice of law rules. This Trust Agreement shall be construed and administered consistent with said intent.

Sec. 1.6 Board of Directors. The "**Board of Directors**" is the board of directors of the Company and any executive committee thereof authorized to act for such body.

Sec. 1.7 Committee. The "**Committee**" means the person(s) appointed by the Board of Directors to carry out certain duties and responsibilities related to the Plan and the Trust. The Committee shall serve at the pleasure of the Company. The name of the Committee shall be the Benefits Oversight Committee or any successor committee appointed by the Board. The Secretary or an Assistant Secretary of the Company shall provide the Trustee with the names of each member of the Committee and the Trustee may rely on such notice without further inquiry or verification, unless the Trustee has actual knowledge to the contrary.

ARTICLE II

TRUST FUND

Sec. 2.1 Composition. All assets, other sums of money, securities, and other property reasonably acceptable to the Trustee and received by it from whatever source as evidenced by its receipts, together with all investments made herewith, the proceeds thereof and all earnings and accumulations thereon, shall be held and administered by the Trustee, in trust, in a fund referred to herein as the "**Trust Fund**",

in accordance with the terms and provisions hereof. The Trust Fund shall be held, administered, and disbursed by the Trustee without distinction between principal and income.

Sec. 2.2 Contributions. The Company shall make contributions to the Trust Fund from time to time as it shall determine in its sole discretion. The Trustee shall have no duty to require any contributions to be made to it, to determine that the contributions received by it comply with the provisions of the Plan or with any applicable resolution of the Board of Directors, or to collect any contributions payable to it pursuant to the Plan. The Trustee shall be responsible only for those sums of money, securities, and other property actually received by it.

Sec. 2.3 Segregation of Trust Fund. If directed by the Committee, the Trustee shall hold and maintain the Trust Fund in a segregated account and invest and administer the Trust Funds separately from the assets of the Trustee or other trusts.

Sec. 2.4 Exclusive Benefit of Participants and Beneficiaries. The Trust Fund shall be used for the exclusive benefit of the members and their respective beneficiaries, as defined in and covered by the Plan. Nothing herein, however, shall be construed to restrict the use of such assets for the payment of taxes, expenses of administration, or other charges properly assessed against the Trust Fund under the Plan and pursuant to this Trust Agreement. In addition, the Trust Fund may be used as a source of financing for other welfare benefit plans established by the Committee to the extent permitted by ERISA and the Code.

Sec. 2.5 Transfer to and Receipt of Original Trust Assets. The Trust Fund shall also include those assets transferred from the Original Trust to this Trust attributable to the post-retirement life insurance benefits for Retirees entitled to such benefits under the Plan which assets will be held and administered under this Trust to provide post-retirement life insurance benefits and pay related administrative expenses under the Plan for Retirees who are entitled to such benefits under the Plan. At no time shall the Company have a right to recapture such assets or receive a reversion with respect to the assets transferred from the Original Trust to this Trust. It is anticipated that such transfer of assets will be made on or about September 1, 2020, although contributions to this Trust may be made before such date.

ARTICLE III

THE TRUSTEE

Sec. 3.1 General Responsibility. The general responsibilities of the Trustee shall be as follows:

- (a) The Trustee shall hold, administer, invest and reinvest, and disburse the Trust Fund in accordance with the powers and subject to the restrictions stated in the Plan and this Trust Agreement. Notwithstanding anything in

this Trust Agreement to the contrary, unless prior approval is obtained from the Secretary of Labor or a statutory or class exemption applies, the Trustee shall not engage in any transaction prohibited by Section 406 of ERISA. Nothing herein obligates the Trustee to monitor compliance by the Company, the Committee or any duly appointed investment manager with any of the duties or limitations imposed on those parties under the Code or ERISA; provided, however, that the Trustee shall abide with the fiduciary requirements applicable to a directed trustee under Department of Labor Field Assistance Bulletin 2004-03.

- (b) The Trustee shall disburse monies and other properties from the Trust Fund on direction of the Committee pursuant to the provisions of the Plan at the time or times to the payee or payees specified in directions to the Trustee in such form as the Trustee may reasonably require. The Trustee shall be under no liability for any distribution made by it in accordance with such directions and shall be under no duty to make inquiry as to whether any distribution made by it pursuant to any such direction is made pursuant to the provisions of the Plan unless it has clear reason to know otherwise. The receipt of the payee shall constitute a full acquittance of the Trustee.
- (c) The Trustee shall have the responsibilities, if any, expressly allocated to it by the Plan and this Trust Agreement. Except as responsibilities may be expressly so allocated, the Trustee, in its capacity as such shall have no responsibility or authority with respect to the operation and administration of the Plan, and the rights, powers, and duties of the Trustee shall be governed solely by the terms of this Trust Agreement without reference to the provisions of the Plan.

Sec. 3.2. Powers of the Trustee. Subject to the provisions of the Code and ERISA, including, without limitation the prohibited transaction rules thereof, the Trustee shall have the following powers ; however, all powers regarding the investment of the Trust shall be exercised solely pursuant to the direction of the Committee or, if applicable, an investment manager, unless the Trustee has been properly delegated investment authority pursuant to section 4.3 below:

- (a) To hold securities and other properties in bearer form or in the name of a nominee or nominees without disclosing any fiduciary relationship; provided, however, that on the books and records of the Trustee such securities and properties shall constantly be shown to be a part of the Trust Fund, and no such registration or holding by the Trustee shall relieve it from liability for the safe custody and proper disposition of such securities and properties in accordance with the terms and provisions hereof.

- (b) To sell, grant options to buy, transfer, assign, convey, exchange, mortgage, pledge, lease or otherwise dispose of any of the properties comprising the Trust Fund at such prices and on such terms and in such manner as determined by the Trustee or in the manner the Committee or a duly appointed investment manager directs, and for terms within or extending beyond the duration of the Trust Agreement.
- (c) To manage, administer, operate, lease for any number of years, regardless of any restrictions on leases made by fiduciaries, develop, improve, repair, alter, demolish, mortgage, pledge, grant options with respect to, or otherwise deal with any real property or interest therein at any time held by it; and to cause to be formed a corporation or trust to hold title to any such real property with the aforesaid powers; all upon such terms and conditions determined by the Trustee or in the manner the Committee or a duly appointed investment manager directs.
- (d) To renew or extend or participate in the renewal or extension of any note, bond or other evidence of indebtedness, or any other contract or lease, or to exchange the same, or to agree to a reduction in the rate of interest or rent thereon or to any other modification or change in the terms thereof, or of the security therefor, or any guaranty thereof, in any manner and to any extent that it may deem advisable in its absolute discretion; to waive any default, whether in the performance of any covenant or condition of any such note, bond or other evidence of indebtedness, or any other contract or lease, or of the security therefor, and to carry the same past due or to enforce any such default as it may in its absolute discretion deem advisable; to exercise and enforce any and all rights to foreclose, to bid in property on foreclosure; to exercise and enforce in any action, suit, or proceeding at law or in equity any rights or remedies in respect to any such note, bond or other evidence of indebtedness or any other contract or lease, or the security therefor; to pay, compromise, and discharge with the funds of the Trust Fund any and all liens, charges, or encumbrances upon the same; all as determined by the Trustee or in the manner the Committee or a duly appointed investment manager directs; and to make, execute, and deliver any and all instruments, contracts, or agreements necessary or proper for the accomplishment of any of the foregoing powers.
- (e) To borrow such sums of money for the benefit of the Trust Fund from any lender upon such terms, for such period of time, at such rates of interest, and upon giving such collateral as it may determine; to secure any loan so made by pledge or mortgage of the trust property; and to renew existing loans; all as determined by the Trustee or in the manner the Committee or a duly appointed investment manager directs.

- (f) To use the assets of the Trust Fund, whether principal or income, for the purpose of improving, maintaining, or protecting property acquired by the Trust Fund; and to pay, compromise, and discharge with the assets of the Trust Fund any and all liens, charges, or encumbrances at any time upon the same; all as determined by the Trustee or in the manner the Committee or a duly appointed investment manager directs.
- (g) To hold uninvested such cash funds as may appear reasonably necessary to meet the anticipated cash requirements of the Plan from time to time and to deposit the same or any part thereof, either separately or together with other trust funds under the control of the Trustee, in its own deposit department or to deposit the same in its name as Trustee in such other depositories as it may select.
- (h) To receive, collect, and give receipts for every item of income or principal of the Trust Fund.
- (i) Upon prior written notice to Company and the Committee, to institute, prosecute, maintain, or defend any proceeding at law or in equity concerning the Trust Fund or the assets thereof, at the sole cost and expense of the Trust Fund, and to compromise, settle, and adjust any claims and liabilities asserted against or in favor of the Trust Fund or of the Trustee; but the Trustee shall be under no duty or obligation to institute, maintain or defend any action, suit, or other legal proceeding unless it shall have been indemnified to its satisfaction against any and all loss, cost, expense, and liability it may sustain or reasonably anticipate by reason thereof.
- (j) To vote all stocks and to exercise all rights incident to the ownership of stocks, bonds, or other securities or properties held in the Trust Fund and to issue proxies to vote such stocks; to enter into voting trusts for such period and upon such terms as it may determine; to give general or special proxies or powers of attorney, with or without substitution; to sell or exercise any and all subscription rights and conversion privileges; to sell or retain any and all stock dividends; to oppose, consent to, or join in any plan of reorganization, readjustment, merger, or consolidation in respect to any corporation whose stocks, bonds, or other securities are a part of the Trust Fund, including becoming a member of any stockholders' or bondholders' committee; to accept and hold any new securities issued pursuant to any plan of reorganization, readjustment, merger, consolidation, or liquidation; to pay any assessments on stocks or securities or to relinquish the same; and to otherwise exercise any and all rights and powers to deal in and with the securities and properties held in the Trust Fund in the same manner and to the same extent as any individual owner and holder thereof might do; all as

determined by the Trustee or in the manner the Committee or a duly appointed investment manager directs.

- (k) To make application for any contract issued by an insurance company to be purchased under the Plan, to accept and hold any such contract, and to sign and deliver any such contract; all as determined by the Trustee or in the manner the Committee or a duly appointed investment manager directs.
- (l) To employ such agents, experts, counsel, and other persons (any of whom may also represent the Company) deemed by the Trustee to be necessary or proper for the administration of the Trust; to rely and act on information and advice furnished by such agents, experts, counsel, and other persons; and to pay their reasonable expenses and compensation for services to the Trust from the Trust Fund. Notwithstanding the foregoing, no person so serving may receive compensation from the Trust Fund for fiduciary services if such person, natural or otherwise, is employed by or affiliated with the Company.
- (m) To pay out of the Trust Fund all real and personal property taxes, income taxes, and other taxes of any and all kinds levied or assessed under existing or future laws against the Trust Fund.
- (n) To pay any estate, inheritance, income, or other tax, charge, or assessment attributable to any benefit which, in the Trustee's opinion, it shall be or may be required to pay out of such benefit; and to require, before making any payment, such release or other document from any taxing authority and such indemnity from the intended payee as the Trustee shall deem necessary for its protection.
- (o) To retain any funds or property subject to any dispute without liability for the payment of interest, and to decline to make payment or delivery thereof until final adjudication is made by a court of competent jurisdiction.
- (p) Upon the prior written request or consent of Company and/or the Committee, to provide ancillary services to the Trust for not more than reasonable compensation.
- (q) To participate in and use the Federal Book-entry Account System (a service provided by the Federal Reserve Bank for its member banks for deposit of Treasury securities), or to use the Depository Trust Company, Midwest Trust Company or other generally accepted central depositories.

- (r) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted to the Trustee.
- (s) Upon prior written notice to Company and the Committee to bring action before any court of competent jurisdiction for instructions with respect to any matter pertaining to the interpretation of this Trust Agreement or the administration of the Trust Fund.

Sec. 3.3 Appointment of Ancillary Trustees. In the event that any property which is or may become a part of the Trust Fund is situated in a state or states in which the Trustee acting hereunder is prohibited from holding real estate as trustee, or in a foreign country, the Trustee is hereby empowered to name an individual or corporate trustee qualified to act in any such state or foreign country in connection with the property situated therein as ancillary trustee of such property and to require such security of the ancillary trustee as may be designated by the Trustee. Naming of such ancillary trustee shall be subject to formal appointment thereof by the Committee. Any ancillary trustee so appointed shall have such rights, powers, discretions, responsibilities, and duties as are delegated to it by the Trustee, but shall exercise and discharge the same and subject to such limitations or directions of the Trustee as shall be specified in the instrument evidencing the appointment. Any such ancillary trustee shall be answerable to the Trustee for all monies, assets, or other property entrusted to it or received by it in connection with the administration of the Trust. The Trustee may remove any such ancillary trustee and may appoint a successor at any time or from time to time as to any or all of the assets, in each case subject to formal appointment of the successor by the Committee. Any instrument designating an ancillary trustee may contain such provisions with respect to payment of income and principal to the Trust Fund, payment of expenses with respect to property administered by the ancillary trustee, termination of the ancillary trustee, and administrative powers of the ancillary trustee, in each instance as the Trustee hereunder, in the exercise of its discretion, may deem appropriate and consistent with the provisions of this Trust Agreement.

Sec. 3.4 Compensation and Expenses. The Trustee shall be entitled to receive such reasonable compensation for its services as Trustee or in any other capacity in connection with the Plan as may be agreed upon with the Company in writing. The Trustee shall be entitled to reimbursement for all documented reasonable and necessary costs, expenses, and disbursements actually incurred by it in the performance of such services. Such compensation and reimbursements shall be paid directly by the Company, but if not so paid within ninety (90) days after invoices for such fees are received by the Company shall be paid directly from the Trust Fund if the Plan so permits.

Sec. 3.5 Records and Accountings. The Trustee shall keep accurate and detailed records and accounts of all investments, receipts, and disbursements, and

other transactions hereunder, and all records, books, and accounts relating thereto shall be open to inspection by any person designated by the Company or the Committee at all reasonable times. Within sixty (60) days following the close of each annual accounting period of the Trust, and as soon as reasonably practicable after the resignation or removal of the Trustee has become effective, the Trustee shall file with the Committee a written account setting forth all (i) investments, receipts, disbursements, and other transactions effected by it during such year, or during the part of the year to the date the resignation or removal is effective, as the case may be, and containing a description of all securities purchased and sold, the cost or net proceeds of sale, the securities and investments held at the end of such period, and the cost of each item thereof as carried on the books of the Trustee; (ii) the net income or loss of the Trust Fund; (iii) the gains or losses realized by the Trust Fund upon sales or other disposition of its assets; and (iv) the increase or decrease in the value of the Trust Fund. The accounting shall also furnish the Committee such other information as the Trustee may possess and as may be necessary for them to comply with the reporting requirements of ERISA. Except as provided in Section 4.3(l), the Trustee shall determine the fair market value of publicly traded assets of the Trust Fund where such assets have a readily ascertainable market value no less often than annually. If the fair market value of an asset in the Trust Fund is not available, when necessary for accounting or reporting purposes the fair value of the asset shall be determined in good faith by the Committee, assuming an orderly liquidation at the time of such determination. If there is a disagreement between the Trustee and anyone as to any act or transaction reported in an accounting, the Trustee shall have the right to have its account settled by a court of competent jurisdiction. The Trustee shall make such other reports as may be required by the Plan or agreed upon in writing with the Company and/or Committee.

Set. 3.6 Record Retention. The Trustee shall retain its records and accountings relating to the Trust as long as necessary for the proper administration thereof and at least for any period required by ERISA or other applicable law but with respect to each record and account for not less than six (6) years following the creation thereof.

Sec. 3.7 Trustee's Protection. The Trustee shall enjoy the following protections in connection with the performance of its duties herein.

- (a) Except to the extent the Trustee has actual knowledge to the contrary, the Trustee shall be fully protected in relying upon the existence of any fact or state of facts represented to it in writing by the Company or the Committee or other duly appointed investment manager.
- (b) Except with respect to liability or fiduciary responsibility for any error or loss that may result by reason of the exercise or non-exercise of the duties, obligations, and/or fiduciary responsibility which are allocated to the Trustee herein which is determined to be the result of the Trustee's own negligence or willful misconduct, the Company shall indemnify the

Trustee, directly from the Company's own assets (including the proceeds of any insurance policy the premiums of which are paid from the Company's own assets), from and against any and all claims, demands losses, damages, expenses (including, by way of illustration and not limitation, reasonable attorneys' fees and other legal and litigation costs), judgments and liabilities arising from, out of, or in connection with the administration or investment of the Plan or the Trust Fund. The Trustee shall not be liable for any action taken by the Trustee or any failure to act by the Trustee if the action taken or the failure to act was directed by the Company, the Committee or other duly appointed investment manager, if the Trustee reasonably relied on such direction. This paragraph shall survive the termination of this Trust Agreement.

- (c) The Trustee shall be under no obligation to determine the amount of benefits to which members or their beneficiaries will be entitled or to keep any records of the respective interest of any individual member or beneficiary of the Plan. The Trustee shall make payments to or on behalf of a member or beneficiary upon the written direction of the Committee and, if made in accordance with such direction, the Trustee shall have no liability to the Company or any other person in making such payments. The Trustee shall not be required to determine or make any investigation to determine the identity or mailing address of any person entitled to benefits and shall have discharged its obligation in that respect when it shall have sent checks, securities and other papers by ordinary mail to such person or persons and addresses as may be certified to it in writing by the Committee. Notwithstanding the provisions of the preceding sentence, the Trustee shall promptly inform the Committee in writing of the return of any such items.
- (d) The parties recognize that the Trustee does not guarantee the assets of the Trust Fund from loss or depreciation.

The Trustee shall not be liable, responsible, or required to account to the Company for the acts of any prior trustee of this Trust Fund and shall be entitled to the indemnity set forth in Section 3.7(h) hereof therefor.

ARTICLE IV

INVESTMENTS

Sec. 4.1 General. Except to the extent that the Committee, pursuant to Section 1.4 of this Trust Agreement, appoints an investment manager, including the Trustee, in accordance with Section 4.3 of this Trust Agreement, the Committee shall act as the fiduciary with respect to the entire Trust Fund. The Trustee shall invest and reinvest the principal and income of the Trust Fund with the care, skill, prudence, and

diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. Without limiting the generality of the foregoing, the investments and reinvestments of the Trust Fund shall be subject to the following:

- (a) Investments shall be as consistent as reasonably possible with any funding policy communicated to the Trustee in writing by the Committee pursuant to the Plan. Unless the Trustee has actual knowledge to the contrary, the Trustee may rely on the latest such communication received by it without further inquiry or verification.
- (b) The Trustee may invest and reinvest principal and income of the Trust Fund in common, preferred, and other stocks of any corporation (but in the case of the Company, solely as prescribed by Section 4.1(g)); voting trust certificates; interests in investment trusts, including, without limiting the generality thereof, participations issued by an investment company as defined in the Investment Company Act of 1940, as from time to time amended; bonds, notes, and debentures, secured or unsecured; mortgages on real or personal property; conditional sales contracts; real estate and leases; limited partnerships; and units or shares in limited liability companies, including, without limiting the generality thereof, limited liability companies that are not registered under the Investment Company Act of 1940, as from time to time amended.
- (c) Subject to the provisions of Section 2.3 of this Trust Agreement, the Trustee may invest and reinvest the principal and income of the Trust Fund through any common or collective trust fund or pooled investment fund maintained by the Trustee, any of its affiliates, or any other entity through which such investment is properly authorized for the collective investment of funds held by it in a fiduciary capacity. The provisions of the document governing any such common or collective trust fund as it may be amended from time to time shall govern any investment therein and are hereby made a part of this Trust Agreement, including any provisions for the lending of any securities or security from time to time constituting a part of the common or collective trust fund in exchange for such consideration and upon such terms and conditions as the trustee of the common or collective trust fund deems appropriate. In any such transaction the trustee of such trust fund may transfer legal title to the securities being loaned to the obligor, and may permit the obligation to return to the trust fund securities that are identical (but not necessarily evidenced by the same certificates) to those transferred to it by the trustee thereunder.
- (d) The Trustee may invest and reinvest the principal and income of the Trust Fund by investing in an annuity contract or contracts (including any

agreement or agreements supplemental thereto) issued by an insurance company.

- (e) The Trustee may engage in the writing, sale and buying in, of covered call option contracts; and the Trustee may acquire and may exercise options to purchase or sell securities or other assets.
- (f) Subject to applicable law, the Trustee may invest and reinvest the principal and income of the Trust Fund in qualifying employer securities or qualifying employer real property.
- (g) If qualifying employer securities or qualifying employer real property are purchased or sold as an investment of the Trust Fund from or to a disqualified person or party in interest, as those terms are used in the ERISA, and if there is no generally recognized market for such securities or property, the purchase shall be for not more than fair market value and the sale shall be for not less than fair market value, as determined in good faith by the Trustee. In no event may a commission be charged to the Trust Fund for the private purchase or sale of such securities or real property.
- (h) The Trustee may invest and reinvest principal and income of the Trust Fund in deposits (including savings accounts, savings certificates, and similar interest-bearing instruments or accounts) in itself or its affiliates, provided such deposits bear a reasonable rate of interest.
- (i) The Trustee may purchase or sell financial futures contracts in transactions executed through a generally recognized commodities or securities exchange.
- (j) The Trustee may lend any securities or security from time to time constituting a part of the Trust Fund in exchange for such consideration and upon such terms and conditions as the Trustee deems appropriate. In any such transaction the Trustee may transfer legal title to the securities being loaned to the obligor, and may permit the obligor to return to the Trust Fund securities that are identical (but not necessarily evidenced by the same certificates) to those transferred to it by the Trustee hereunder.

Sec. 4.2 Purchase of Insurance Policies on Lives of Members. If the Plan provides for the purchase of a life insurance policy or annuity contract on the life of any member(s), the Trustee shall make such purchases on written direction of the Committee. Each such direction shall be complete with respect to the terms of the purchase. The Committee shall give written direction as to any subsequent action to be taken with respect to each such policy or contract, it being intended that the Trustee shall have no discretion with respect thereto.

Sec. 4.3 Appointment of Investment Manager. The Committee may appoint one or more parties that qualify as an "investment manager" as such term is defined in Section 3(38) of ERISA to serve as an investment manager of a portion of the Trust Fund. The appointment of any such investment manager and investment of the Trust Fund pursuant to such appointment shall be subject to the following, notwithstanding any provisions hereof to the contrary:

- (a) Written notice of each such appointment shall be given to the Trustee a reasonable time in advance of the effective date of this appointment. The notice shall state what portion of the Trust Fund is to be invested by the investment manager and shall direct the Trustee to segregate such portion of the Trust Fund into a separate account for the investment manager. Each such separate account is referred to in this Section 4.3 as an "Investment Account."
- (b) The Trustee shall not act on any direction or instruction of the investment manager until the Trustee has been furnished with an acknowledgement in writing by the investment manager that it is a fiduciary with respect to the Plan and the Trust.
- (c) There shall be a written agreement between the Committee and each investment manager. The Trustee shall receive a copy of each such agreement and all amendments thereto and shall give written acknowledgement of receipt of same. Each agreement with an investment manager may provide that:
 - (1) All directions given by an investment manager to the Trustee shall be in writing, signed by an officer or partner of the investment manager or by such other person as may be designated in writing by the investment manager, provided that the Trustee may accept oral directions for the purchase or sale of securities, which shall be confirmed by such authorized personnel of the investment manager in writing and the Trustee shall be fully protected in acting in strict accordance thereto;
 - (2) All settlements of purchases and sales shall be in the city where the Trustee is located, or such other place as the Trustee may reasonably direct;
 - (3) In all events the Trustee is to retain physical custody of or title to all assets included in an Investment Account; and
 - (4) The Committee, by written notice to the investment manager and the Trustee, may modify or terminate the authority of the investment manager.

- (5) The investment manager shall pay the Trustee reasonable and customary charges of the Trustee for any transaction that results in an overdraft. To the extent that any overdraft is not cured within three (3) days of its occurrence, the investment manager shall be solely liable as a fiduciary and shall file such reports and pay such fees and penalties as are necessary to correct any prohibited transaction which may result.
- (d) Payment of the cost of the acquisition, sale, or exchange of any security or other property for an Investment Account shall be charged to that Investment Account unless the agreement between the Company and investment manager provides otherwise.
- (e) So long as the appointment of an investment manager is in effect, the investment manager shall have full power and authority to direct the Trustee as to, and full responsibility for, investment of its Investment Account and for the retention and disposition of any assets in its Investment Account. Subject to any limitations in the agreement between the Company and the investment manager, the investment manager shall have exclusive authority and discretion to invest and reinvest the principal and interest of that portion of the Trust Fund which comprises the Investment Account, subject to the provisions of Section 4.1. The Trustee may invest any portion of an Investment Account that would otherwise be held in cash but has no obligation to do so.
- (f) Unless the written agreement between the Company and investment manager expressly provides that the Company or Committee shall have the voting power with respect to all stocks and other securities in the Investment Account, the investment manager shall have voting power with respect to all such stocks and other securities.
- (g) The Trustee shall make available to an investment manager copies of or extracts from such portions of its accounts, books, or records relating to the Investment Account of such investment manager as the Trustee may deem necessary or, appropriate in connection with the exercise of the investment manager's function, or as the Company or the Committee may direct.
- (h) All charges (other than those covered in subsection (d) above) against each Investment Account shall be made in such proportions as the Company or the Committee may direct in writing from time to time.
- (i) If the authority of an investment manager is terminated and successor investment manager is not appointed, the assets held in its Investment Account may or may not continue to be segregated as the Committee

may determine. Until receipt of written notice of the termination of the authority of an investment manager, the Trustee shall be fully protected in relying upon the continuing authority of such investment manager.

- (j) Any direction by an investment manager shall be complete as to the terms with respect thereto, it being intended that the Trustee shall have no obligation whatsoever to invest (other than as directed by an investment manager) or otherwise manage any asset of an Investment Account.
- (k) The Company agrees to indemnify the Trustee for and to hold it harmless against any and all liabilities, losses, costs, or expenses (including legal fees and expenses) of whatsoever kind and nature which may be imposed on, incurred by, or asserted against the Trustee at any time by reason of action taken in accordance with directions of an investment manager or action omitted because no such directions are given. However, no such indemnification shall be required in any case in which such liabilities, losses, costs, or expenses are incurred by the Trustee because it participated knowingly in, or knowingly undertook to conceal, an act or omission of an investment manager, knowing such act or omission was a breach of fiduciary duty by said investment manager or in any case to the proportional extent to which such liabilities, losses, costs or expenses are attributable to the Trustee's failure to act in strict accordance with the directions of an Investment Manager.
- (l) The investment manager shall determine the fair market value of assets held in an Investment Account no less often than annually. If the fair market value of an asset in an Investment Account is not available when necessary for accounting and reporting purposes, the fair value of the asset shall be determined in good faith by the investment manager, assuming an orderly liquidation at the time of such determination.

ARTICLE V

CHANGE IN TRUSTEE

Sec. 5.1 Resignation. The Trustee may resign at any time by giving sixty (60) days advance written notice to the Company.

Sec. 5.2 Removal. The Company may remove the Trustee by giving thirty (30) days advance written notice to the Trustee.

Sec. 5.3 Successor. In the event of the resignation or removal of the Trustee, the Company shall promptly appoint a successor. If no appointment of a successor is made by the Company within a reasonable time after resignation or removal of the

Trustee, any court of competent jurisdiction may appoint a successor, after such notice, if any, solely to the Company and the retiring Trustee, as such court may deem proper and suitable. The retiring Trustee shall be furnished with written notice from the Company or the court, as the case may be, of the appointment of the successor, and shall be furnished with written evidence of the successor's acceptance of the trusteeship. Only then shall the retiring Trustee cease to be such.

Sec. 5.4 Duties on Succession. Every successor Trustee accepting a trusteeship under this Trust Agreement shall have all the right, title, powers, duties, exemptions, and limitations of the predecessor Trustee hereunder. No predecessor Trustee shall have any right, title, or interest in the Trust Fund except as hereinafter provided. The Trustee shall, upon the appointment and acceptance of a successor Trustee, transfer and deliver the assets of the Trust Fund and copies of all of Trustee's records pertaining to the Trust and the Trust Fund to the successor Trustee, after reserving (if the Plan so permits) such reasonable amount as it shall deem necessary to provide for its fees and expenses and any sums chargeable against the Trust Fund for which it reasonably believes it will be liable. Any predecessor Trust shall do all acts necessary to vest title of record in the successor Trustee. If any assets in the Trust Fund have been invested in a common or collective trust fund, the predecessor Trustee shall cause such investment to be liquidated at the earliest practical time after notice has been given or received by the predecessor Trustee of its resignation or removal. No person or entity becoming a Trustee hereunder shall be in any way liable or responsible for anything done or omitted to be done by any predecessor Trustee prior to such person's acceptance of the trusteeship, nor shall such person or entity have any duty to examine the administration of the Trust prior to such acceptance; provided, however, the provisions of this sentence shall not apply to changes in organization referenced in Section 5.5.

Sec. 5.5 Changes in Organization of Trustee. If any corporate Trustee acting hereunder is merged with another corporation or association, or is succeeded by another corporation or association, through consolidation or otherwise, the acquiring corporation or association shall thereupon become Trustee hereunder. If any corporate Trustee acting hereunder sells and transfers substantially all of its assets and business to another corporation or association, the acquiring corporation or association shall thereupon become Trustee hereunder. When authorized by statute or court order any corporate Trustee acting hereunder may permit itself to be succeeded as such corporate Trustee by another corporation or association in which case the acquiring corporation or association shall thereupon become Trustee hereunder. In each case the acquiring corporation or association shall be Trustee of the Trust as though specifically so named herein. Notwithstanding the foregoing provision of this Section 5.5, an acquiring corporation or association shall become Trustee hereunder only if it has trust powers and is formed under the laws of the United States of America or any subdivision thereof.

ARTICLE VI

MISCELLANEOUS

Sec. 6.1 Benefits May Not Be Assigned or Alienated. Except as otherwise expressly permitted by the Plan or required by law, the interests of members and their respective beneficiaries under the Plan or this Trust Agreement may not in any manner whatsoever be assigned or alienated, whether voluntarily or involuntarily, or directly or indirectly.

Sec. 6.2 Incompetent Payee. If a person to whom the Trustee is directed to make one or more payments is disabled from caring for his or her affairs because of mental condition, physical condition, or age, payment due such person may be made to such person's legally appointed guardian, conservator, or other legally appointed personal representative upon the Trustee's receipt of written notice from the Committee of such legal appointment. The Trustee shall have no liability with respect to payment so made. The Trustee shall have no duty to make inquiry as to the competence of any person to whom it is directed to make payment.

Sec. 6.3 Evidence. Evidence required of anyone under this Trust Agreement may be by certificate, affidavit, document, or other instrument which the person acting in reliance thereon considers to be pertinent and reliable, and to be signed, made, or presented by the proper party.

Sec. 6.4 Dealings of Others With Trustee. No person (corporate or individual) dealing with the Trustee shall be required to see to the application of any money paid or property delivered to the Trustee or to determine whether the Trustee is acting pursuant to any authority granted to it under this Trust Agreement.

Sec. 6.5 Insurance Company Not Party. No insurance company that issues a contract held by the Trustee shall be construed to be a party to this Trust Agreement, nor shall it have any responsibility for the validity of this Trust Agreement. An insurance company to which an application may be submitted by the Trustee may accept such application and shall have no duty to make any investigation or inquiry regarding the authority of the Trustee to make such application or any amendment thereto or to inquire as to whether a person on whose life any contract is to be issued is entitled to such contract under the Plan.

Sec. 6.6 Audits.

- (a) The Company or the Committee shall have the right to cause the books, records, and accounts of the Trustee that relate to the Trust to be examined and audited by independent auditors designated by the Company or the Committee at such times as the Company or the Committee may determine, and the Trustee shall make such books,

records, and accounts available for such purposes at all reasonable times.

- (b) If an audit of the Plan shall be required by ERISA and the regulations thereunder for any Plan year, the Committee shall engage or shall direct the Trustee to engage, on behalf of all members and beneficiaries of the Plan, an independent qualified public accountant (selected by the Committee) for such purpose. At the conclusion of an audit in accordance with generally accepted auditing standards, such account shall, within a reasonable period after the close of the Plan year, furnish to the Committee and the Trustee a report of such audit setting forth the accountant's opinion as to whether the financial statements and schedules that are required to be included in the Plan's annual reports by Section 103 of ERISA or the Secretary of Labor are presented fairly in conformity with generally accepted accounting principles.

All auditing and accounting fees shall be an expense of and may, at the election of the Committee, be paid from the Trust Fund.

- (c) In accordance with ERISA Section 103(a)(2), if some or all of the information necessary to enable the Committee to comply with ERISA Section 103 is maintained by a bank, insurance company, or similar institution, regulated and supervised and subject to periodic examination by a state or federal agency, such bank, insurance company or institution shall transmit and certify the accuracy of that information to the Committee within one hundred twenty (120) days after the end of the Plan year or such other date as may be prescribed under regulations of the Secretary of Labor.

Sec. 6.7 Trustee Warranty Against Conviction. A person accepting trusteeship hereunder warrants that such person has not been convicted of or imprisoned for a crime preventing such person under the provisions of the ERISA from serving as Trustee hereunder.

Sec. 6.8 Successor Company. The provisions of this Trust Agreement shall be binding on the Company and its successors. If a successor to the Company or a purchaser of all or substantially all of its assets elects to continue the Trust, such successor or purchaser shall be substituted for the Company under this Trust Agreement.

Sec. 6.9 Notices.

- (a) Except as otherwise provided in this Trust Agreement, all notices under this Agreement shall be in writing and be effective upon receipt if delivered by (i) hand, (ii) certified or registered United States Mail postage prepaid, or (iii) facsimile, provided that service by facsimile after

5:00 p.m. local time of the recipient(s) shall be deemed delivered on the following business day, as follows:

If notice is to the Trustee.

Wells Fargo Bank, N.A.
Attention: Lisa Keckler
MAC T7534-021
40 NE Loop 410, Suite 201
San Antonio, Texas 78216
Facsimile (210) 856-8822

If notice is to Company or the Committee:

El Paso Electric Company
Attention: Victor Rueda, Vice President of Human Resources
P.O. Box 982
El Paso, Texas 79960
Facsimile (915) 521-4728

and, if the notice is sent for the purposes described in Section 3.2(i), 3.2(s), 5.1, and 6.9(b), with a copy to:

El Paso Electric Company
Office of the General Counsel
P.O. Box 982
Location 167
El Paso, Texas 79960
Facsimile (915) 521-4412

- (b) Each party may change its address for purposes of notice under this Trust Agreement by notice complying with Section 6.9(a).

Sec. 6.10 Waiver of Notice. Any notice required under this Trust Agreement may be waived in writing by the person entitled thereto.

Sec. 6.11 Headings. Headings at the beginning of articles and sections are for convenience of reference, shall not be considered a part of this Trust Agreement, and shall not influence its construction.

Sec. 6.12 Use of Compounds of Word "Here". Use of the words "hereof", "herein", "hereunder", or similar compounds of the word "here" shall mean and refer to the entire Trust Agreement unless the context clearly indicates otherwise.

Sec. 6.13 Construed as a Whole. The provisions of this Trust Agreement shall be construed as a whole in such manner as to carry out the provisions thereof and shall not be construed separately without relation to the context.

Sec. 6.14 Counterparts. This Trust Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Such counterparts shall constitute but one and the same instrument, which may be sufficiently evidenced by any one counterpart.

Sec. 6.15 Key Employees. If any Retiree entitled to post-retirement life insurance benefits under the Plan is a "key employee", as defined in Section 416(i) of the Code, the Committee may direct the Trustee to establish a separate account to which shall be credited amounts to be applied for any post-retirement life insurance benefits to be provided with respect to such Retiree and the post-retirement life insurance benefits provided with respect to such Retiree will be charged to and paid from only such Retiree's separate account, all in accordance with the directions from the Committee. Assets credited to such a separate account may be invested on a commingled basis, but if so invested, the separate account must be adjusted on a yearly basis to reflect its proportionate share of the appreciation, depreciation, income, expenses, gains or losses of the Trust for the year. Any such account shall be maintained and administered in accordance with the requirements of Section 419A of the Code.

ARTICLE VII

AMENDMENT AND TERMINATION

Sec. 7.1 Prohibition on Diversion. General. Except as expressly provided in herein, at no time shall any part of the corpus or income of the Trust Fund be used for, or diverted to, purposes other than for the benefit of the members or their respective beneficiaries. The assets of the Trust Fund shall never inure to the benefit of the Company and shall be held for the exclusive purpose of providing benefits to such members and their respective beneficiaries and defraying reasonable expenses of administering the Plan and the Trust. No part of the net earnings of the Trust Fund shall inure to the benefit of any shareholder or individual other than through the payment of benefits under the Plan.

In the case of a contribution that is made by the Company by a mistake of fact, this Section shall not prohibit, at the written direction of the Company, the return to the Company of such contribution within one year after the payment of the contribution, but only to the extent the amount so returned is not subject to penalty under Section 4976 of the Code.

Sec. 7.2 Amendment. Subject to the provisions of Section 7.1 hereof, this Trust Agreement may be amended at any time or from time to time and in any manner by written agreement of the Trustee and the Company, and the provisions of any such

Sec. 7.4 Transfer to Other Fund. If pursuant to directions under Section 3.1(b) hereof the entire Trust Fund is transferred to a funding agency for the Plan that is not a trustee, this Trust shall thereupon terminate.

IN WITNESS WHEREOF, the Company and Trustee have caused this Trust Agreement to be executed by their duly authorized officers as of the day and year first above written.

EL PASO ELECTRIC COMPANY

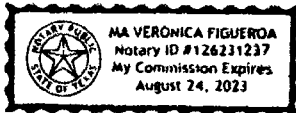
By *Myrna A. Ortiz*
Its *VP HR*

WELL FARGO BANK, N.A.

By *Joe Lecker*
Its *Vice President*

STATE OF TEXAS
COUNTY OF EL PASO

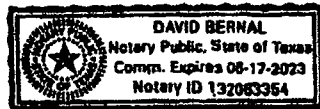
On this 7th day of July, 2020, before me appeared Victor Toledo to me personally known, who being by me duly sworn, did say that he/she is the VP HR of EL PASO ELECTRIC COMPANY, the corporation named in the foregoing instrument, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors, and he/she acknowledged said instrument to be the free act and deed of said corporation.



MA Verónica Figueroa
Notary Public El Paso County, Texas
My commission expires 8-24, 2023

STATE OF TEXAS
COUNTY OF BEXAR

On this 7th day of July, 2020, before me personally appeared Lisa Keckler to me personally known, who being by me duly sworn, did say that he/she is the Vice President of WELLS FARGO BANK, N.A., the national banking association named in the foregoing instrument, and that said instrument was signed in behalf of said association by authority of its Board of Directors, and he/she acknowledged said instrument to be the free act and deed of said association.



David Bernal
Notary Public, Bexar County, Texas
My commission expires 8-17, 2023

**EL PASO ELECTRIC COMPANY COLLECTIVELY BARGAINED POST-
RETIREMENT HEALTH BENEFITS TRUST**

FIRST AMENDED AND RESTATED TRUST AGREEMENT

This Trust Agreement is amended and restated as of August 1, 2020 by and between El Paso Electric Company (the "**Company**"), and Wells Fargo Bank, N.A., a national banking association, as trustee (the "**Trustee**");

WITNESSETH:

WHEREAS, in order to provide retiree medical and life benefits for certain of its retired and disabled employees, the Company has established the El Paso Electric Company Retiree Welfare Benefits Plan (the "**Plan**") which provides post-retirement life and health benefits to collectively bargained and non-collectively bargained retired and disabled employees (and their eligible spouses and dependents) (collectively referred to as "**Retirees**") and the eligible surviving spouses and dependents of active non-collectively bargained and collectively bargained employees of the Company who die during the course of their employment with the Company (collectively "**Surviving Dependents**"); and

WHEREAS, the Company and the Trustee had previously entered into a trust arrangement entitled "Second Amended and Restated Trust Agreement" (the "**Original Trust**") with respect to the funding of post-retirement life and health benefits payable to Retirees and Surviving Dependents under the terms of the Plan; and

WHEREAS, pursuant to efforts to restructure the funding arrangements involving the Company and its post-retirement life and health benefits, the Company previously established separate trust arrangements for its collectively bargained post-retirement health benefits, non-collectively bargained and collectively bargained post-retirement life insurance benefits, and its non-collectively bargained post-retirement health benefits, effective February 1, 2020; and

WHEREAS, the Company and the Trustee previously established the El Paso Electric Company Collectively Bargained Post-Retirement Health Benefits Trust (the "**Trust**"), effective February 1, 2020, to provide for the receipt of collectively bargained post-retirement health assets to be transferred from the Original Trust to this Trust and for the payment of post-retirement health benefits to collectively bargained Retirees (and their eligible spouses and dependents) (collectively "**Collectively Bargained Retirees**") and the eligible surviving spouses and dependents of active collectively bargained employees of the Company who die during the course of their employment with the Company (collectively "**Collectively Bargained Surviving Dependents**") who are entitled to post-retirement health benefits under the terms of the Plan; and

WHEREAS, in view of the expected timing of the transfer of post-retirement health assets for Collectively Bargained Retirees and Collectively Bargained Surviving

Dependents, the Company desires to amend and restate the Trust to include the approximate date by when assets will be transferred to the Trust; and

WHEREAS, the Company and the Trustee agree that the transfer of collectively bargained post-retirement health assets from the Original Trust to this Trust will not permit the Company to recapture any such assets or permit the Company to receive a reversion of Original Trust or Trust assets at any time; and

WHEREAS, the Company intends that this Trust continue to be a welfare benefit fund that is maintained pursuant to a collective bargaining agreement under Sections 419 and 419A of the Internal Revenue Code; and

WHEREAS, the parties wish to document the terms of the trust relationship by amending and restating this Trust agreement ("**Trust Agreement**"); and

WHEREAS, this Trust Agreement sets forth the rights and duties of the Company and Trustee and the terms and conditions under which the collectively bargained post-retirement health plan assets shall be held, administered, invested, reinvested, and disbursed;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained, the parties agree as follows:

ARTICLE I

GENERAL

Sec. 1.1 Establishment. The Company hereby continues the El Paso Electric Company Collectively Bargained Post-Retirement Health Benefits Trust (the "**Trust**"). The Trust shall constitute a voluntary employees' beneficiary association ("**VEBA**") as defined in Section 501(c)(9) of the Internal Revenue Code of 1986, as amended (the "**Code**"), that is maintained pursuant to a collective bargaining agreement under Sections 419 and 419A of the Code and shall be administered and interpreted so as to comply with the requirements of Section 501(c)(9) of the Code.

Sec. 1.2 Acceptance of Trust. The Trustee accepts its continued appointment as such, effective as of the date set forth above.

Sec. 1.3 Part of Plan. This Trust incorporates and forms a part of the El Paso Electric Company Retiree Welfare Benefits Plan (the "**Plan**") for which funds are held hereunder to provide post-retirement health benefits for the benefit of collectively bargained retired and disabled employees (and their eligible spouses and dependents) (collectively referred to as "**Collectively Bargained Retirees**") and the eligible surviving spouses and dependents of active collectively bargained employees of the Company who die during the course of their employment with the Company (collectively "**Collectively Bargained Surviving Dependents**") who are entitled to

post-retirement health benefits under the Plan. The Company warrants that promptly upon the adoption of any amendment to the Plan it will furnish the Trustee with a copy of the executed amendment. The Company further agrees that no amendment of the Plan shall have the effect of changing the rights, duties, and liabilities of the Trustee without its written consent. The Trustee may rely on the latest Plan documents furnished it as above provided without further inquiry or verification. In the event of any conflict between the Plan and this Trust Agreement, with respect to the duties of the Trustee this Trust Agreement shall govern and control.

Sec. 1.4 Certification of Fiduciaries and Administrator. The Secretary or an Assistant Secretary of the Company will advise the Trustee in writing of the name of the person or persons who have authority to act on behalf of the Company under this Trust Agreement, including the right to direct the Trustee as to investments of and disbursements from the "Trust Fund," as such term is defined in Section 2.1 of this Trust Agreement. The Trustee shall recognize the "Committee," as such term is defined in Section 1.7 of this Trust Agreement, as the administrator of the Plan within the meaning of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), with the authority to direct the Trustee as to the investments of and disbursements from the Trust Fund. The Company shall provide the Trustee with a specimen signature of each of the persons referred to above. The Trustee may rely on such designations and delegated authority until the Company advises it otherwise in writing.

Sec. 1.5 Construction and Applicable Law. The Trust is intended to constitute an organization defined under Section 501(c)(9) of the Code and to be entitled to tax-exemption under section 501(a) of the Code as a trust maintained pursuant to a collective bargaining agreement under Sections 419 and 419A of the Code. The Trustee may assume until advised to the contrary that the Trust is so recognized and entitled to tax exemption. It is also intended that the Trust be in full compliance with the applicable requirements of ERISA and other applicable federal law, such as the Health Insurance Portability and Accountability Act. To the extent federal law is inapplicable, this Trust Agreement shall be construed and administered under the laws of the State of Texas, without reference to its conflicts of law or choice of law rules. This Trust Agreement shall be construed and administered consistent with said intent.

Sec. 1.6 Board of Directors. The "Board of Directors" is the board of directors of the Company and any executive committee thereof authorized to act for such body.

Sec. 1.7 Committee. The "Committee" means the person(s) appointed by the Board of Directors to carry out certain duties and responsibilities related to the Plan and the Trust. The Committee shall serve at the pleasure of the Company. The name of the Committee shall be the Benefits Oversight Committee or any successor committee appointed by the Board. The Secretary or an Assistant Secretary of the Company shall provide the Trustee with the names of each member of the Committee

and the Trustee may rely on such notice without further inquiry or verification, unless the Trustee has actual knowledge to the contrary.

ARTICLE II

TRUST FUND

Sec. 2.1 Composition. All assets, other sums of money, securities, and other property reasonably acceptable to the Trustee and received by it from whatever source as evidenced by its receipts, together with all investments made herewith, the proceeds thereof and all earnings and accumulations thereon, shall be held and administered by the Trustee, in trust, in a fund referred to herein as the "Trust Fund", in accordance with the terms and provisions hereof. The Trust Fund shall be held, administered, and disbursed by the Trustee without distinction between principal and income.

Sec. 2.2 Contributions. The Company shall make contributions to the Trust Fund from time to time as it shall determine in its sole discretion. The Trustee shall have no duty to require any contributions to be made to it, to determine that the contributions received by it comply with the provisions of the Plan or with any applicable resolution of the Board of Directors, or to collect any contributions payable to it pursuant to the Plan. The Trustee shall be responsible only for those sums of money, securities, and other property actually received by it.

Sec. 2.3 Segregation of Trust Fund. If directed by the Committee, the Trustee shall hold and maintain the Trust Fund in a segregated account and invest and administer the Trust Funds separately from the assets of the Trustee or other trusts.

Sec. 2.4 Exclusive Benefit of Participants and Beneficiaries. The Trust Fund shall be used for the exclusive benefit of the members and their respective beneficiaries, as defined in and covered by the Plan. Nothing herein, however, shall be construed to restrict the use of such assets for the payment of taxes, expenses of administration, or other charges properly assessed against the Trust Fund under the Plan and pursuant to this Trust Agreement. In addition, the Trust Fund may be used as a source of financing for other welfare benefit plans established by the Committee to the extent permitted by ERISA and the Code.

Sec. 2.5 Transfer to and Receipt of Original Trust Assets. The Trust Fund shall also include those assets transferred from the Original Trust to this Trust attributable to the post-retirement health benefits for Collectively Bargained Retirees and Collectively Bargained Surviving Dependents entitled to such benefits under the Plan which assets will be held and administered under this Trust to provide post-retirement health benefits and pay related administrative expenses provided under the Plan for Collectively Bargained Retirees and Collectively Bargained Surviving Dependents who are entitled to such benefits under the Plan. At no time shall the Company have a right to recapture such assets or receive a reversion with respect to

the assets transferred from the Original Trust to this Trust. It is anticipated that such transfer of assets will be made on or about September 1, 2020, although contributions to this Trust may be made before such date.

ARTICLE III

THE TRUSTEE

Sec. 3.1 General Responsibility. The general responsibilities of the Trustee shall be as follows:

- (a) The Trustee shall hold, administer, invest and reinvest, and disburse the Trust Fund in accordance with the powers and subject to the restrictions stated in the Plan and this Trust Agreement. Notwithstanding anything in this Trust Agreement to the contrary, unless prior approval is obtained from the Secretary of Labor or a statutory or class exemption applies, the Trustee shall not engage in any transaction prohibited by Section 406 of ERISA. Nothing herein obligates the Trustee to monitor compliance by the Company, the Committee or any duly appointed investment manager with any of the duties or limitations imposed on those parties under the Code or ERISA; provided, however, that the Trustee shall abide with the fiduciary requirements applicable to a directed trustee under Department of Labor Field Assistance Bulletin 2004-03.
- (b) The Trustee shall disburse monies and other properties from the Trust Fund on direction of the Committee pursuant to the provisions of the Plan at the time or times to the payee or payees specified in directions to the Trustee in such form as the Trustee may reasonably require. The Trustee shall be under no liability for any distribution made by it in accordance with such directions and shall be under no duty to make inquiry as to whether any distribution made by it pursuant to any such direction is made pursuant to the provisions of the Plan unless it has clear reason to know otherwise. The receipt of the payee shall constitute a full acquittance of the Trustee.
- (c) The Trustee shall have the responsibilities, if any, expressly allocated to it by the Plan and this Trust Agreement. Except as responsibilities may be expressly so allocated, the Trustee, in its capacity as such shall have no responsibility or authority with respect to the operation and administration of the Plan, and the rights, powers, and duties of the Trustee shall be governed solely by the terms of this Trust Agreement without reference to the provisions of the Plan.

Sec. 3.2. Powers of the Trustee. Subject to the provisions of the Code and ERISA, including, without limitation the prohibited transaction rules thereof, the

Trustee shall have the following powers; however, all powers regarding the investment of the Trust shall be exercised solely pursuant to direction of the Committee or, if applicable, an investment manager, unless the Trustee has been properly delegated investment authority pursuant to section 4.3 below:

- (a) To hold securities and other properties in bearer form or in the name of a nominee or nominees without disclosing any fiduciary relationship; provided, however, that on the books and records of the Trustee such securities and properties shall constantly be shown to be a part of the Trust Fund, and no such registration or holding by the Trustee shall relieve it from liability for the safe custody and proper disposition of such securities and properties in accordance with the terms and provisions hereof.
- (b) To sell, grant options to buy, transfer, assign, convey, exchange, mortgage, pledge, lease or otherwise dispose of any of the properties comprising the Trust Fund at such prices and on such terms and in such manner as determined by the Trustee or in the manner the Committee or a duly appointed investment manager directs, and for terms within or extending beyond the duration of the Trust Agreement.
- (c) To manage, administer, operate, lease for any number of years, regardless of any restrictions on leases made by fiduciaries, develop, improve, repair, alter, demolish, mortgage, pledge, grant options with respect to, or otherwise deal with any real property or interest therein at any time held by it; and to cause to be formed a corporation or trust to hold title to any such real property with the aforesaid powers; all upon such terms and conditions determined by the Trustee or in the manner the Committee or a duly appointed investment manager directs.
- (d) To renew or extend or participate in the renewal or extension of any note, bond or other evidence of indebtedness, or any other contract or lease, or to exchange the same, or to agree to a reduction in the rate of interest or rent thereon or to any other modification or change in the terms thereof, or of the security therefor, or any guaranty thereof, in any manner and to any extent that it may deem advisable in its absolute discretion; to waive any default, whether in the performance of any covenant or condition of any such note, bond or other evidence of indebtedness, or any other contract or lease, or of the security therefor, and to carry the same past due or to enforce any such default as it may in its absolute discretion deem advisable; to exercise and enforce any and all rights to foreclose, to bid in property on foreclosure; to exercise and enforce in any action, suit, or proceeding at law or in equity any rights or remedies in respect to any such note, bond or other evidence of indebtedness or any other contract or lease, or the security therefor; to pay, compromise, and discharge with the funds of the Trust Fund any

and all liens, charges, or encumbrances upon the same; all as determined by the Trustee or in the manner the Committee or a duly appointed investment manager directs; and to make, execute, and deliver any and all instruments, contracts, or agreements necessary or proper for the accomplishment of any of the foregoing powers.

- (e) To borrow such sums of money for the benefit of the Trust Fund from any lender upon such terms, for such period of time, at such rates of interest, and upon giving such collateral as it may determine; to secure any loan so made by pledge or mortgage of the trust property; and to renew existing loans; all as determined by the Trustee or in the manner the Committee or a duly appointed investment manager directs.
- (f) To use the assets of the Trust Fund, whether principal or income, for the purpose of improving, maintaining, or protecting property acquired by the Trust Fund; and to pay, compromise, and discharge with the assets of the Trust Fund any and all liens, charges, or encumbrances at any time upon the same; all as determined by the Trustee or in the manner the Committee or a duly appointed investment manager directs.
- (g) To hold uninvested such cash funds as may appear reasonably necessary to meet the anticipated cash requirements of the Plan from time to time and to deposit the same or any part thereof, either separately or together with other trust funds under the control of the Trustee, in its own deposit department or to deposit the same in its name as Trustee in such other depositories as it may select.
- (h) To receive, collect, and give receipts for every item of income or principal of the Trust Fund.
- (i) Upon prior written notice to Company and the Committee, to institute, prosecute, maintain, or defend any proceeding at law or in equity concerning the Trust Fund or the assets thereof, at the sole cost and expense of the Trust Fund, and to compromise, settle, and adjust any claims and liabilities asserted against or in favor of the Trust Fund or of the Trustee; but the Trustee shall be under no duty or obligation to institute, maintain or defend any action, suit, or other legal proceeding unless it shall have been indemnified to its satisfaction against any and all loss, cost, expense, and liability it may sustain or reasonably anticipate by reason thereof.
- (j) To vote all stocks and to exercise all rights incident to the ownership of stocks, bonds, or other securities or properties held in the Trust Fund and to issue proxies to vote such stocks; to enter into voting trusts for such period and upon such terms as it may determine; to give general or special proxies or powers of attorney, with or without substitution; to sell

or exercise any and all subscription rights and conversion privileges; to sell or retain any and all stock dividends; to oppose, consent to, or join in any plan of reorganization, readjustment, merger, or consolidation in respect to any corporation whose stocks, bonds, or other securities are a part of the Trust Fund, including becoming a member of any stockholders' or bondholders' committee; to accept and hold any new securities issued pursuant to any plan of reorganization, readjustment, merger, consolidation, or liquidation; to pay any assessments on stocks or securities or to relinquish the same; and to otherwise exercise any and all rights and powers to deal in and with the securities and properties held in the Trust Fund in the same manner and to the same extent as any individual owner and holder thereof might do; all as determined by the Trustee or in the manner the Committee or a duly appointed investment manager directs.

- (k) To make application for any contract issued by an insurance company to be purchased under the Plan, to accept and hold any such contract, and to sign and deliver any such contract; all as determined by the Trustee or in the manner the Committee or a duly appointed investment manager directs.
- (l) To employ such agents, experts, counsel, and other persons (any of whom may also represent the Company) deemed by the Trustee to be necessary or proper for the administration of the Trust; to rely and act on information and advice furnished by such agents, experts, counsel, and other persons; and to pay their reasonable expenses and compensation for services to the Trust from the Trust Fund. Notwithstanding the foregoing, no person so serving may receive compensation from the Trust Fund for fiduciary services if such person, natural or otherwise, is employed by or affiliated with the Company
- (m) To pay out of the Trust Fund all real and personal property taxes, income taxes, and other taxes of any and all kinds levied or assessed under existing or future laws against the Trust Fund.
- (n) To pay any estate, inheritance, income, or other tax, charge, or assessment attributable to any benefit which, in the Trustee's opinion, it shall be or may be required to pay out of such benefit; and to require, before making any payment, such release or other document from any taxing authority and such indemnity from the intended payee as the Trustee shall deem necessary for its protection.
- (o) To retain any funds or property subject to any dispute without liability for the payment of interest, and to decline to make payment or delivery thereof until final adjudication is made by a court of competent jurisdiction.

- (p) Upon the prior written request or consent of Company and/or the Committee, to provide ancillary services to the Trust for not more than reasonable compensation.
- (q) To participate in and use the Federal Book-entry Account System (a service provided by the Federal Reserve Bank for its member banks for deposit of Treasury securities), or to use the Depository Trust Company, Midwest Trust Company or other generally accepted central depositories.
- (r) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted to the Trustee.
- (s) Upon prior written notice to Company and the Committee to bring action before any court of competent jurisdiction for instructions with respect to any matter pertaining to the interpretation of this Trust Agreement or the administration of the Trust Fund.

Sec. 3.3 Appointment of Ancillary Trustees. In the event that any property which is or may become a part of the Trust Fund is situated in a state or states in which the Trustee acting hereunder is prohibited from holding real estate as trustee, or in a foreign country, the Trustee is hereby empowered to name an individual or corporate trustee qualified to act in any such state or foreign country in connection with the property situated therein as ancillary trustee of such property and to require such security of the ancillary trustee as may be designated by the Trustee. Naming of such ancillary trustee shall be subject to formal appointment thereof by the Committee. Any ancillary trustee so appointed shall have such rights, powers, discretions, responsibilities, and duties as are delegated to it by the Trustee, but shall exercise and discharge the same and subject to such limitations or directions of the Trustee as shall be specified in the instrument evidencing the appointment. Any such ancillary trustee shall be answerable to the Trustee for all monies, assets, or other property entrusted to it or received by it in connection with the administration of the Trust. The Trustee may remove any such ancillary trustee and may appoint a successor at any time or from time to time as to any or all of the assets, in each case subject to formal appointment of the successor by the Committee. Any instrument designating an ancillary trustee may contain such provisions with respect to payment of income and principal to the Trust Fund, payment of expenses with respect to property administered by the ancillary trustee, termination of the ancillary trustee, and administrative powers of the ancillary trustee, in each instance as the Trustee hereunder, in the exercise of its discretion, may deem appropriate and consistent with the provisions of this Trust Agreement.

Sec. 3.4 Compensation and Expenses. The Trustee shall be entitled to receive such reasonable compensation for its services as Trustee or in any other capacity in connection with the Plan as may be agreed upon with the Company in writing. The Trustee shall be entitled to reimbursement for all documented reasonable and necessary costs, expenses, and disbursements actually incurred by it in the performance of such services. Such compensation and reimbursements shall be paid directly by the Company, but if not so paid within ninety (90) days after invoices for such fees are received by the Company shall be paid directly from the Trust Fund if the Plan so permits.

Sec. 3.5 Records and Accountings. The Trustee shall keep accurate and detailed records and accounts of all investments, receipts, and disbursements, and other transactions hereunder, and all records, books, and accounts relating thereto shall be open to inspection by any person designated by the Company or the Committee at all reasonable times. Within sixty (60) days following the close of each annual accounting period of the Trust, and as soon as reasonably practicable after the resignation or removal of the Trustee has become effective, the Trustee shall file with the Committee a written account setting forth all (i) investments, receipts, disbursements, and other transactions effected by it during such year, or during the part of the year to the date the resignation or removal is effective, as the case may be, and containing a description of all securities purchased and sold, the cost or net proceeds of sale, the securities and investments held at the end of such period, and the cost of each item thereof as carried on the books of the Trustee; (ii) the net income or loss of the Trust Fund; (iii) the gains or losses realized by the Trust Fund upon sales or other disposition of its assets; and (iv) the increase or decrease in the value of the Trust Fund. The accounting shall also furnish the Committee such other information as the Trustee may possess and as may be necessary for them to comply with the reporting requirements of ERISA. Except as provided in Section 4.3(l), the Trustee shall determine the fair market value of publicly traded assets of the Trust Fund where such assets have a readily ascertainable market value no less often than annually. If the fair market value of an asset in the Trust Fund is not available, when necessary for accounting or reporting purposes the fair value of the asset shall be determined in good faith by the Committee, assuming an orderly liquidation at the time of such determination. If there is a disagreement between the Trustee and anyone as to any act or transaction reported in an accounting, the Trustee shall have the right to have its account settled by a court of competent jurisdiction. The Trustee shall make such other reports as may be required by the Plan or agreed upon in writing with the Company and/or Committee.

Set. 3.6 Record Retention. The Trustee shall retain its records and accountings relating to the Trust as long as necessary for the proper administration thereof and at least for any period required by ERISA or other applicable law but with respect to each record and account for not less than six (6) years following the creation thereof.

Sec. 3.7 Trustee's Protection. The Trustee shall enjoy the following protections in connection with the performance of its duties herein.

- (a) Except to the extent the Trustee has actual knowledge to the contrary, the Trustee shall be fully protected in relying upon the existence of any fact or state of facts represented to it in writing by the Company or the Committee or other duly appointed investment manager.
- (b) Except with respect to liability or fiduciary responsibility for any error or loss that may result by reason of the exercise or non-exercise of the duties, obligations, and/or fiduciary responsibility which are allocated to the Trustee herein which is determined to be the result of the Trustee's own negligence or willful misconduct, the Company shall indemnify the Trustee, directly from the Company's own assets (including the proceeds of any insurance policy the premiums of which are paid from the Company's own assets), from and against any and all claims, demands losses, damages, expenses (including, by way of illustration and not limitation, reasonable attorneys' fees and other legal and litigation costs), judgments and liabilities arising from, out of, or in connection with the administration or investment of the Plan or the Trust Fund. The Trustee shall not be liable for any action taken by the Trustee or any failure to act by the Trustee if the action taken or the failure to act was directed by the Company, the Committee or other duly appointed investment manager, if the Trustee reasonably relied on such direction. This paragraph shall survive the termination of this Trust Agreement.
- (c) The Trustee shall be under no obligation to determine the amount of benefits to which members or their beneficiaries will be entitled or to keep any records of the respective interest of any individual member or beneficiary of the Plan. The Trustee shall make payments to or on behalf of a member or beneficiary upon the written direction of the Committee and, if made in accordance with such direction, the Trustee shall have no liability to the Company or any other person in making such payments. The Trustee shall not be required to determine or make any investigation to determine the identity or mailing address of any person entitled to benefits and shall have discharged its obligation in that respect when it shall have sent checks, securities and other papers by ordinary mail to such person or persons and addresses as may be certified to it in writing by the Committee. Notwithstanding the provisions of the preceding sentence, the Trustee shall promptly inform the Committee in writing of the return of any such items.
- (d) The parties recognize that the Trustee does not guarantee the assets of the Trust Fund from loss or depreciation.

The Trustee shall not be liable, responsible, or required to account to the Company for the acts of any prior trustee of this Trust Fund and shall be entitled to the indemnity set forth in Section 3.7(b) hereof therefor.

ARTICLE IV

INVESTMENTS

Sec. 4.1 General. Except to the extent that the Committee, pursuant to Section 1.4 of this Trust Agreement, appoints an investment manager, including the Trustee, in accordance with Section 4.3 of this Trust Agreement, the Committee shall act as the fiduciary with respect to the entire Trust Fund. The Trustee shall invest and reinvest the principal and income of the Trust Fund with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. Without limiting the generality of the foregoing, the investments and reinvestments of the Trust Fund shall be subject to the following:

- (a) Investments shall be as consistent as reasonably possible with any funding policy communicated to the Trustee in writing by the Committee pursuant to the Plan. Unless the Trustee has actual knowledge to the contrary, the Trustee may rely on the latest such communication received by it without further inquiry or verification.
- (b) The Trustee may invest and reinvest principal and income of the Trust Fund in common, preferred, and other stocks of any corporation (but in the case of the Company, solely as prescribed by Section 4.1(g)); voting trust certificates; interests in investment trusts, including, without limiting the generality thereof, participations issued by an investment company as defined in the Investment Company Act of 1940, as from time to time amended; bonds, notes, and debentures, secured or unsecured; mortgages on real or personal property; conditional sales contracts; real estate and leases; limited partnerships; and units or shares in limited liability companies, including, without limiting the generality thereof, limited liability companies that are not registered under the Investment Company Act of 1940, as from time to time amended.
- (c) Subject to the provisions of Section 2.3 of this Trust Agreement, the Trustee may invest and reinvest the principal and income of the Trust Fund through any common or collective trust fund or pooled investment fund maintained by the Trustee, any of its affiliates, or any other entity through which such investment is properly authorized for the collective investment of funds held by it in a fiduciary capacity. The provisions of the document governing any such common or collective trust fund as it may be amended from time to time shall govern any investment therein and are hereby made a part of this Trust Agreement, including any

provisions for the lending of any securities or security from time to time constituting a part of the common or collective trust fund in exchange for such consideration and upon such terms and conditions as the trustee of the common or collective trust fund deems appropriate. In any such transaction the trustee of such trust fund may transfer legal title to the securities being loaned to the obligor, and may permit the obligation to return to the trust fund securities that are identical (but not necessarily evidenced by the same certificates) to those transferred to it by the trustee thereunder.

- (d) The Trustee may invest and reinvest the principal and income of the Trust Fund by investing in an annuity contract or contracts (including any agreement or agreements supplemental thereto) issued by an insurance company.
- (e) The Trustee may engage in the writing, sale and buying in, of covered call option contracts; and the Trustee may acquire and may exercise options to purchase or sell securities or other assets.
- (f) Subject to applicable law, the Trustee may invest and reinvest the principal and income of the Trust Fund in qualifying employer securities or qualifying employer real property.
- (g) If qualifying employer securities or qualifying employer real property are purchased or sold as an investment of the Trust Fund from or to a disqualified person or party in interest, as those terms are used in the ERISA, and if there is no generally recognized market for such securities or property, the purchase shall be for not more than fair market value and the sale shall be for not less than fair market value, as determined in good faith by the Trustee. In no event may a commission be charged to the Trust Fund for the private purchase or sale of such securities or real property.
- (h) The Trustee may invest and reinvest principal and income of the Trust Fund in deposits (including savings accounts, savings certificates, and similar interest-bearing instruments or accounts) in itself or its affiliates, provided such deposits bear a reasonable rate of interest.
- (i) The Trustee may purchase or sell financial futures contracts in transactions executed through a generally recognized commodities or securities exchange.
- (j) The Trustee may lend any securities or security from time to time constituting a part of the Trust Fund in exchange for such consideration and upon such terms and conditions as the Trustee deems appropriate. In any such transaction the Trustee may transfer legal title to the

securities being loaned to the obligor, and may permit the obligor to return to the Trust Fund securities that are identical (but not necessarily evidenced by the same certificates) to those transferred to it by the Trustee hereunder.

Sec. 4.2 Purchase of Insurance Policies on Lives of Members. If the Plan provides for the purchase of a life insurance policy or annuity contract on the life of any member(s), the Trustee shall make such purchases on written direction of the Committee. Each such direction shall be complete with respect to the terms of the purchase. The Committee shall give written direction as to any subsequent action to be taken with respect to each such policy or contract, it being intended that the Trustee shall have no discretion with respect thereto.

Sec. 4.3 Appointment of Investment Manager. The Committee may appoint one or more parties that qualify as an "investment manager" as such term is defined in Section 3(38) of ERISA to serve as an investment manager of a portion of the Trust Fund. The appointment of any such investment manager and investment of the Trust Fund pursuant to such appointment shall be subject to the following, notwithstanding any provisions hereof to the contrary:

- (a) Written notice of each such appointment shall be given to the Trustee a reasonable time in advance of the effective date of this appointment. The notice shall state what portion of the Trust Fund is to be invested by the investment manager and shall direct the Trustee to segregate such portion of the Trust Fund into a separate account for the investment manager. Each such separate account is referred to in this Section 4.3 as an "Investment Account."
- (b) The Trustee shall not act on any direction or instruction of the investment manager until the Trustee has been furnished with an acknowledgement in writing by the investment manager that it is a fiduciary with respect to the Plan and the Trust.
- (c) There shall be a written agreement between the Committee and each investment manager. The Trustee shall receive a copy of each such agreement and all amendments thereto and shall give written acknowledgement of receipt of same. Each agreement with an investment manager may provide that:
 - (1) All directions given by an investment manager to the Trustee shall be in writing, signed by an officer or partner of the investment manager or by such other person as may be designated in writing by the investment manager, provided that the Trustee may accept oral directions for the purchase or sale of securities, which shall be confirmed by such authorized personnel

of the investment manager in writing and the Trustee shall be fully protected in acting in strict accordance thereto;

- (2) All settlements of purchases and sales shall be in the city where the Trustee is located, or such other place as the Trustee may reasonably direct;
- (3) In all events the Trustee is to retain physical custody of or title to all assets included in an Investment Account; and
- (4) The Committee, by written notice to the investment manager and the Trustee, may modify or terminate the authority of the investment manager.
- (5) The investment manager shall pay the Trustee reasonable and customary charges of the Trustee for any transaction that results in an overdraft. To the extent that any overdraft is not cured within three (3) days of its occurrence, the investment manager shall be solely liable as a fiduciary and shall file such reports and pay such fees and penalties as are necessary to correct any prohibited transaction which may result.
- (d) Payment of the cost of the acquisition, sale, or exchange of any security or other property for an Investment Account shall be charged to that Investment Account unless the agreement between the Company and investment manager provides otherwise.
- (e) So long as the appointment of an investment manager is in effect, the investment manager shall have full power and authority to direct the Trustee as to, and full responsibility for, investment of its Investment Account and for the retention and disposition of any assets in its Investment Account. Subject to any limitations in the agreement between the Company and the investment manager, the investment manager shall have exclusive authority and discretion to invest and reinvest the principal and interest of that portion of the Trust Fund which comprises the Investment Account, subject to the provisions of Section 4.1. The Trustee may invest any portion of an Investment Account that would otherwise be held in cash but has no obligation to do so.
- (f) Unless the written agreement between the Company and investment manager expressly provides that the Company or Committee shall have the voting power with respect to all stocks and other securities in the Investment Account, the investment manager shall have voting power with respect to all such stocks and other securities.

- (g) The Trustee shall make available to an investment manager copies of or extracts from such portions of its accounts, books, or records relating to the Investment Account of such investment manager as the Trustee may deem necessary or, appropriate in connection with the exercise of the investment manager's function, or as the Company or the Committee may direct.
- (h) All charges (other than those covered in subsection (d) above) against each Investment Account shall be made in such proportions as the Company or the Committee may direct in writing from time to time.
- (i) If the authority of an investment manager is terminated and successor investment manager is not appointed, the assets held in its Investment Account may or may not continue to be segregated as the Committee may determine. Until receipt of written notice of the termination of the authority of an investment manager, the Trustee shall be fully protected in relying upon the continuing authority of such investment manager.
- (j) Any direction by an investment manager shall be complete as to the terms with respect thereto, it being intended that the Trustee shall have no obligation whatsoever to invest (other than as directed by an investment manager) or otherwise manage any asset of an Investment Account.
- (k) The Company agrees to indemnify the Trustee for and to hold it harmless against any and all liabilities, losses, costs, or expenses (including legal fees and expenses) of whatsoever kind and nature which may be imposed on, incurred by, or asserted against the Trustee at any time by reason of action taken in accordance with directions of an investment manager or action omitted because no such directions are given. However, no such indemnification shall be required in any case in which such liabilities, losses, costs, or expenses are incurred by the Trustee because it participated knowingly in, or knowingly undertook to conceal, an act or omission of an investment manager, knowing such act or omission was a breach of fiduciary duty by said investment manager or in any case to the proportional extent to which such liabilities, losses, costs or expenses are attributable to the Trustee's failure to act in strict accordance with the directions of an Investment Manager.
- (l) The investment manager shall determine the fair market value of assets held in an Investment Account no less often than annually. If the fair market value of an asset in an Investment Account is not available when necessary for accounting and reporting purposes, the fair value of the asset shall be determined in good faith by the investment manager, assuming an orderly liquidation at the time of such determination.

ARTICLE V

CHANGE IN TRUSTEE

Sec. 5.1 Resignation. The Trustee may resign at any time by giving sixty (60) days advance written notice to the Company.

Sec. 5.2 Removal. The Company may remove the Trustee by giving thirty (30) days advance written notice to the Trustee.

Sec. 5.3 Successor. In the event of the resignation or removal of the Trustee, the Company shall promptly appoint a successor. If no appointment of a successor is made by the Company within a reasonable time after resignation or removal of the Trustee, any court of competent jurisdiction may appoint a successor, after such notice, if any, solely to the Company and the retiring Trustee, as such court may deem proper and suitable. The retiring Trustee shall be furnished with written notice from the Company or the court, as the case may be, of the appointment of the successor, and shall be furnished with written evidence of the successor's acceptance of the trusteeship. Only then shall the retiring Trustee cease to be such.

Sec. 5.4 Duties on Succession. Every successor Trustee accepting a trusteeship under this Trust Agreement shall have all the right, title, powers, duties, exemptions, and limitations of the predecessor Trustee hereunder. No predecessor Trustee shall have any right, title, or interest in the Trust Fund except as hereinafter provided. The Trustee shall, upon the appointment and acceptance of a successor Trustee, transfer and deliver the assets of the Trust Fund and copies of all of Trustee's records pertaining to the Trust and the Trust Fund to the successor Trustee, after reserving (if the Plan so permits) such reasonable amount as it shall deem necessary to provide for its fees and expenses and any sums chargeable against the Trust Fund for which it reasonably believes it will be liable. Any predecessor Trust shall do all acts necessary to vest title of record in the successor Trustee. If any assets in the Trust Fund have been invested in a common or collective trust fund, the predecessor Trustee shall cause such investment to be liquidated at the earliest practical time after notice has been given or received by the predecessor Trustee of its resignation or removal. No person or entity becoming a Trustee hereunder shall be in any way liable or responsible for anything done or omitted to be done by any predecessor Trustee prior to such person's acceptance of the trusteeship, nor shall such person or entity have any duty to examine the administration of the Trust prior to such acceptance; provided, however, the provisions of this sentence shall not apply to changes in organization referenced in Section 5.5.

Sec. 5.5 Changes in Organization of Trustee. If any corporate Trustee acting hereunder is merged with another corporation or association, or is succeeded by another corporation or association, through consolidation or otherwise, the acquiring corporation or association shall thereupon become Trustee hereunder. If any

corporate Trustee acting hereunder sells and transfers substantially all of its assets and business to another corporation or association, the acquiring corporation or association shall thereupon become Trustee hereunder. When authorized by statute or court order any corporate Trustee acting hereunder may permit itself to be succeeded as such corporate Trustee by another corporation or association in which case the acquiring corporation or association shall thereupon become Trustee hereunder. In each case the acquiring corporation or association shall be Trustee of the Trust as though specifically so named herein. Notwithstanding the foregoing provision of this Section 5.5, an acquiring corporation or association shall become Trustee hereunder only if it has trust powers and is formed under the laws of the United States of America or any subdivision thereof.

ARTICLE VI

MISCELLANEOUS

Sec. 6.1 Benefits May Not Be Assigned or Alienated. Except as otherwise expressly permitted by the Plan or required by law, the interests of members and their respective beneficiaries under the Plan or this Trust Agreement may not in any manner whatsoever be assigned or alienated, whether voluntarily or involuntarily, or directly or indirectly.

Sec. 6.2 Incompetent Payee. If a person to whom the Trustee is directed to make one or more payments is disabled from caring for his or her affairs because of mental condition, physical condition, or age, payment due such person may be made to such person's legally appointed guardian, conservator, or other legally appointed personal representative upon the Trustee's receipt of written notice from the Committee of such legal appointment. The Trustee shall have no liability with respect to payment so made. The Trustee shall have no duty to make inquiry as to the competence of any person to whom it is directed to make payment.

Sec. 6.3 Evidence. Evidence required of anyone under this Trust Agreement may be by certificate, affidavit, document, or other instrument which the person acting in reliance thereon considers to be pertinent and reliable, and to be signed, made, or presented by the proper party.

Sec. 6.4 Dealings of Others With Trustee. No person (corporate or individual) dealing with the Trustee shall be required to see to the application of any money paid or property delivered to the Trustee or to determine whether the Trustee is acting pursuant to any authority granted to it under this Trust Agreement.

Sec. 6.5 Insurance Company Not Party. No insurance company that issues a contract held by the Trustee shall be construed to be a party to this Trust Agreement, nor shall it have any responsibility for the validity of this Trust Agreement. An insurance company to which an application may be submitted by the Trustee may accept such application and shall have no duty to make any investigation or inquiry

regarding the authority of the Trustee to make such application or any amendment thereto or to inquire as to whether a person on whose life any contract is to be issued is entitled to such contract under the Plan.

Sec. 6.6 Audits.

- (a) The Company or the Committee shall have the right to cause the books, records, and accounts of the Trustee that relate to the Trust to be examined and audited by independent auditors designated by the Company or the Committee at such times as the Company or the Committee may determine, and the Trustee shall make such books, records, and accounts available for such purposes at all reasonable times.
- (b) If an audit of the Plan shall be required by ERISA and the regulations thereunder for any Plan year, the Committee shall engage or shall direct the Trustee to engage, on behalf of all members and beneficiaries of the Plan, an independent qualified public accountant (selected by the Committee) for such purpose. At the conclusion of an audit in accordance with generally accepted auditing standards, such accountant shall, within a reasonable period after the close of the Plan year, furnish to the Committee and the Trustee a report of such audit setting forth the accountant's opinion as to whether the financial statements and schedules that are required to be included in the Plan's annual reports by Section 103 of ERISA or the Secretary of Labor are presented fairly in conformity with generally accepted accounting principles.

All auditing and accounting fees shall be an expense of and may, at the election of the Committee, be paid from the Trust Fund.

- (c) In accordance with ERISA Section 103(a)(2), if some or all of the information necessary to enable the Committee to comply with ERISA Section 103 is maintained by a bank, insurance company, or similar institution, regulated and supervised and subject to periodic examination by a state or federal agency, such bank, insurance company or institution shall transmit and certify the accuracy of that information to the Committee within one hundred twenty (120) days after the end of the Plan year or such other date as may be prescribed under regulations of the Secretary of Labor.

Sec. 6.7 Trustee Warranty Against Conviction. A person accepting trusteeship hereunder warrants that such person has not been convicted of or imprisoned for a crime preventing such person under the provisions of the ERISA from serving as Trustee hereunder.

Sec. 6.8 Successor Company. The provisions of this Trust Agreement shall be binding on the Company and its successors. If a successor to the Company or a purchaser of all or substantially all of its assets elects to continue the Trust, such successor or purchaser shall be substituted for the Company under this Trust Agreement.

Sec. 6.9 Notices.

- (a) Except as otherwise provided in this Trust Agreement, all notices under this Agreement shall be in writing and be effective upon receipt if delivered by (i) hand, (ii) certified or registered United States Mail postage prepaid, or (iii) facsimile, provided that service by facsimile after 5:00 p.m. local time of the recipient(s) shall be deemed delivered on the following business day, as follows:

If notice is to the Trustee:

Wells Fargo Bank, N.A.
Attention: Lisa Keckler
MAC T7534-021
40 NE Loop 410, Suite 201
San Antonio, Texas 78216
Facsimile (210) 856-8822

If notice is to Company or the Committee:

El Paso Electric Company
Attention: Victor Rueda, Vice President of Human Resources
P.O. Box 982
El Paso, Texas 79960
Facsimile (915) 521-4728

and, if the notice is sent for the purposes described in Section 3.2(i), 3.2(s), 5.1, and 6.9(b), with a copy to:

El Paso Electric Company
Office of the General Counsel
P.O. Box 982
Location 167
El Paso, Texas 79960
Facsimile (915) 521-4412

- (b) Each party may change its address for purposes of notice under this Trust Agreement by notice complying with Section 6.9(a).

Sec. 6.10 Waiver of Notice. Any notice required under this Trust Agreement may be waived in writing by the person entitled thereto.

Sec. 6.11 Headings. Headings at the beginning of articles and sections are for convenience of reference, shall not be considered a part of this Trust Agreement, and shall not influence its construction.

Sec. 6.12 Use of Compounds of Word "Here". Use of the words "hereof", "herein", "hereunder", or similar compounds of the word "here" shall mean and refer to the entire Trust Agreement unless the context clearly indicates otherwise.

Sec. 6.13 Construed as a Whole. The provisions of this Trust Agreement shall be construed as a whole in such manner as to carry out the provisions thereof and shall not be construed separately without relation to the context.

Sec. 6.14 Counterparts. This Trust Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Such counterparts shall constitute but one and the same instrument, which may be sufficiently evidenced by any one counterpart.

Sec. 6.15 Key Employees. If any Collectively Bargained Retiree entitled to post-retirement health benefits under the Plan is a "key employee", as defined in Section 416(i) of the Code, the Committee may direct the Trustee to establish a separate account to which shall be credited amounts to be applied for any post-retirement health benefits to be provided with respect to such Collectively Bargained Retiree after retirement, and post-retirement health benefits provided with respect to such Collectively Bargained Retiree will be charged to and paid from only such employee's separate account, all in accordance with the directions from the Committee. Assets credited to such a separate account may be invested on a commingled basis, but if so invested, the separate account must be adjusted on a yearly basis to reflect its proportionate share of the appreciation, depreciation, income, expenses, gains or losses of the Trust for the year. Any such account shall be maintained and administered in accordance with the requirements of Section 419A of the Code.

ARTICLE VII

AMENDMENT AND TERMINATION

Sec. 7.1 Prohibition on Diversion. General. Except as expressly provided in herein, at no time shall any part of the corpus or income of the Trust Fund be used for, or diverted to, purposes other than for the benefit of the members or their respective beneficiaries. The assets of the Trust Fund shall never inure to the benefit of the Company and shall be held for the exclusive purpose of providing benefits to such members and their respective beneficiaries and defraying reasonable expenses of administering the Plan and the Trust. No part of the net earnings of the Trust Fund

amendment may be made applicable to the Trust Fund as constituted at the time of the amendment as well as to the part of the Trust Fund subsequently acquired. Amendments shall be approved on behalf of the Company by the Board of Directors, or by the Committee if so authorized by the Board of Directors.

Sec. 7.3 Termination of Plan. If the Plan is terminated, this Trust Agreement shall nevertheless continue in effect until the Trust Fund has been distributed in accordance with the provisions of the Plan pursuant to directions under Section 3.1(b) hereof. In the event any assets remain after the satisfaction of all liabilities under the Plan, such assets shall be used for the exclusive benefit of employees of the Company and their beneficiaries. By way of example, and not limitation, any assets remaining in the Trust Fund after the payment of all benefits under the Plan may be used to provide other health and welfare benefits to employees, to provide a premium holiday to employees with respect to other Company health and welfare plans or distributed to participants. The Trust Fund shall terminate when no such assets remain.

Sec. 7.4 Transfer to Other Fund. If pursuant to directions under Section 3.1(b) hereof the entire Trust Fund is transferred to a funding agency for the Plan that is not a trustee, this Trust shall thereupon terminate.

IN WITNESS WHEREOF, the Company and Trustee have caused this Trust Agreement to be executed by their duly authorized officers as of the day and year first above written.

EL PASO ELECTRIC COMPANY

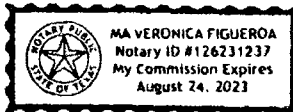
By *Victor H. Ruiz*
Its *VP AR*

WELL FARGO BANK, N.A.

By *Gisa Becken*
Its *Vice President*

STATE OF TEXAS
COUNTY OF EL PASO

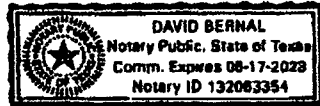
On this 7th day of July, 20 20, before me appeared Victor Keckler to me personally known, who being by me duly sworn, did say that he/she is the VP HR of EL PASO ELECTRIC COMPANY, the corporation named in the foregoing instrument, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors, and he/she acknowledged said instrument to be the free act and deed of said corporation.



MA Veronica Figueroa
Notary Public El Paso County, Texas
My commission expires 8-24, 20 23

STATE OF TEXAS
COUNTY OF BEXAR

On this 7th day of July, 20 20, before me personally appeared Lisa Keckler to me personally known, who being by me duly sworn, did say that he/she is the Vice President of WELLS FARGO BANK, N.A., the national banking association named in the foregoing instrument, and that said instrument was signed in behalf of said association by authority of its Board of Directors, and he/she acknowledged said instrument to be the free act and deed of said association.



David Bernal
Notary Public, Bexar County, Texas
My commission expires 8-17, 20 23

SECOND AMENDED AND RESTATED TRUST AGREEMENT

Amendment Two

This Second Amended and Restated Trust Agreement was made and entered into as of October 19, 2015 by and between El Paso Electric Company (the "**Company**"), and Wells Fargo Bank, N.A., a national banking association, as trustee (the "**Trustee**");

WITNESSETH:

WHEREAS, in order to provide retiree medical and life benefits for certain of its retired and disabled employees, the Company has established the El Paso Electric Company Retiree Welfare Benefits Plan (the "**Plan**") which provides post-retirement life and health benefits to non-collectively bargained and collectively bargained retired and disabled employees, and their eligible spouses and dependents, (collectively referred to as "**Retirees**") and the eligible surviving spouses and dependents of active employees of the Company who die during the course of their employment with the Company (collectively "**Surviving Dependents**"); and

WHEREAS, the Company and the Trustee had previously entered into this trust arrangement ("**Trust**") with respect to the funding of post-retirement life and health benefits payable to Retirees and Surviving Dependents under the terms of the Plan; and

WHEREAS, pursuant to efforts to restructure the funding arrangements involving the Company and its post-retirement life and health benefits, the Company previously established separate trust arrangements for its non-collectively bargained post-retirement health benefits, its non-collectively bargained and collectively bargained post-retirement life insurance benefits and its collectively bargained post-retirement health benefits, effective February 1, 2020, and

WHEREAS, the Company and the Trustee previously established the El Paso Electric Company Post-Retirement Life Insurance Trust and the El Paso Electric Company Collectively Bargained Post-Retirement Health Benefits Trust (collectively, the "**Transfer Trusts**"), effective February 1, 2020, to which the assets attributable to post-retirement life insurance benefits and collectively bargained post-retirement health benefits, respectively, in this Trust will be transferred and pursuant to which the payment of post-retirement life insurance benefits and collectively bargained post-retirement health benefits will be made; and

WHEREAS, in view of the expected timing of the transfer of post-retirement life insurance assets and post-retirement health assets for collectively bargained retirees from this Trust to the appropriate Transfer Trusts, the Company desires to amend the Trust effective August 1, 2020, to include the approximate date by when assets will be transferred to the Transfer Trusts; and