UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-K

(Mark One)

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the Fiscal Year Ended December 31, 2024

OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
Commission File No. 001-38081

Liberty Energy Inc.

(Exact Name of Registrant as Specified in its Charter)

Delaware	**81-4891595**
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)
950 17th Street, Suite 2400 **Denver, Colorado**	**80202**
(Address of Principal Executive Offices)	(Zip Code)

(303) 515-2800
(Registrant's Telephone Number, Including Area Code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading symbol(s)	Name of each exchange on which registered
Class A Common Stock, par value $0.01	**LBRT**	**New York Stock Exchange**

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. ☒ Yes ☐ No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. ☐ Yes ☒ No

Indicate by check mark whether the registrant (1) has filed all reports to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. ☒ Yes ☐ No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this Chapter) during the presiding 12 months (or for such shorter period that the registrant was required to submit and post such files). ☒ Yes ☐ No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large Accelerated Filer ☒	Accelerated Filer ☐	Non-accelerated filer ☐	Smaller reporting company ☐

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant has filed a report on an attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☒

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b). ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act): ☐ Yes ☒ No

As of June 28, 2024, the last business day of the registrant's most recently completed second fiscal quarter, the aggregate market value of voting and non-voting common stock held by non-affiliates of the registrant was approximately $3.3 billion, determined using the per share closing price on the New York Stock Exchange on that date of $20.89. Shares of common stock held by each director and executive officer (and their respective affiliates) and each person who owns 10 percent or more of the outstanding common stock or who is otherwise believed by the registrant to be in a control position have been excluded. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

As of January 31, 2025, the Registrant had 161,923,807 shares of Class A Common Stock and 0 shares of Class B Common Stock outstanding.

Documents Incorporated by Reference: Part III of this Annual Report on Form 10-K incorporates certain information by reference from the registrant's proxy statement for the 2025 annual meeting of stockholders to be filed no later than 120 days after the end of the registrant's fiscal year.

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CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Annual Report on Form 10-K ("Annual Report") and certain other communications made by us contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange of 1934, as amended (the "Exchange Act"), including, among others, expected performance, future operating results, oil and natural gas demand and prices and the outlook for the oil and gas industry, future global economic conditions, the impact of worldwide political, military and armed conflict, the impact of announcements and changes in oil production quotas by oil exporting countries, improvements in operating procedures and technology, our business strategy and the business strategies of our customers, in addition to other estimates, and beliefs. For this purpose, any statement that is not a statement of historical fact should be considered a forward-looking statement. We may use the words "estimate," "outlook," "project," "forecast," "position," "potential," "likely," "believe," "anticipate," "assume," "plan," "expect," "intend," "achievable," "may," "will," "continue," "should," "could" and similar expressions to help identify forward-looking statements. However, the absence of these words does not mean that the statements are not forward-looking. We cannot assure you that our assumptions and expectations will prove to be correct. Important factors, many of which are beyond our control, could cause our actual results to differ materially from those indicated or implied by forward-looking statements, including but not limited to the risks and uncertainties described in this Annual Report and other filings that we make with the U.S. Securities Exchange Commission (the "SEC"). We undertake no intention or obligation to update or revise any forward-looking statements, except as required by law, whether as a result of new information, future events or otherwise and readers should not rely on the forward-looking statements as representing the Company's views as of any date subsequent to the date of the filing of this Annual Report. These forward-looking statements are based on management's current belief, based on currently available information, as to the outcome and timing of future events.

All forward-looking statements, expressed or implied, included in this Annual Report are expressly qualified in their entirety by this cautionary statement. This cautionary statement should also be considered in connection with any subsequent written or oral forward-looking statements that we or persons acting on our behalf may issue.

MARKET AND INDUSTRY DATA

This Annual Report includes market and industry data and certain other statistical information based on third-party sources including independent industry publications, government publications and other published independent sources, such as content and estimates provided by Lium, LLC ("Lium Research") as of December 31, 2024, and industry content and figures provided by Baker Hughes Co. ("Baker Hughes") as of December 31, 2024. Neither Lium Research nor Baker Hughes is a member of the Financial Industry Regulatory Authority or the Securities Investor Protection Corporation and neither is a registered broker dealer or investment advisor. Although we believe these third-party sources are reliable as of their respective dates, we have not independently verified the accuracy or completeness of this information. Some data is also based on our own good faith estimates, which are supported by our management's knowledge of and experience in the markets and business in which we operate.

TRADEMARKS, SERVICE MARKS AND TRADENAMES

This Annual Report contains trademarks, tradenames, and service marks that are owned by us or other companies, which are our property. Solely for convenience, the trademarks, tradenames, and service marks referred to in this Annual Report may appear without the ®, TM, and SM symbols, but such references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights or the rights of the applicable licensors to these trademarks, tradenames, and service marks. We do not intend our use or display of other parties' trademarks, tradenames, or service marks to imply, and such use or display should not be construed to imply a relationship with, or endorsement or sponsorship of us by, these other parties.

PART I

As used in this Annual Report, except as otherwise indicated or required by the context, all references in this Annual Report to (i) the "Company," "Liberty," "we," "us" and "our" refer to Liberty Energy Inc. and its consolidated subsidiaries; and (ii) "Liberty LLC" refer to Liberty Oilfield Services New HoldCo LLC.

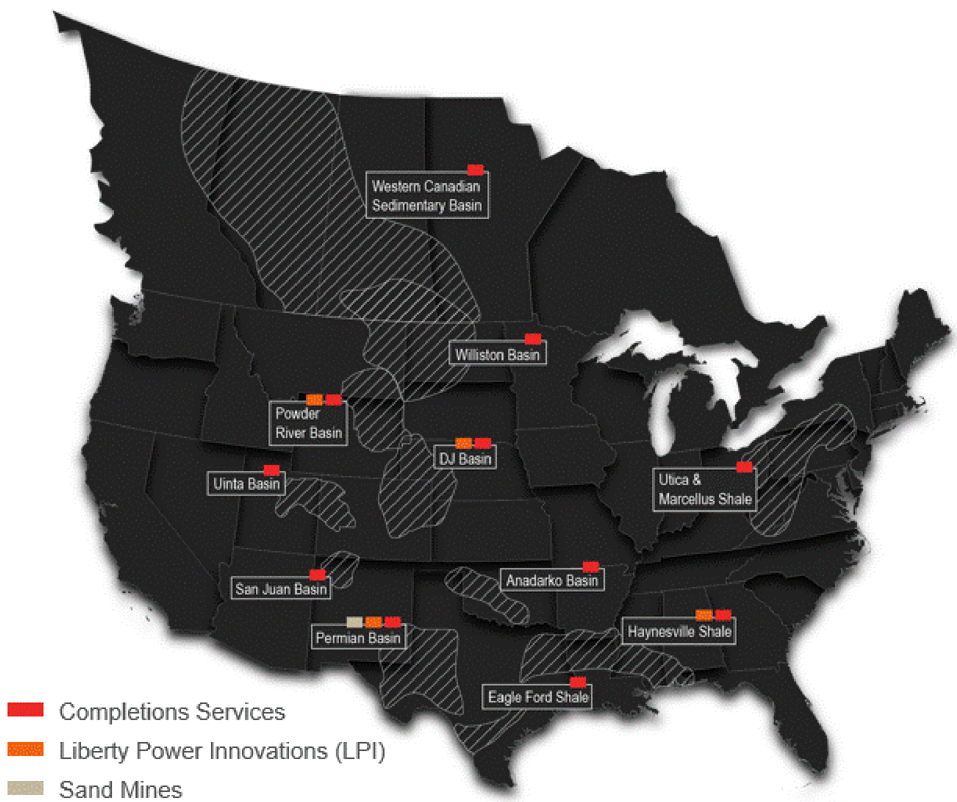
Item 1. Business

Our Company

The Company, together with its subsidiaries, is a leading integrated energy services and technology company focused on providing innovative hydraulic fracturing services and related technologies to onshore oil and natural gas exploration and production ("E&P") companies. We offer customers hydraulic fracturing services, together with complementary services including wireline services, proppant delivery solutions, field gas processing and treating, compressed natural gas ("CNG") delivery, data analytics, related goods (including our sand mine operations), and technologies to facilitate lower emission completions, thereby helping our customers reduce their emissions profile.

Our areas of operations are in all of the most active shale basins in North America, including the Permian Basin, the Williston Basin, the Haynesville Shale, the Eagle Ford Shale, the Denver-Julesburg Basin (the "DJ Basin"), the Western Canadian Sedimentary Basin, the Powder River Basin, and the Appalachian Basin (Marcellus Shale and Utica Shale). Our operations also extend to a few smaller shale basins, including the Anadarko Basin, the Uinta Basin, the San Juan Basin, as well as the Beetaloo Basin in Northern Territory, Australia. The breadth of our operational footprint provides us an opportunity to leverage our fixed costs and to efficiently reposition our equipment in response to customer requirements.

Areas of North American Operations



The process of hydraulic fracturing involves pumping a pressurized stream of fracturing fluid (typically a mixture of water, chemicals and proppant) into a well casing or tubing to cause the underground formation to fracture or crack. These fractures release trapped hydrocarbon particles and provide a conductive channel for the oil or natural gas to flow freely to the wellbore for collection. The propping agent, or proppant, typically sand, becomes lodged in the cracks created by the hydraulic fracturing process, “propping” them open to facilitate the flow of hydrocarbons from the reservoir to the well. The fracturing fluid is engineered to lose viscosity, or “break,” and is subsequently flowed back from the formation, leaving the proppant suspended in the formation fractures. Once our customer has flushed the fracturing fluids from the well using a controlled flow-back process, the customer manages fluid and water recycling or disposal.

Our hydraulic fracturing fleets consist of mobile hydraulic fracturing units and other auxiliary heavy equipment to perform fracturing services. Our hydraulic fracturing units consist primarily of high-pressure hydraulic pumps, engines, transmissions, radiators and other supporting equipment (including power generation units for electric fleets) that are typically mounted on trailers. We refer to the group of units and other equipment, such as blenders, data vans, sand storage, tractors, manifolds and high-pressure fracturing iron, which are necessary to perform a typical hydraulic fracturing job, as a “fleet,” and the personnel assigned to each fleet as a “crew.” The size of each fleet and crew can vary depending on the requirements of each job design.

Wireline operations supplement our hydraulic fracturing fleets, which consist of a truck equipped with a spool of wireline that is lowered into wells to convey specialized tools or equipment, such as perforating guns and charges, which are necessary to connect the wellbore with the target formation. This operation is performed between each hydraulic fracturing stage. Our wireline service is primarily offered alongside our hydraulic fracturing services, which allows us to maximize efficiency for our customers through optimized coordination of the wireline and hydraulic fracturing services. In addition, we also offer our wireline service on a stand-alone basis.

We also operate two sand mines that allows us to vertically integrate our supply-chain in the Permian Basin. The mines provide sand to Liberty hydraulic fracturing fleets as well as to third parties. With a secured supply of regional sand in the basin, we reduce our dependency on other providers and any downtime that could result from sand supply issues.

We are a leading provider of last-mile proppant delivery solutions, including proppant handling equipment and logistics software across North America. We offer innovative environmentally friendly technology with optimized dry and wet sand containers and wellsite proppant handling equipment that drive logistics efficiency and reduce noise and emissions. We believe that our wet sand handling technology is a key enabler of the next step of cost and emissions reductions in the proppant industry. We also offer customers the latest real-time logistics software, PropConnect™, as a hosted software as a service.

We also own and operate Liberty Power Innovations LLC (“LPI”), an integrated alternative fuel and power solutions provider for remote applications. On April 6, 2023, LPI expanded its footprint with the acquisition of Siren Energy & Logistics, LLC (“Siren” and such acquisition, the “Siren Acquisition”), a Permian focused integrated natural gas compression and CNG delivery business that we have since expanded to other basins. LPI provides CNG supply, field gas processing and treating, and well site fueling and logistics. LPI was formed with the initial focus on supporting Liberty’s transition towards our next generation digiFleets℠ and dual fuel fleets, by providing consistent and reliable CNG fueling services, which are critical to maintaining highly efficient well site operations. Through 2024, LPI was primarily focused on supporting an industry transition to natural gas fueled technologies, serving as a key enabler of the next step of cost and emissions reductions in the oilfield. In January 2025, we announced LPI’s expansion into the distributed power business, where we expect to leverage our experience in providing electric power for our digiFrac pumps into other areas inside and outside of the oilfield.

Our operations are organized into a single business segment, which consists of hydraulic fracturing services, including wireline, proppant delivery and goods, including our Permian Basin sand mines, and natural gas compression and delivery, and we have one reportable geographical segment, North America. We have grown from one active hydraulic fracturing fleet as of December 2011 to approximately 40 active fleets as of December 31, 2024. We are focused on providing “next-generation” frac fleets and technologies to assist our customers with completing their wells in an efficient and responsible manner.

Our founders and management are pioneers in the development of data-driven hydraulic fracturing technologies for application in shale plays. Prior to founding the Company, several members of the senior executive management team founded and built Pinnacle Technologies, Inc. (“Pinnacle Technologies”) into a leading fracturing technology company. In 1992, Pinnacle Technologies developed the first commercial hydraulic fracture mapping technologies, analytical tools that played a major role in launching the shale revolution. Our extensive experience with fracture technologies and customized fracture design has enabled us to develop new technologies and processes that provide our customers with real-time solutions that significantly enhance their completions. These technologies include hydraulic fracture propagation models, reservoir engineering tools, large, proprietary shale production databases and multi-variable statistical analysis techniques. Taken together, these technologies have enabled us to be a leader in hydraulic fracture design innovation and application. Our management team has an average of over 20 years of energy services experience.

We believe technical innovation and strong relationships with our customers and suppliers distinguish us from our competitors and are the foundations of our business. We expect that E&P companies will continue to focus on technological innovation as completion complexity and fracture intensity of horizontal wells increases, particularly as customers are increasingly focused on reducing emissions from their completions operations. We remain proactive in developing innovative solutions to industry challenges, including developing: (i) our databases of U.S. unconventional wells to which we apply our proprietary multi-variable statistical analysis technologies to provide differential insight into fracture design optimization; (ii) our Liberty Quiet Fleet® design which significantly reduces noise levels compared to conventional hydraulic fracturing fleets; (iii) hydraulic fracturing fluid systems tailored to the specific reservoir properties in the basins in which we operate; (iv) our dual fuel dynamic gas blending ("DGB") fleets that allow our engines to run diesel or a combination of diesel and natural gas, to optimize fuel use, reduce emissions and lower costs; (v) our digiFleets℠, comprising of digiFrac℠ and digiPrime℠ pumps and other complementary equipment, including power generation units (together "digiTechnologies℠"), our innovative, purpose-built electric and hybrid frac pumps that have approximately 25% lower CO_{2e} emission profile than the Tier IV DGB; (vi) our wet sand handling technology which eliminates the need to dry sand, enabling the deployment of mobile mines nearer to wellsites; and (vii) the launch of LPI to support the transition to our digiFleets as well as the transition to lower costs and emissions in the oilfield. In addition, our integrated supply chain includes proppant, chemicals, equipment, natural gas fueling services, logistics and integrated software which we believe promotes wellsite efficiency and leads to more pumping hours and higher productivity throughout the year to better service our customers. In order to achieve our technological objectives, we carefully manage our liquidity and debt position to promote operational flexibility and invest in the business throughout the full commodity cycle in the regions we operate.

Recent Leadership Updates

On February 3, 2025, Christopher A. Wright, our Chief Executive Officer and Chairman of the Board, was confirmed to the position of Secretary of Energy of the United States and resigned from his positions as Chairman of the Board, Director, and Chief Executive Officer of the Company. Also, on February 3, 2025, in accordance with the Company's succession plan, the Board appointed William Kimble as the non-executive Chairman of the Board and Ron Gusek as the Company's Chief Executive Officer and Director. Lastly, on January 22, 2025, the Board approved an increase to the size of the Board from nine to 10 directors and appointed Arjun Murti to fill the newly created vacancy.

Focused on Continuous Improvement

We support all energy sources that improve our energy system and better lives. We passionately work to better the process of bringing hydrocarbons to the surface in a clean, safe and efficient fashion and view these principles as foundational to our business. We focus on developing and adding technologies to our operations that assist our customers in implementing their goals. The list below sets forth specific examples of our efforts in this regard:

- In 2013, we introduced Tier II dual-fuel technology to our fleets which allows our frac pumps to use natural gas in place of some diesel fuel to lower particulate emissions.
- In 2014, we began the use of containerized sand delivery at frac locations, which reduces dust, noise and truck traffic.
- In 2016, we introduced Quiet Fleet® technology, which significantly reduces noise levels associated with frac operations.
- In 2018, we partnered with an equipment supplier to introduce Tier IV dynamic gas blending, or DGB, engines to our frac fleet that can substitute up to 80% of the diesel typically used by a frac pump with natural gas and significantly lower emission levels in frac operations. Tier IV DGB engines were added to our fleet in 2020.
- In 2018, we began the design and development of digiFrac℠, our innovative, purpose-built electric frac pump that has approximately a 25% lower CO_{2e} emission profile than the Tier IV DGB.
- In 2021, we announced the successful test of digiFrac and in 2022 commenced delivery of commercial pumps.
- In October 2021, we became a leading provider of last-mile proppant delivery solutions including proppant handling equipment and logistics software. We offer innovative, environmentally friendly technology with optimized dry and wet sand containers and wellsite proppant handling equipment that drive logistics efficiency and reduce noise and emissions.
- In 2022, we began the design and development of digiPrime℠, the first hybrid pump technology, utilizing direct mechanical drive for the pumps while simultaneously generating power capable of electrifying supporting equipment at the well site. These pumps have a lower CO_{2e} emissions profile than digiFrac.
- In 2023, we launched LPI and closed the acquisition of Siren. We believe that the shift in fuel consumption from diesel to cleaner natural gas has the potential to promote emissions reductions in the industry.
- In 2023, we commenced deployment of digiFleets℠, comprised of digiFrac and digiPrime pump technology along with other complementary equipment from our digiTechnologies℠ suite. This deployment also included mobile generation units to provide the needed electricity to power our digiFrac pumps in remote locations.
- In 2024, the Bettering Human Lives Foundation, a non-profit organization dedicated to improving the well-being of communities worldwide with an early focus on promoting clean cooking solutions, supported two companies in Kenya

and Ghana to convert schools from burning firewood to liquid petroleum gas. During 2024, we made charitable contributions of $0.9 million to the Bettering Human Lives Foundation.

- The third edition of Liberty's *Bettering Human Lives* report, emphasizing energy's central role in human lives, was released in February 2024. Over 30,000 copies of the report have been distributed worldwide to date.
- In January 2025, we announced LPI's expansion into the distributed power business, where we expect to leverage our experience in providing electric power for our digiFrac pumps into other areas inside and outside of the oilfield.

Furthermore, we are continuously committed to engagement in our communities. We provide K-12 scholarships to low-income children through Alliance for Choice in Education, and we proudly fund a Liberty Scholars program at Montana Technological University to enable lower-income students to obtain a college education. In total, over 100 students received Liberty scholarships across the U.S. and Canada in 2024. In addition to our educational initiatives, we have targeted outreach to organizations focused on veterans, poverty abatement, low-income housing, criminal justice reform, and job opportunities for those who had a disadvantaged start in life.

In 2024, we created a charitable giving committee to facilitate communication across all areas of Liberty operations and direct support to organizations where our employees live and work. In 2021, we launched Love, Liberty, our corporate matching program, to double our impact and encourage our employees to get involved in their communities. In 2024, Liberty processed over 200 match requests to nearly 50 different organizations, totaling nearly $40,000 in matching contributions.

Cyclical Nature of Industry

We operate in a cyclical industry reflecting global oil and gas supply and demand dynamics, current and expected future oil and gas commodity prices, and the perceived stability and sustainability of those prices. Global oil and gas supply and demand can be impacted by general domestic and international economic conditions, inflationary pressures, geopolitical developments, government regulations, and other factors. Such factors also impact capital expenditures and drilling and completions activities of E&P companies, which in turn can impact demand for our services. For these reasons, the results of our operations may fluctuate from quarter to quarter and from year to year, and these fluctuations may distort comparisons of results across periods.

Seasonality

Our results of operations have historically reflected seasonal tendencies relating to holiday seasons, inclement weather and the conclusion of our customers' annual drilling and completion capital expenditure budgets. Our most notable declines typically occur in the fourth quarter of the year for the reasons described above. Additionally, some of the areas in which we have operations, including Canada, the DJ Basin, Powder River Basin and Williston Basin, are adversely affected by seasonal weather conditions, primarily in the winter and spring. During periods of heavy snow, ice, rain, or frost, and related road restrictions, we may be unable to move our equipment between locations, thereby reducing our ability to provide services and generate revenues. The exploration activities of our customers may also be affected during such periods of adverse weather conditions. Additionally, extended drought conditions in our operating regions could impact our ability or our customers' ability to source sufficient water or increase the cost for such water.

Intellectual Property

Over the last several years and in connection with the acquisition of Siren, and others in prior periods, we have significantly invested in our research and technology capabilities. Our efforts to date have been focused on developing innovative, fit-for-purpose solutions designed to enhance our core service offerings, increase completion efficiencies, provide cost savings to our operations and add value for our customers. A cornerstone of our technological advantage is a series of proprietary databases of U.S. unconventional wells that include production data, completion designs and reservoir characteristics. We utilize these databases to perform multi-variable statistical analysis that generates differential insight into fracture design optimization to enhance our customers' production economics. Our emphasis on data analytics is also deployed during job execution through the use of real-time feedback on variables that maximizes customer returns by improving cost-effective hydraulic fracturing operations.

Today, we hold approximately 500 patents and patent licenses relating to our engineering and technology solutions. We seek patent and trademark protections for our technology when we deem it prudent, and we aggressively pursue protection of these rights when warranted. We believe our patents, trademarks, and other protections for our proprietary technologies are adequate for the conduct of our business and that no single patent or trademark is critical to our business. In addition, we rely, to a great extent, on the technical expertise and know-how of our personnel to maintain our competitive position, and we take commercially reasonable measures to protect trade secrets and other confidential and/or proprietary information relating to the technologies we develop.

Human Capital Management

As of December 31, 2024, we had approximately 5,700 employees and no unionized labor. We believe we have good relations with our employees and that one of our key competitive advantages is our people. Our highly trained, experienced and motivated employees are critical to delivering our hydraulic fracturing services. Taking care of our employees is one of our top priorities, and we continually invest in hiring, training and retaining the employees we believe to be the best in our field. We consistently assess the current business environment and labor market to refine our compensation and benefits programs in order to attract and retain top talent in our industry. We strive to promote from within our existing employee base to manage new hydraulic fracturing fleets and organically grow our operating expertise. This organic growth is essential in achieving the expertise and level of customer service we strive to provide each of our customers. As a result, we plan to continue to invest in our employees through both personal and professional training to attract and retain the best individuals in our areas of operation. Overall, we focus on individual contributions and team success to foster a culture built around operational excellence and superior safety.

Health and Safety

Our people are our most important asset and ensuring their safety and the safety of those around them is the most important thing we do. Making certain that the Liberty team is well trained to handle the complexities of daily field operations, and that their training and competency remains current with the latest technology and standards is a key component. In order to facilitate this training, we have developed the Liberty Frac Academy, a thorough program where employees are trained on various aspects of the Company, from safety in equipment operation to leadership skills. The Liberty Frac Academy not only ensures dissemination of high-quality training material, but also provides a forum for sharing best practices and lessons learned across the Company. As a result, we are among the safest service providers in the industry with a constant focus on Health, Safety and Environmental performance and service quality, as evidenced by an average incident rate that was consistently lower than the industry average from 2022 to 2024. Our employee-centered focus and reputation for safety has enabled us to obtain projects from industry leaders with some of the most demanding safety and operational requirements.

Programs and Benefits

One way we have demonstrated a history of investing in our workforce is by offering competitive salaries and wages. To foster a strong sense of ownership, restricted stock units are provided to eligible employees under our long-term incentive plan. Furthermore, we offer innovative benefits to all eligible employees, including, among others, comprehensive health insurance coverage, parental leave to all new parents, for birth or adoption, financial support for child adoption, leave to care for partners with serious health conditions, 401(k) savings plan and educational tuition assistance for both bachelor’s degree and master’s degree programs. We are also passionate about community investment and are a part of the Ban the Box initiative which provides work opportunities for formerly incarcerated individuals.

Governmental Regulation and Climate Change

As a company with operations primarily in the United States and Canada, we are subject to the laws of both jurisdictions in which we operate and the rules and regulations of various governing bodies, which may differ among those jurisdictions. Compliance with these laws, rules and regulations has not had, and is not expected to have, a material effect on our capital expenditures, results of operations and competitive position as compared to prior periods. We are also subject to numerous environmental and regulatory requirements related to our operations. For further information related to such regulation, see the risks described under the heading “Risk Factors” in this Annual Report.

Our operations are subject to numerous stringent and complex laws and regulations at the federal, state, and local levels governing the discharge of materials into the environment, environmental protection, and health and safety aspects of our operations. Failure to comply with these laws and regulations or to obtain or comply with permits may result in the assessment of administrative, civil, and criminal penalties, imposition of remedial or corrective action requirements, and the imposition of injunctions or other orders to prohibit certain activities, restrict certain operations, or force future compliance with environmental requirements.

There is inherent risk of incurring significant environmental costs and liabilities in the performance of our operations due to our handling of petroleum hydrocarbons, other hazardous substances, and wastes, as a result of air emissions and wastewater discharges related to our operations, and because of historical operations and waste disposal practices. Spills or other releases of regulated substances, including such spills and releases that occur in the future, could expose us to material losses, expenditures, and liabilities under applicable environmental laws and regulations. Under certain of such laws and regulations, we could be held strictly liable for the removal or remediation of previously released materials or property contamination, regardless of whether we were responsible for the release or contamination and even if our operations met previous standards in the industry at the time they were conducted. The following is a summary of some of the existing laws, rules, and regulations to which we are subject.

U.S. Laws and Regulations

Hazardous Substances and Waste Handling

The Resource Conservation and Recovery Act ("RCRA") and comparable state statutes regulate the generation, transportation, treatment, storage, disposal, and cleanup of hazardous and non-hazardous wastes. Under guidance issued by the U.S. Environmental Protection Agency (the "EPA"), the individual states administer some or all of the provisions of RCRA, sometimes in conjunction with their own, more stringent requirements. RCRA currently exempts many E&P wastes from classification as hazardous waste. Specifically, RCRA excludes produced waters and other wastes intrinsically associated with the exploration, development, or production of crude oil and natural gas from the definition of hazardous waste. However, these E&P wastes may still be regulated under state solid waste laws and regulations, and it is possible that certain oil and natural gas E&P wastes now classified as non-hazardous could be classified as hazardous waste in the future. Stricter regulation of wastes generated during our or our customers' operations could result in increased costs for our operations or the operations of our customers, which could in turn reduce demand for our services and adversely affect our business. We cannot guarantee that the EPA will not revisit the exemption of E&P waste or that waste will not become more heavily regulated at the federal or state level.

Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), also known as the Superfund law, imposes joint and several liability, without regard to fault or legality of conduct, on classes of persons who are considered to be responsible for the release of a hazardous substance into the environment. These persons include the current and former owner or operator of the site where the release occurred and anyone who transported or disposed or arranged for the transport or disposal of a hazardous substance released at the site. Persons who are or were responsible for releases of hazardous substances under CERCLA and any state analogs may be subject to joint and several strict liability for the costs of cleaning up the hazardous substances that have been released into the environment and for damages to natural resources and for the costs of certain health studies. We currently own, lease, or operate, and previously owned, leased, or operated numerous properties that have been used for manufacturing and other operations for many years. These properties and the substances disposed or released on them may be subject to CERCLA and analogous state laws. Under such laws, we could be required to remove previously disposed substances and wastes, remediate contaminated property, or perform remedial operations to prevent future contamination. In addition, it is not uncommon for neighboring landowners and other third parties to file claims for personal injury and property damage allegedly caused by the hazardous substances released into the environment.

Worker Health and Safety

We are subject to a number of federal and state laws and regulations, including the OSHA regulatory standards, which establish requirements to protect the health and safety of workers. Among others, we may be subject to OSHA regulations for safe operation of cranes, power industrial trucks and similar equipment at our worksites, safe practices for working in hazardous locations and permit-required confined spaces, and proper use of required personal protective equipment by workers. OSHA's hazard communication standard requires tracking of hazardous chemicals present at the worksite, sharing of such information with the workers, and training the workers to handle the chemicals appropriately. The EPA's community right-to-know regulations under Title III of the federal Superfund Amendment and Reauthorization Act, and comparable state statutes also require maintenance of information about hazardous materials used or produced in operations and provision of this information to employees, state and local government authorities, and citizens. We are also subject to OSHA's regulatory standard for respirable crystalline silica, which provides measures to protect workers in hydraulic fracturing operations from exposure to this chemical including limiting exposure to airborne respirable crystalline silica in excess of a specified limit. Additionally, the Federal Motor Carrier Safety Administration (the "FMCSA") regulates and provides safety oversight of commercial motor vehicles, the EPA establishes requirements to protect human health and the environment, the federal Bureau of Alcohol, Tobacco, Firearms and Explosives establishes requirements for the safe use and storage of explosives, and the federal Nuclear Regulatory Commission establishes requirements for the protection against ionizing radiation. We are subject to Mine Safety & Health Administration regulations related to operation of sand mines including regulations for training and retraining of workers engaged in sand mine operations. Substantial fines and penalties can be imposed, and orders or injunctions limiting or prohibiting certain operations may be issued, in connection with any failure to comply with these laws and regulations.

Water Discharges

The federal Water Pollution Control Act (the "Clean Water Act") and analogous state laws impose restrictions and strict controls with respect to the discharge of pollutants, including spills and leaks of oil and other substances, into waters of the U.S. The discharge of pollutants into regulated waters, including jurisdictional wetlands, is prohibited, except in accordance with the terms of a permit issued by the EPA or an analogous state agency. To the extent the agencies expanding the range of properties subject to the Clean Water Act's jurisdiction or impose more stringent requirements on discharges of wastewater, certain energy companies could face increased costs and delays with respect to obtaining permits, including for the discharge of dredge and fill activities in waters of the U.S. or wetland areas, which in turn could reduce demand for our services. Furthermore, the process for obtaining permits has the potential to delay our operations and those of our customers. Spill prevention, control, and countermeasure requirements of federal laws require appropriate containment berms and similar structures to help prevent the contamination of navigable waters by a petroleum hydrocarbon tank spill, rupture, or leak. In addition, the Clean Water Act and analogous state laws require individual permits or coverage under general permits for discharges of wastewater and storm water runoff from certain types of facilities. The Clean Water Act and analogous state laws provide for administrative, civil, and criminal penalties for unauthorized discharges and, together with the Oil Pollution Act of 1990, impose rigorous requirements for spill prevention and response planning, as well as substantial potential liability for the costs of removal, remediation, and damages in connection with any unauthorized discharges.

Air Emissions

The federal Clean Air Act (the "CAA") and comparable state laws regulate emissions of various air pollutants through air emissions permitting programs and the imposition of other requirements. In addition, the EPA has developed, and continues to develop, stringent regulations governing emissions of toxic air pollutants and other air emissions at specified sources. These regulations change frequently. These laws and regulations may require us to obtain pre-approval for the construction or modification of certain projects or facilities expected to produce or significantly increase air emissions, obtain and strictly comply with stringent air permit requirements, utilize specific equipment or technologies to control emissions of certain pollutants or prohibit certain types of emissions management practices. In recent years, the CAA has been used to impose additional stringent requirements upon oil and gas production operations. While many of these rules may not be directly applicable to our business, they are applicable to the business of our customers. Promulgation of stricter permitting or emission control requirements could delay or impair our or our customers' ability to obtain air emission permits, to develop new wells and to continue to operate existing wells, and result in fewer wells being drilled or redeveloped, causing a decrease in demand for our services. Federal and state regulatory agencies can impose administrative, civil, and criminal penalties, as well as injunctive relief, for non-compliance with air permits or other requirements of the CAA and associated state laws and regulations.

Climate Change

The EPA has determined that emissions of greenhouse gases, including carbon dioxide and methane, present a danger to public health and the environment because emissions of such gases are, according to the EPA, contributing to warming of the Earth's atmosphere and other climatic changes. The EPA has established greenhouse gas emissions reporting requirements for sources in the oil and gas sector and has also promulgated rules requiring certain large stationary sources of greenhouse gases to obtain preconstruction permits under the CAA and follow "best available control technology" requirements. Although we are not likely to become subject to greenhouse gas emissions permitting and best available control technology requirements because none of our facilities are presently major sources of greenhouse gas emissions, such requirements could become applicable to our customers. In addition, the EPA has used the CAA to impose additional greenhouse gas emissions control requirements upon our customers. Furthermore, the Inflation Reduction Act ("IRA 2022") imposes a methane emissions charge on certain emissions from specific classes of sources that are required to report their greenhouse gas emissions, which began in calendar year 2024. This fee as well as additional requirements on greenhouse gas emissions from our customers could have an adverse effect on their costs of operations or financial performance, thereby adversely affecting our business, financial condition, and results of operations. Also, the U.S. Congress has from time to time considered adopting legislation to reduce emissions of greenhouse gases, and many states have already established regional greenhouse gas "cap-and-trade" programs. The adoption of any legislation or regulation that restricts emissions of greenhouse gases from the equipment and operations of our customers or with respect to the oil and natural gas they produce could adversely affect demand for our products and services.

Hydraulic Fracturing

Our business is clearly dependent on hydraulic fracturing and horizontal drilling activities. As further described herein, hydraulic fracturing is an important and common practice that is used to stimulate production of hydrocarbons, particularly natural gas, from tight formations, including shale. The process, which involves the injection of water, sand, and chemicals under pressure into formations to fracture the surrounding rock and stimulate production, is typically regulated by state oil and natural gas commissions. However, federal agencies have asserted regulatory authority over certain aspects of the process. There is considerable legislative and regulatory focus on the emissions of methane, which may be released during hydraulic fracturing, chemicals used in the hydraulic fracturing process, the discharge of wastewater from hydraulic fracturing operations and concerns about the triggering of seismic activity by the injection of produced waters into underground wells. The adoption of new or revised legislation or regulation could make it significantly more difficult and/or costly to drill and operate oil and gas wells. If adopted, such legislation or regulation could result in a decline in the completion of new oil and gas wells or the recompletion of existing wells, which could negatively impact the drilling programs of our customers and, consequently, delay, limit or reduce the demand for our services. Given the long-term trend towards increasing regulation, future regulation in the industry remains a possibility.

Some states, counties, and municipalities have enacted or are considering moratoria on hydraulic fracturing. For example, New York, Vermont, Maryland, and Washington have banned the use of high-volume hydraulic fracturing. Alternatively, some municipalities are, or have considered, zoning and other ordinances, the conditions of which could impose a de facto ban on drilling and/or hydraulic fracturing operations. Further, some states, counties, and municipalities are closely examining water use issues, such as permit and disposal options for processed water, which could have a material adverse impact on our financial condition, prospects, and results of operations if such additional permitting requirements are imposed upon our industry. If new laws or regulations that significantly restrict hydraulic fracturing are adopted, such laws could reduce demand for our business by making it more difficult or costly for certain customers to perform fracturing to stimulate production from tight formations.

National Environmental Policy Act

Businesses and operations of our customers that are carried out on federal lands may be subject to the National Environmental Policy Act (“NEPA”), which requires federal agencies, including the U.S. Department of the Interior, to evaluate major agency actions having the potential to significantly impact the human environment. In the course of such evaluations, an agency will evaluate the potential direct, indirect, and cumulative impacts of a proposed project and, if necessary, will prepare a detailed Environmental Impact Statement that must be made available for public review and comment. To the extent that our customers’ current activities, as well as proposed plans, on federal lands require governmental permits that are subject to the requirements of NEPA, this process has the potential to delay or impose additional conditions upon the development of oil and natural gas projects which in turn could reduce demand for our services.

Endangered Species Act and Migratory Bird Treaty Act

The federal Endangered Species Act (“ESA”) was established to protect endangered and threatened species. Pursuant to that act, if a species is listed as threatened or endangered, restrictions may be imposed on activities adversely affecting that species or its habitat. The U.S. Fish and Wildlife Service (the “FWS”) must also designate the species’ critical habitat and suitable habitat as part of the effort to ensure survival of the species. A critical habitat or suitable habitat designation could result in further material restrictions to land use and may materially delay or prohibit land access for oil and natural gas development and development of sand mines used for hydraulic fracturing. Similar protections are offered to migratory birds under the Migratory Bird Treaty Act (the “MBTA”), which makes it illegal to, among other things, hunt, capture, kill, possess, sell, or purchase migratory birds, nests, or eggs without a permit. This prohibition covers most bird species in the U.S. Future implementation of the rules implementing the ESA and the MBTA are uncertain. If we or our customers were to have areas within our respective operations designated as critical or suitable habitat for a protected species, it could decrease demand for our services and have a material adverse effect on our business.

Canadian Laws and Regulations

Companies such as us offering energy services that include hydraulic fracturing, engineering, and wireline services in the Provinces of Alberta and British Columbia in Canada are regulated by both the provincial governments of Alberta and British Columbia (“Province”) and the federal government of Canada (“Canada”). This includes, but is not limited to, regulation related to environmental protection legislation, climate change legislation, fracking legislation, and legislation related to wildlife. In addition to being regulated by the Province and Canada, energy services companies may also be subject to other international, national, and subnational laws, regulations, and policies.

Provincial Legislation

Energy services companies are primarily regulated by provincial governments in Canada. For example, in Alberta, provincial legislation potentially applicable to our Canadian operations includes the *Environmental Protection and*

Enhancement Act, RSA 2000, e E-12. This Act promotes the protection, enhancement and wise use of the environment, and deals with matters such as air emissions, water discharges, and the handling of hazardous substances and waste control (for example, under the *Waste Control Regulation*, Alta Reg 192/1996). Other environmental legislation in the Province that applies to energy service companies includes: the *Water Act,* RSA 2000, c W-3 and associated regulations, under which companies must apply for a license for any water use; and the *Wildlife Act,* RSA 2000, c W-10 which provides for the protection and conservation of wild animals and endangered species in Alberta.

Other potentially applicable provincial legislation in Alberta includes legislation directed at the transportation of dangerous goods, including oil (the *Dangerous Goods Transportation and Handling Act*, RSA 2000, c D-4 and associated regulations), legislation intended to provide for the responsible management of oil wells and associated sites, including remediation responsibilities (the *Oil and Gas Conservation Act*, RSA 2000, c O-6 and associated regulations), legislation establishing regulatory bodies overseeing oil and gas and electricity in Alberta (the *Responsible Energy Development Act*, SA 2012, c R-17.3 and the *Alberta Utilities Commission Act*, SA 2007, c A-37.2), legislation governing the removal of gas or propane from Alberta (the *Gas Resources Preservation Act*, RSA 2000, c G-4), legislation to effect conservation and prevent waste of the oil sands resource in Alberta (the *Oil Sands Conservation Act*, RSA 2000, c O-7), and legislation governing worker safety (the *Occupational Health and Safety Act*, SA 2017, c O-2.1).

The Alberta Energy Regulator has a number of directives that are applicable to energy services companies, such as Directive 050, updated in November 2024, which addresses salinity ranges for soils that can receive drilling wastes, Directive 058, updated in October 2022, which sets out regulatory requirements for the handling, treatment, and disposal of upstream oilfield waste, and Directive 083, updated in November 2024, which sets out the requirements for managing subsurface integrity associated with hydraulic fracturing, including seismic monitoring in certain areas of Alberta. Other provinces in Canada have their own statutory regime applicable to oilfield service companies.

Federal Legislation

The Federal government in Canada shares certain jurisdiction with the provinces over certain environmental matters. Federal legislation potentially applicable to our Canadian operations includes legislation focused on regulating greenhouse gases (the *Greenhouse Gas Pollution Pricing Act*, SC 2018, c 12, s 186), legislation aimed at protecting wildlife (the *Species at Risk Act*, SC 2002, c 29, *Fisheries Act,* RSC 1985, c F-14, and *Migratory Birds Convention Act, 1994,* SC 1994, c 22), and legislation governing the transportation of potentially dangerous substances and prevention of pollution (the *Transportation of Dangerous Goods Act, 1992*, SC 1992, c 34 and *Canadian Environmental Protection Act, 1999,* SC 1999, c 33).

Environmental assessment of major projects in Canada is shared between the federal and provincial governments. The federal environmental assessment legislation, the *Impact Assessment Act*, SC 2019, c 28, s1, governs approvals for federally regulated projects and was amended in June 2024.

Properties

Properties

Our corporate headquarters are located at 950 17th Street, Suite 2400, Denver, Colorado 80202. We lease our general office space at our corporate headquarters. The lease expires in December 2027. We currently own or lease the following additional principal properties:

District Facility Location	Size	Leased or Owned
Midland, TX	90,000 sq. ft on 35 acres	Owned
Midland, TX	70,000 sq. ft on 12 acres	Owned
Midland, TX	14,000 sq. ft on 22 acres	Owned
Odessa, TX	77,500 sq. ft on 48 acres	Owned
Cibolo, TX	90,000 sq. ft on 34 acres	Owned
Kermit, TX	5,000 acres	Owned
Monahans, TX	3,200 acres	Owned
Magnolia, TX	63,350 sq. ft	Leased (through May 31, 2031)
Magnolia, TX	29,402 sq. ft	Leased (through December 31, 2026)
Orla, TX	4 acres	Leased
Shreveport, LA	215,000 sq ft. on 45 acres	Owned
Cheyenne, WY	115,000 sq. ft on 60 acres	Owned
Henderson, CO	50,000 sq. ft on 13 acres	Leased (through December 31, 2034)
Henderson, CO	96,582 sq. ft on 12 acres	Owned
Briggsdale, CO	7 acres	Leased
Williston, ND	55,000 sq. ft on 50 acres	Owned
Vernal, UT	30,901 sq. ft on 10 acres	Leased (through September 30, 2025)
El Reno, OK	80,000 sq. ft on 33 acres	Owned
Red Deer, AB	170,000 sq. ft on 42 acres	Owned
Grand Prairie, AB	135,000 sq. ft on 40 acres	Owned

We also lease several smaller facilities, which leases generally have terms of one to six years. We believe that our existing facilities are adequate for our operations and their locations allow us to efficiently serve our customers. We do not believe that any single facility is material to our operations and, if necessary, we could readily obtain a replacement facility.

Marketing and Customers

We have developed long-term partnerships with our customers through a continuous dialogue focused on their production economics. Further, we have a proven track record of executing our customers' plans and delivering on time and in line with expected costs. Our customer base includes a broad range of integrated and independent E&P companies, including some of the largest E&P companies in our areas of operation. Our technological innovations, customer-tailored approach and track record of consistently providing high-quality, safe and reliable service has allowed us to develop long-term customer partnerships, which we believe makes us the service provider of choice for many of our customers.

Our sales and marketing activities typically are performed through our local sales representatives in each geographic region and are supported by our corporate headquarters. For the years ended December 31, 2024, 2023 and 2022, our top five customers collectively accounted for approximately 43%, 34%, and 30% of our revenues, respectively. For the year ended December 31, 2024, Occidental Petroleum Corporation accounted for more than 10% of consolidated revenues. For the years ended December 31, 2023, and 2022, no customers accounted for more than 10% of consolidated revenues.

Suppliers and Raw Materials

We have a dedicated supply chain team that manages sourcing and logistics to ensure flexibility and continuity of supply in a cost-effective manner across our areas of operation. We have built long-term relationships with multiple industry leading suppliers of proppant, chemicals and hydraulic fracturing equipment and have started to internally design and assemble key pump and maintenance parts. In addition, we have built a strong relationship with the assemblers of our custom-designed hydraulic fracturing fleets and believe we will continue to have timely access to new, high capability fleets as we continue to grow. In 2018, we vertically integrated a supplier of certain major components through the acquisition of ST9 Gas and Oil LLC, which subsequently changed its name to Liberty Advanced Equipment Technologies LLC, and now provides engineering design and packaging for certain equipment used in our operations. In October 2021, we vertically integrated a supplier of our containerized sand and last mile proppant logistics solutions with the acquisition of Proppant Express Solutions LLC. This, along with our two state-of-the-art sand mines in the Permian Basin, help us alleviate the risk of proppant supply shortages.

We purchase a wide variety of raw materials, parts and components that are manufactured and supplied for our operations. We are not dependent on any single source of supply for those parts, supplies or materials. To date, we have generally been able to obtain the equipment, parts and supplies necessary to support our operations, although we have experienced delivery delays and shortages on some items. While we believe that we will be able to make satisfactory alternative arrangements in the event of any interruption in the supply of these materials and/or products by one of our suppliers, we may not always be able to do so. In addition, certain materials for which we do not currently have long-term supply agreements could experience shortages and significant price increases in the future. As a result, we may be unable to mitigate any future supply shortages and our results of operations, prospects and financial condition could be adversely affected.

Competition

The markets in which we operate are highly competitive. We provide services in various geographic regions across the United States and Canada, and our competitors include many large and small oilfield service providers, including some of the largest integrated service companies. Our hydraulic fracturing services compete with large, integrated companies such as Halliburton Company as well as other companies including Patterson-UTI Energy Inc. and ProFrac Holding Corp. In addition, we compete regionally with ProPetro Services, Inc. and other smaller service providers.

We believe that the principal competitive factors in the markets we serve are technical expertise, equipment capacity, work force competency, efficiency, safety record, reputation, experience and price. Additionally, projects are often awarded on a bid basis, which tends to create a highly competitive environment. We seek to differentiate ourselves from our competitors by delivering the highest-quality services and equipment possible, coupled with superior execution and operating efficiency in a safe working environment.

Available Information

We file or furnish annual, quarterly and current reports, proxy statements and other documents with the SEC under the Exchange Act. The SEC also maintains an internet website at www.sec.gov that contains reports, proxy and information statements and other information regarding issuers, including us, that file electronically with the SEC.

We also make available free of charge through our website, www.libertyenergy.com, electronic copies of certain documents that we file with the SEC, including our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act as soon as reasonably practicable after we electronically file such material with, or furnish it to, the SEC.

Item 1A. Risk Factors

Described below are certain risks that we believe apply to our business and the industry in which we operate. You should carefully consider each of the risks described below in conjunction with other information including the financial statements and related notes provided in this Annual Report and in our other public disclosures. The risks described below highlight potential events, trends or other circumstances that could adversely affect our business, financial condition, results of operations, cash flows, liquidity or access to sources of financing, and consequently, the market value of our Class A common stock, par value $0.01 per share ("Class A Common Stock"). These risks could cause our future results to differ materially from historical results and from guidance we may provide regarding our expectations of future financial performance. The risks described below are those that we have identified as material and is not an exhaustive list of all the risks we face. There may be other risks and uncertainties not currently known to us or that we currently deem to be immaterial which may also materially and adversely affect our business operations in the future. Please refer to the explanation of the qualifications and limitation on forward-looking statements set forth on page ii hereof.

Risks Related to the Oil and Natural Gas Industry

Federal, state, local and other applicable legislative and regulatory initiatives relating to hydraulic fracturing may serve to limit future oil and natural gas E&P activities and could have a material adverse effect on our results of operations and business.

Various federal, state, local and other applicable legislative and regulatory initiatives have been, or could be undertaken which could result in additional requirements or restrictions being imposed on hydraulic fracturing operations. Currently, hydraulic fracturing is generally exempt from federal regulation under the Safe Drinking Water Act Underground Injection Control (the "SDWA UIC") program and is typically regulated by state oil and gas commissions or similar agencies but increased scrutiny and regulation by federal agencies does occur. For example, in late 2016, the EPA released a final report on the potential impacts of hydraulic fracturing on drinking water resources, concluding that "water cycle" activities associated with hydraulic fracturing may impact drinking water resources. Additionally, the EPA has asserted regulatory authority pursuant to the SDWA UIC program over hydraulic fracturing activities involving the use of diesel fuel in the fracturing fluid and issued guidance regarding the permitting of such activities. Furthermore, the U.S. Bureau of Land Management has previously published rules that established stringent standards relating to hydraulic fracturing on federal and Native American lands. Similarly, the EPA has adopted rules on the capture of methane and other emissions released during hydraulic fracturing. These rules have been the subject of ongoing legal challenges. In recent years, the EPA has enacted additional methane rules for new and existing petroleum operations. The EPA rules could make it more difficult and/or costly to drill and operate oil and gas wells. These rules may result in a decline in the completion of new oil and gas wells or the recompletion of existing wells, which could negatively impact the drilling programs of our customers and, consequently, delay, limit or reduce the demand for our services. In addition to federal regulatory actions, legislation has been introduced, but not enacted, in Congress to provide for further federal regulation of hydraulic fracturing and to require disclosure of the chemicals used in the hydraulic fracturing process.

Moreover, many states and local governments have adopted, or are considering, regulations that impose new or more stringent permitting, disclosure, disposal and well-construction requirements on hydraulic fracturing operations, including states where we or our customers operate, such as Texas, Colorado and North Dakota. States could also elect to place prohibitions on hydraulic fracturing, as several states have already done. In addition, some states have adopted broader sets of requirements related to oil and gas development more generally that could impact hydraulic fracturing activities. For example, the Colorado legislature adopted SB 19-181, which gave greater regulatory authority to local jurisdictions and reoriented the mandate of the Colorado Oil and Gas Conservation Commission to place more emphasis on the protection of human health and the environment. In response, a reconstituted Colorado Oil and Gas Conservation Commission modified its rules to address the requirements of the legislation, adopting increased setback requirements, provisions for assessing alternative sites for well pads to minimize environmental impacts, and consideration to cumulative impacts, among other provisions. The Colorado Department of Public Health and the Environment also finalized rules related to the control of emissions from certain pre-production activities. In Texas, there has been increased pressure on the Railroad Commission ("RRC") to impose more stringent limitations on the flaring of gas from wells to prevent waste and because of increased concerns related to the environmental effects of flaring. The RRC continues to approve flaring permits, but at least one lawsuit was filed by a pipeline operator challenging the RRC's flaring approval practices, but the suit was subsequently dismissed without any substantive opinion on the issue of flaring. Environmental groups, local citizens groups and others continue to seek to use a variety of means to force action on additional restrictions on hydraulic fracturing and oil and gas development generally.

Additionally, some states have enacted legislation limiting PFAS usage in certain products or limiting PFAS usage generally. For example, Colorado has banned the use of PFAS in oil and gas products including hydraulic fracturing fluids, drilling fluids and proppants. Should PFAS be in hydraulic fracturing chemicals, this could open up a new front for the regulation of hydraulic fracturing and result in additional exposure to liability for contamination resulting from the use or release of hydraulic fracturing chemicals. Additionally, various regulatory actions have been taken with respect to PFAS, including listing of certain PFAS as hazardous substances under CERCLA, that may result in additional exposure to liability for contamination resulting from the use or release of these chemicals.

Some states in which we operate require the disclosure of some or all of the chemicals used in our hydraulic fracturing operations. Certain aspects of one or more of these chemicals may be considered proprietary by us or our chemical suppliers. Disclosure of our proprietary chemical information to third parties or to the public, even if inadvertent, could diminish the value of our trade secrets or those of the chemicals suppliers and could result in competitive harm to us, which could have an adverse impact on our business, financial condition, prospects and results of operations.

In recent years, there have been allegations that hydraulic fracturing may result in seismic activities. Although the extent of any correlation between hydraulic fracturing and seismic activity has been and remains the subject of studies and debate, some parties believe that there is a causal relationship. As a result, federal and state legislatures and agencies may seek to further regulate, restrict or prohibit hydraulic fracturing. Such actions could result in a decline in the completion of new oil and gas wells, which could negatively impact the drilling programs of our customers and, consequently, delay, limit or reduce the demand for our services.

Increased regulation and attention given to the hydraulic fracturing process could lead to greater opposition to, and litigation concerning, oil and natural gas production activities using hydraulic fracturing techniques. Additional legislation or regulation could also lead to operational delays for our customers or increased operating costs in the production of oil and natural gas, including from the developing shale plays, or could make it more difficult for (or could result in a prohibition for) us and our customers to perform hydraulic fracturing. The adoption of any additional laws or regulations regarding hydraulic fracturing or limitation in hydraulic fracturing could potentially cause a decrease in the completion of new oil and natural gas wells and an associated decrease in demand for our services and increased compliance costs and time. Such events could have a material adverse effect on our liquidity, consolidated results of operations, and consolidated financial condition.

Additional legislation, executive actions, regulations or other regulatory initiatives to limit, delay or prohibit hydraulic fracturing or other aspects of oil and gas development may be pursued. In the event that these or other new federal restrictions, delays or prohibitions relating to the hydraulic fracturing process are adopted in areas where we or our customers conduct business, we or our customers may incur additional costs or permitting requirements to comply with such federal requirements that may be significant and, in the case of our customers, also could result in added restrictions or delays in the pursuit of exploration, development, or production activities, which would in turn reduce the demand for our services and have a material adverse effect on our results of operations.

Federal legislation and regulatory initiatives relating to drilling on federal lands could harm our business and negatively impact the oil and natural gas industry.

Businesses and operations of our customers may be carried out on federal lands. As an example, in January 2021, based on a directive from President Biden, the U.S. Department of the Interior issued an order that effectively suspended new oil and gas leases and drilling permits on non-Indian federal lands and waters for a period of 60 days. However, the suspension did not limit existing operations under valid leases.

President Biden followed with an executive order directing the Secretary of the Interior to pause the issuance of new oil and gas leases on federal public lands and offshore waters pending completion of a comprehensive review of federal oil and gas permitting and leasing practices that take into consideration potential climate and other impacts associated with oil and gas activities. The leasing suspension was the subject of several lawsuits, resulting in conflicting decisions on the legality of the lease suspension. While the various lawsuits were pending, in August 2022, Congress passed the IRA 2022 which, among other things, made changes to the federal oil and gas leasing program (including increasing royalty rates and implementing policies to discourage venting and flaring) and require several oil and gas lease auctions, including some that had been suspended or cancelled.

Additionally, in November 2021, the U.S. Department of the Interior released a report on the federal oil and gas leasing program, which found that the then current program failed to serve the public interest. The report made several recommendations, including increasing royalty rates and adding new restrictions on what lands are made available for oil and gas development to minimize leasing of lands with low potential for development. The U.S. Department of the Interior promulgated rules in 2024 based on the recommendations. In April 2022, the U.S. Department of the Interior also announced that the U.S. Bureau of Land Management would post notices for significantly reformed onshore lease sales that would promote the public interest in public lands while addressing deficiencies in the current federal oil and gas leasing program. The new lease sales will incorporate many of the recommendations in the U.S. Department of the Interior report on the federal leasing program. Such scheduled sales began in June 2022.

Furthermore, a group of oil and gas related interests has also sued alleging that lease sales are not occurring as required under the Mineral Leasing Act. In addition, where lease sales have occurred, environmental groups have sued to block the sales. On June 1, 2022, the U.S. District Court for the District of Columbia granted a motion to voluntarily dismiss three cases after the U.S. Bureau of Land Management and other defendants agreed to conduct more robust environmental reviews of certain oil and gas leases and reconsider the cumulative climate effects of these leases. The settlement agreements apply to nearly four million acres of land in Colorado, Wyoming, Utah, Montana, and New Mexico. If the U.S. Bureau of Land Management fails to complete its obligations under the settlement agreements, the plaintiffs can reinstate the litigation.

To the extent our customers operate on leased federal land, these and other regulatory actions could have a material adverse effect on the Company and our industry.

Our business depends on domestic capital spending by the oil and natural gas industry, and reductions in capital spending could have a material adverse effect on our liquidity, results of operations and financial condition.

Our business is directly affected by our customers' capital spending to explore for, develop and produce oil and natural gas in the United States and Canada. In addition, certain of our customers could become unable to pay their vendors and service providers, including us, as a result of a decline in commodity prices. Reduced discovery rates of new oil and natural gas reserves in our areas of operation as a result of decreased capital spending may also have a negative long-term impact on our business, even in an environment of stronger oil and natural gas prices. Any of these conditions or events could adversely affect our operating results. If current activity levels decrease or our customers further reduce their capital spending, it could have a material adverse effect on our liquidity, results of operations and financial condition.

Industry conditions are influenced by numerous factors over which we have no control, including:

- expected economic returns to E&P companies of new well completions;
- domestic and foreign economic conditions and supply of and demand for oil and natural gas;
- the level of prices, and expectations about future prices, of oil and natural gas;
- the level of global oil and natural gas exploration and production;
- the level of domestic and global oil and natural gas inventories;
- the supply of and demand for hydraulic fracturing services and equipment in the United States and Canada;
- federal, tribal, state and local laws, regulations and taxes, including the policies of governments regarding hydraulic fracturing, oil and natural gas exploration, development and production activities and the transportation of oil and gas by pipeline, as well as non-U.S. governmental regulations and taxes;
- governmental regulations, including the policies of governments regarding the exploration for and production and development of their oil and natural gas reserves;
- political and economic conditions in oil and natural gas producing countries;
- actions by the members of the Organization of Petroleum Exporting Countries and other oil exporting nations (“OPEC+”) with respect to oil production levels and potential changes in such levels;
- global weather conditions and natural disasters;
- worldwide political, military and armed conflict, and economic conditions;
- the cost of producing and delivering oil and natural gas;
- lead times associated with acquiring equipment and products and availability of qualified personnel;
- the discovery rates of new oil and natural gas reserves;
- the production decline rate of existing oil and gas wells;
- stockholder activism or activities by non-governmental organizations to limit certain sources of funding for the energy sector or to restrict the exploration, development, production and transportation of oil and natural gas;
- the availability of water resources, suitable proppant and chemical additives in sufficient quantities for use in hydraulic fracturing fluids;
- advances in exploration, development and production technologies or in technologies affecting energy consumption;
- the availability, proximity and capacity of oil and natural gas pipelines and other transportation facilities;
- merger and divestiture activity among oil and natural gas producers;
- the price and availability of alternative fuels and energy sources; and
- uncertainty in capital and commodities markets and the ability of oil and natural gas companies to raise equity capital and debt financing.

The volatility of oil and natural gas prices may adversely affect the demand for our hydraulic fracturing services and negatively impact our results of operations.

The demand for our hydraulic fracturing services is primarily determined by current and anticipated oil and natural gas prices and the related levels of capital spending and drilling activity in the areas in which we have operations. Volatility or weakness in oil prices or natural gas prices (or the perception that oil prices or natural gas prices will decrease) affects the spending patterns of our customers and may result in the drilling of fewer new wells. This, in turn, could lead to lower demand for our services and may cause lower utilization of our assets. We have experienced, and may in the future experience significant fluctuations in operating results as a result of the reactions of our customers to changes in oil and natural gas prices.

Prices for oil and natural gas historically have been volatile and are expected to continue to be volatile. During the year 2024, the posted WTI price traded at an average of $76.63 per barrel (“Bbl”), as compared to the 2023 average of $77.58 per

Bbl and the 2022 average of $94.90 per Bbl. During this three-year period, the WTI price fluctuated between a high of $123.64 per Bbl and a low of $66.61 per Bbl. If the prices of oil and natural gas remain or become more volatile, our operations, financial condition, cash flows and level of expenditures may be materially and adversely affected.

Delays or restrictions in obtaining permits by us for our operations or by our customers for their operations could impair our business.

In most states, our hydraulic fracturing services, our natural gas compression and CNG delivery operations, and the operations of our oil and natural gas producing customers require permits from one or more governmental agencies in order to perform drilling and completion activities, secure water rights, or other regulated activities. Such permits are typically issued by state agencies, but federal and local governmental permits may also be required. The requirements for such permits vary depending on the location where such regulated activities will be conducted. As with all governmental permitting processes, there is a degree of uncertainty as to whether a permit will be granted, the time it will take for a permit to be issued, and the conditions that may be imposed in connection with the granting of the permit. In addition, some of our customers' drilling and completion activities may take place on federal land or Native American lands, requiring leases and other approvals from the federal government or Native American tribes to conduct such drilling and completion activities or other regulated activities. Under certain circumstances, federal agencies may cancel proposed leases for federal lands and refuse to grant or delay required approvals. Therefore, our customers' operations in certain areas may be interrupted or suspended for varying lengths of time, causing a loss of revenue to us and adversely affecting our results of operations in support of those customers.

Oil and natural gas companies' operations using hydraulic fracturing are substantially dependent on the availability of water. Restrictions on the ability to obtain water for E&P activities and the disposal of flowback and produced water may impact their operations and have a corresponding adverse effect on our business, results of operations and financial condition.

Water is an essential component of shale oil and natural gas production during both the drilling and hydraulic fracturing processes. Our oil and natural gas producing customers' access to water to be used in these processes may be adversely affected due to reasons such as periods of extended drought, privatization, third party competition for water in localized areas or the implementation of local or state governmental programs to monitor or restrict the beneficial use of water subject to their jurisdiction for hydraulic fracturing to assure adequate local water supplies. The occurrence of these or similar developments may result in limitations being placed on allocations of water due to needs by third party businesses with more senior contractual or permitting rights to the water. Our customers' inability to locate or contractually acquire and sustain the receipt of sufficient amounts of water could adversely impact their E&P operations and have a corresponding adverse effect on our business, results of operations and financial condition.

Moreover, the imposition of new environmental regulations and other regulatory initiatives could include increased restrictions on our producing customers' ability to dispose of flowback and produced water generated in hydraulic fracturing or other fluids resulting from E&P activities. Applicable laws impose restrictions and strict controls regarding the discharge of pollutants into waters of the United States and require that permits or other approvals be obtained to discharge pollutants to such waters. Additionally, in 2016, the EPA adopted a pretreatment standard that prohibits the discharge of wastewater pollutants from onshore unconventional oil and gas extraction facilities to publicly owned treatment works. Further, regulations implemented under both federal and state laws prohibit the discharge of produced water and sand, drilling fluids, drill cuttings and certain other substances related to the natural gas and oil industry into coastal waters. These laws provide for civil, criminal and administrative penalties for any unauthorized discharges of pollutants and unauthorized discharges of reportable quantities of oil and hazardous substances. Compliance with current and future environmental regulations and permit requirements governing the withdrawal, storage and use of surface water or groundwater necessary for hydraulic fracturing of wells and any inability to secure transportation and access to disposal wells with sufficient capacity to accept all of our flowback and produced water on economic terms may increase our customers' operating costs and could result in restrictions, delays, or cancellations of our customers' operations, the extent of which cannot be predicted.

Our operations are subject to risks associated with climate change and potential regulatory programs meant to address climate change; these programs may impact or limit our business plans, result in significant expenditures or reduce demand for our services and reduce our revenues.

Climate change continues to be the focus of political and societal attention. Numerous proposals have been made and are likely to be forthcoming on the international, national, regional, state and local levels to reduce GHG emissions. These efforts have included or may include cap-and-trade programs, carbon taxes, GHG reporting obligations and other regulatory programs that limit or require control of GHG's from certain sources. Programs addressing climate change may limit the ability to produce crude oil and natural gas, require stricter limits on the release of methane or other GHGs, increase reporting and/or other compliance obligations associated with GHG emissions, limit the ability to explore in new areas, limit the construction of pipelines and related equipment or may make it more expensive to produce, any of which may decrease the demand for our services and our revenues.

Incentives to conserve energy or use alternative energy sources, which can be part of climate change programs, may increase the competitiveness of alternative energy sources (such as wind, solar, geothermal, tidal and biofuels) or increase the focus on reducing the use of combustion engines in transportation (such as governmental mandates that ban the sale of new gasoline-powered automobiles). At various Conferences of the Parties of the United Nations Framework Convention on Climate Change, the parties adopted a statement calling for "transitioning away from fossil fuels" and an increased focus on renewable energy capacity and energy efficiency. These actions could, in turn, reduce demand for hydrocarbons and therefore for our services, which would lead to a reduction in our revenues.

An increased societal and governmental focus on ESG and climate change issues may adversely impact our business, impact our access to investors and financing, and decrease demand for our services.

An increased expectation that companies address ESG matters (including climate change) may have a myriad of impacts on our business. Some investors and lenders are factoring these issues into investment and financing decisions. They may rely upon companies that assign ratings to a company's ESG performance. Unfavorable ESG ratings, as well as recent activism around fossil fuels, may dissuade investors or lenders from us and toward other industries, which could negatively impact our stock price or our access to capital. Additionally, some potential sources of investment or financing have announced an intention to avoid or limit investment in companies that engage in hydraulic fracturing. While a substantial number of major banks and financing sources remain active in investments related to hydraulic fracturing, it is possible that the investment avoidance or limitation theme could expand in the future and restrict access to capital for companies like us.

Moreover, while we have and may continue to create and publish voluntary disclosures regarding ESG matters from time to time, many of the statements in those voluntary disclosures are based on hypothetical expectations and assumptions that may or may not be representative of current or actual risks or events or forecasts of expected risks or events, including the costs associated therewith. Such expectations and assumptions are necessarily uncertain and may be prone to error or subject to misinterpretation given the long timelines involved and the lack of an established single approach to identifying, measuring and reporting on many ESG matters. Additionally, to the extent that we report GHG emissions data, the methodologies that we use to calculate our emissions may change over time based upon changing industry standards. We note that standards and expectations regarding the processes for measuring and counting GHG emissions and GHG emission reductions are evolving, and it is possible that our approach to measuring our emissions maybe considered inconsistent with common or best practices with respect to measuring and accounting for such matters. If our approaches to such matters fall out of step with common or best practice, we may be subject to additional scrutiny, criticism, regulatory and investor engagement or litigation, any of which may adversely impact our business, financial condition or results of operation.

In 2023, the State of California enacted legislation that will require large U.S. companies doing business in California to make broad-based climate-related disclosures starting as early as 2026, and other jurisdictions, domestically and internationally, are also considering various climate change disclosure requirements.

In addition, ESG and climate change issues may cause consumer preference to shift toward other alternative sources of energy, lowering demand for oil and natural gas and consequently lowering demand for our services. In some areas these concerns have caused governments to adopt or consider adopting regulations to transition to a lower-carbon economy. These measures may include adoption of cap-and-trade programs, carbon taxes, increased efficiency standards, prohibitions on the manufacture of certain types of equipment (such as new automobiles with internal combustion engines), and requirements for the use of alternate energy sources such as wind or solar. These types of programs may reduce the demand for oil and natural gas and consequently the demand for our services.

Approaches to climate change and a transition to a lower-carbon economy, including government regulation, company policies, and consumer behavior, are continuously evolving. At this time, we cannot predict how such approaches may develop or otherwise reasonably or reliably estimate their impact on our financial condition, results of operations and ability to compete. However, any long-term material adverse effect on the oil and gas industry may adversely affect our financial condition, results of operations and cash flows.

Our operations are subject to significant risks, some of which are beyond our control. These risks may be self-insured, or may not be fully covered under our insurance policies.

Our operations are subject to significant hazards often found in the oil and natural gas industry, such as, but not limited to, accidents, including accidents related to trucking operations provided in connection with our services, blowouts, explosions, craterings, fires, natural gas leaks, oil and produced water spills and releases of hydraulic fracturing fluids or other well fluids into the environment. These conditions can cause:

- disruption in operations;
- substantial repair or remediation costs;
- personal injury or loss of human life;

- significant damage to or destruction of property, and equipment;
- environmental pollution, including groundwater contamination;
- unusual or unexpected geological formations or pressures and industrial accidents;
- impairment or suspension of operations; and
- substantial revenue loss.

In addition, our operations are subject to, and exposed to, employee/employer liabilities and risks such as wrongful termination, discrimination, labor organizing, retaliation claims and general human resource related matters.

The occurrence of a significant event or adverse claim in excess of the insurance coverage that we maintain or that is not covered by insurance could have a material adverse effect on our liquidity, consolidated results of operations and financial condition. Claims for loss of oil and natural gas production and damage to formations can occur in the well services industry. Litigation arising from a catastrophic occurrence at a location where our equipment and services are being used or trucking services provided in connection therewith may result in our being named as a defendant in lawsuits asserting large claims.

We do not have insurance against all foreseeable risks, either because insurance is not available or because of the high premium costs. The occurrence of an event not fully insured against or the failure of an insurer to meet its insurance obligations could result in substantial losses. In addition, we may not be able to maintain adequate insurance in the future at rates we consider reasonable. Insurance may not be available to cover any or all of the risks to which we are subject, or, even if available, it may be inadequate, or insurance premiums or other costs could rise significantly in the future so as to make such insurance prohibitively expensive.

We could experience continued or increased severity of trucking related issues or trucking accidents, which could materially affect our results of operations.

Trucking services can be adversely impacted by traffic congestion, shortage of drivers and weather delays which could hinder our service levels. We have experienced in the past, and we may experience in the future, a shortage of available trucking services in the United States due to the industry not having enough qualified drivers, which impacted our field operations at times. In addition, our field employees are generally required to have a commercial driver's license ("CDL") so they can drive trucks and move our frac pumps and other equipment from location to location. Obtaining employees with CDLs can be challenging during times when the trucking industry has driver shortages, as competition for qualified employees is often more intense. If we are unable to obtain trucking services on a timely basis or the services of a sufficient number of field employees with CDLs, it could have a material adverse impact on our financial condition, results of operations and cash flows.

In addition, potential liability and unfavorable publicity associated with accidents in the trucking industry can be severe and occurrences are unpredictable. The number and severity of litigation claims may be worsened by distracted driving by both truck drivers and other motorists. Our transportation operations often involve traveling on unpaved roads located in rural areas, increasing the risk of accidents. If we are involved in an accident involving hazardous substances, if there are releases of hazardous substances we transport, if soil or groundwater contamination is found at our facilities or results from our operations, or if we are found to be in violation of applicable environmental laws or regulations, we could owe cleanup costs and incur related liabilities, including substantial fines or penalties or civil and criminal liability. A material increase in the frequency or severity of accidents or workers' compensation claims or the unfavorable development of existing claims could materially adversely affect our results of operations. In the event that accidents occur, we may be unable to obtain desired contractual indemnities, and our insurance may be inadequate in certain cases which could result in substantial losses. Any such lawsuits in the future may result in the payment of substantial settlements or damages and increases to our insurance costs.

We may be subject to claims for personal injury and property damage, which could materially adversely affect our financial condition, prospects and results of operations.

Our services are subject to inherent risks that can cause personal injury or loss of life, damage to or destruction of property, equipment or the environment or the suspension of our operations. Litigation arising from operations where our services are provided, may cause us to be named as a defendant in lawsuits asserting potentially large claims including claims for exemplary damages. We maintain what we believe is customary and reasonable insurance to protect our business against these potential losses, but such insurance may not be adequate to cover our liabilities, and we are not fully insured against all risks.

In addition, our customers usually assume responsibility for, including control and removal of, all other pollution or contamination which may occur during operations, including that which may result from seepage or any other uncontrolled flow of drilling and completion fluids. We may have liability in such cases if we are grossly negligent or commit willful acts. Our customers generally agree to indemnify us against claims arising from their employees' personal injury or death to the extent that, in the case of our hydraulic fracturing operations, their employees are injured by such operations, unless resulting from our gross negligence or willful misconduct. Our customers also generally agree to indemnify us for loss or destruction of customer-owned property or equipment. In turn, we agree to indemnify our customers for loss or destruction of property or equipment we own and for liabilities arising from personal injury to or death of any of our employees, unless resulting from gross negligence or willful misconduct of the customer. However, we might not succeed in enforcing such contractual liability allocation or might incur an unforeseen liability falling outside the scope of such allocation. As a result, we may incur substantial losses which could materially and adversely affect our financial condition and results of operation.

We are subject to environmental and occupational health and safety laws and regulations that may expose us to significant costs and liabilities.

Our operations and the operations of our customers are subject to numerous federal, tribal, regional, state and local laws and regulations relating to protection of the environment including natural resources, health and safety aspects of our operations and waste management, including the transportation and disposal of waste and other materials. These laws and regulations may impose numerous obligations on our operations and the operations of our customers, including the acquisition of permits or other approvals to conduct regulated activities, the imposition of restrictions on the types, quantities and concentrations of various substances that may be released into the environment or injected in non-productive formations below ground in connection with oil and natural gas drilling and production activities, the incurrence of capital expenditures to mitigate or prevent releases of materials from our equipment, facilities or from customer locations where we are providing services, the imposition of substantial liabilities for pollution resulting from our operations, and the application of specific health and safety criteria addressing worker protection. Any failure on our part or the part of our customers to comply with these laws and regulations could result in assessment of sanctions including administrative, civil and criminal penalties; imposition of investigatory, remedial or corrective action obligations or the incurrence of capital expenditures; the occurrence of restrictions, delays or cancellations in the permitting, performance or development of projects or operations; and the issuance of orders enjoining performance of some or all of our operations in a particular area. In addition to civil and other penalties associated with enforcement activities regarding compliance with occupational health and safety laws, our operations may be subject to abatement obligations that could require significant modifications to existing operations to achieve compliance.

Our business activities present risks of incurring significant environmental costs and liabilities, including costs and liabilities resulting from our handling of oilfield and other wastes, because of air emissions and wastewater discharges related to our operations, and due to historical oilfield industry operations and waste disposal practices. Moreover, accidental releases or spills may occur in the course of our operations or at facilities where our wastes are taken for reclamation or disposal, and we cannot assure you that we will not incur significant costs and liabilities as a result of such releases or spills, including any third-party claims for injuries to persons or damages to properties or natural resources. Some environmental laws and regulations may impose strict liability, which means that in some situations we could be exposed to liability as a result of our conduct that was lawful at the time it occurred or the conduct of, or conditions caused by, prior operators or other third parties. Remedial and abatement costs and other damages arising as a result of environmental and occupational health and safety laws and costs associated with changes in these laws and regulations could be significant and have a material adverse effect on our liquidity, consolidated results of operations and financial condition.

Laws and regulations protecting the environment generally have become more stringent in recent years and are expected to continue to do so, which could lead to material increases in costs for future environmental compliance and remediation. In particular, the ESA restricts activities that may result in a “take” of endangered or threatened species and provides for substantial penalties in cases where listed species are taken by being harmed. The dunes sagebrush lizard is one example of a species that was recently listed as an endangered species. The State of Texas has filed suit challenging the listing. The dunes sagebrush lizard is found in the active and semi-stable shinnery oak dunes of southeastern New Mexico and adjacent portions of Texas, including areas where our customers operate and our frac sand facilities are located. The listing of the dunes sagebrush lizard as an endangered species, may impact our operations and the operations of our customers in any area that is designated as the dunes sagebrush lizard’s habitat. Depending on the locations of our operations, we and our customers may be required to comply with expensive mitigation measures intended to protect the dunes sagebrush lizard and its habitat. If the U.S. Department of the Interior and Fish and Wildlife Service lists additional species as endangered or protected, it could negatively impact our business activities or the business activities of our customers which could subsequently impact demand for our services and thereafter our revenue. Furthermore, new laws and regulations, amendment of existing laws and regulations, reinterpretation of legal requirements or increased governmental enforcement with respect to environmental matters could restrict, delay or curtail exploratory or developmental drilling for oil and natural gas by our customers and could limit our well servicing opportunities.

Oilfield anti-indemnity provisions enacted by many states may restrict or prohibit a party’s indemnification of us.

We typically enter into agreements with our customers governing the provision of our services, which usually include certain indemnification provisions for losses resulting from operations. Such agreements may require each party to indemnify the other against certain claims regardless of the negligence or other fault of the indemnified party; however, many states place limitations on contractual indemnity agreements, particularly agreements that indemnify a party against the consequences of its own negligence. Furthermore, certain states, including Texas, New Mexico and Wyoming, have enacted statutes generally referred to as "oilfield anti-indemnity acts" expressly prohibiting certain indemnity agreements contained in or related to oilfield services agreements. Such anti-indemnity acts may restrict or void a party's indemnification of us, which could have a material adverse effect on our business, financial condition, prospects and results of operations.

Technology advancements in well service technologies, including those involving hydraulic fracturing, could have a material adverse effect on our business, financial condition and results of operations.

The hydraulic fracturing industry is characterized by rapid and significant technological advancements and introductions of new products and services using new technologies. As competitors and others use or develop new technologies or technologies comparable to ours in the future, we may lose market share or be placed at a competitive disadvantage. Further, we may face competitive pressure to implement or acquire certain new technologies at a substantial cost. Some of our competitors may have greater financial, technical and personnel resources than we do, which may allow them to gain technological advantages or implement new technologies before we can. Additionally, we may be unable to implement new technologies or services at all, on a timely basis or at an acceptable cost. New technology could also make it easier for our customers to vertically integrate their operations, thereby reducing or eliminating the need for our services. Limits on our ability to effectively use or implement new technologies may have a material adverse effect on our business, financial condition and results of operations.

The ability or willingness of OPEC+ and other oil exporting nations to set and maintain production levels and/or the impact of sanctions and global conflicts may have a significant impact on natural gas commodity prices.

OPEC+ is an intergovernmental organization that seeks to manage the price and supply of oil on the global energy market. Actions taken by OPEC+ members, including those taken alongside other oil exporting nations, have a significant impact on global oil supply and pricing. For example, OPEC+ and certain other oil exporting nations have previously agreed to take measures, including production cuts, to support crude oil prices. In 2020, largely as a result of the COVID-19 pandemic, oil prices decreased dramatically, and OPEC+ agreed to historic production cuts in an effort to support prices. Conversely, sanctions imposed on Russia as a result of the Russia-Ukraine conflict in 2022 increased prices. In October 2022, OPEC+ again determined to reduce production of oil, by approximately 2 million barrels per day. At its meeting on December 4, 2022, OPEC+ agreed to keep its current policy unchanged as the oil markets struggle to assess the impact of a slowing Chinese economy on demand, and the Group of Seven Nations agreed on a price cap on Russian oil supply. In June 2023, OPEC+ members announced they would extend crude oil production cuts through 2024, limiting global crude oil supplies. In November 2023, OPEC+ agreed to cut production by an additional 1 million barrels per day beginning in January 2024. In December 2024, OPEC+ agreed to delay the beginning of output rises and extended the full unwinding of previous production cuts until the end of 2026.

There can be no assurance that OPEC+ members and other oil exporting nations will agree to future production cuts or other actions to support and stabilize oil prices, nor can there be any assurance that sanctions or other global conflicts, including the Russia-Ukraine conflict and various conflicts in the broader Middle East, will not further impact oil prices. Uncertainty regarding future sanctions or actions to be taken by OPEC+ members or other oil exporting countries could lead to increased volatility in the price of oil and natural gas, which could adversely affect our business, future financial condition and results of operations.

Risks Related to the TRAs

The Company is required to make payments under the TRAs for certain tax benefits that it may claim, and the amounts of such payments could be significant.

In connection with the Company's initial public offering (the "IPO"), on January 17, 2018, the Company entered into two Tax Receivable Agreements (the "TRAs") with R/C Energy IV Direct Partnership, L.P. and the then-existing owners of Liberty Oilfield Services Holdings LLC ("Liberty Holdings") that continued to own Liberty LLC Units (each such person and any permitted transferee, a "TRA Holder"). The TRAs generally provide for the payment by the Company to each TRA Holder of 85% of the net cash savings, if any, in U.S. federal, state, and local income tax and franchise tax (computed using simplifying assumptions to address the impact of state and local taxes) that the Company actually recognizes (or is deemed to recognize in certain circumstances) as a result of certain increases in tax basis, net operating losses available to the Company as a result of the corporate reorganization performed in connection with the IPO (the "Corporate Reorganization"), and certain benefits attributable to imputed interest. The Company will retain the benefit of the remaining 15% of these cash savings.

The Company is a holding company and has no material assets other than its direct and indirect equity interests in its subsidiaries. Because the Company has no independent means of generating revenue, its ability to make payments under the TRAs is dependent on the ability of its subsidiaries to make distributions to the Company in an amount sufficient to cover its obligations under the TRAs. To the extent that the Company is unable to make payments under the TRAs for any reason, such payments will be deferred and will accrue interest until paid.

The term of each of the TRAs continues until all tax benefits that are subject to such TRAs have been utilized or expired, unless the Company experiences a change of control (as defined in the TRAs, which includes certain mergers, asset sales and other forms of business combinations) or the TRAs are terminated early (at the Company's election or as a result of its breach), and the Company makes the termination payments specified in such TRAs. In addition, payments the Company makes under the TRAs will be increased by any interest earned from the due date (without extensions) of the corresponding tax return. Payments under the TRAs commenced in 2020 and so long as the tax savings are recognized and the TRAs are not terminated, payments are anticipated to continue for 15 years after the date of the last redemption of the Liberty LLC Units, which occurred on January 31, 2023. Accordingly, if the applicable U.S. federal corporate tax rate is increased, then the amount of TRA payments paid in the future may also increase.

In certain cases, if the Company experiences a change of control (as defined under the TRAs, which includes certain mergers, asset sales and other forms of business combinations) or the TRAs terminate early (at the Company's election or as a result of its breach), the Company would be required to make an immediate lump-sum payment, and such payment may be significantly in advance of, and may materially exceed, the actual realization, if any, of the future tax benefits to which the payment relates. As a result, the Company's obligations under the TRAs could have a substantial negative impact on its liquidity and could have the effect of delaying, deferring or preventing certain mergers, asset sales, or other forms of business combinations or changes of control. There can be no assurance we will be able to finance our obligations under the TRAs. Furthermore, as a result of this payment obligation, holders of our Class A Common Stock could receive substantially less consideration in connection with a change in control transaction than they would receive in the absence of such obligation. Because our payment obligations under the TRAs will not be conditioned upon the TRA Holders' having continued interest in the Company or Liberty LLC, the TRA Holders' interests may conflict with those of the holders of our Class A Common Stock.

Payments under the TRAs are based on the tax reporting positions that we will determine. The TRA Holders will not reimburse us for any payments previously made under the TRAs if any tax benefits that have given rise to payments under the TRAs are subsequently disallowed in an audit, except that excess payments made to any TRA Holder will be netted against payments that would otherwise be made to such TRA Holder, if any, after our determination of such excess. As a result, in such circumstances the Company could make payments that are greater than its actual cash tax savings, if any, and may not be able to recoup those payments, which could adversely affect the Company's liquidity. Furthermore, the payments under the TRAs will not be conditioned upon a holder of rights under each of the TRAs having a continued ownership interest in the Company or Liberty LLC. For further details of the TRAs, see Note 12—Income Taxes to the consolidated financial statements included in Part II, Item 8 of this Annual Report.

General Risks Related to our Business

We may be adversely affected by uncertainty in the global financial markets and the deterioration of the financial condition of our customers.

Our future results may be impacted by the uncertainty caused by an economic downturn, volatility or deterioration in the debt and equity capital markets, inflation, deflation or other adverse economic conditions that may negatively affect us or parties with whom we do business resulting in a reduction in our customers' spending and their non-payment or inability to perform obligations owed to us, such as the failure of customers to honor their commitments or the failure of major suppliers to complete orders. Additionally, during times when the oil or natural gas markets weaken, our customers are more likely to experience financial difficulties, including being unable to access debt or equity financing, which could result in a reduction in our customers' spending for our services. In addition, in the course of our business we hold accounts receivable from our customers. In the event of the financial distress or bankruptcy of a customer, we could lose all or a portion of such outstanding accounts receivable associated with that customer. Further, if a customer was to enter into bankruptcy, it could also result in the cancellation of all or a portion of our service contracts with such customer at significant expense or loss of expected revenues to us.

Our business, financial condition and results of operations may be adversely impacted by the effects of inflation.

Inflation has the potential to adversely affect our business, financial condition and results of operations by increasing our overall cost structure, particularly if we are unable to achieve commensurate increases in the prices we charge our customers. Other inflationary pressures could affect wages, the cost and availability of components, materials and other inputs and our ability to meet customer demand. Inflation may further exacerbate other risk factors, including supply chain disruptions, risks related to international operations and the recruitment and retention of qualified employees.

Reliance upon a few large customers may adversely affect our revenue and operating results.

Our top five customers represented approximately 43%, 34%, and 30%, of our consolidated revenue for the years ended December 31, 2024, 2023, and 2022, respectively. It is possible that we will derive a significant portion of our revenue from a concentrated group of customers in the future. If a major customer fails to pay us, revenue would be impacted, and our operating results and financial condition could be materially harmed. Additionally, if we were to lose any material customer or our customers were to consolidate or merge with other operators, we may not be able to redeploy our equipment at similar utilization or pricing levels or within a short period of time and such loss could have a material adverse effect on our business until the equipment is redeployed at similar utilization or pricing levels.

We are subject to cyber security risks. A cyber incident could occur and result in information theft, data corruption, operational disruption and/or financial loss.

The oil and natural gas industry has become increasingly dependent on digital technologies to conduct certain processing activities. For example, we depend on digital technologies to perform many of our services and to process and record financial and operating data. At the same time, cyber incidents, including deliberate attacks, have increased. The U.S. government has issued public warnings that indicate that energy assets might be specific targets of cyber security threats. In early 2020, we experienced a denial of service cyberattack that targeted a portion of our non-financial data. We immediately shutdown critical systems, diagnosed the root cause of the attack and then methodically returned systems online. This cyberattack disrupted certain non-financial aspects of our internal system for a period of less than one day, while limited and non-critical portions of our systems were kept offline for up to one week in order to properly evaluate the breach. We determined that this cyberattack did not materially affect us or any of our operations. We engaged in extensive data evaluation for potential damage and concluded that minimal to no data loss had occurred as a result of this cyberattack. Our technologies, systems and networks, and those of our vendors, suppliers and other business partners, may become the target of cyberattacks or information security breaches in the future that could result in the unauthorized release, gathering, monitoring, misuse, loss or destruction of proprietary and other information, or other disruption of business operations. In addition, certain cyber incidents, such as surveillance, may remain undetected for an extended period. Our systems and insurance coverage for protecting against cyber security risks may not be sufficient. As cyber incidents continue to evolve, we will likely be required to expend additional resources to continue to modify or enhance our protective measures or to investigate and remediate any vulnerability to cyber incidents. Our insurance coverage for cyberattacks may not be sufficient to cover all the losses we may experience as a result of such cyberattacks.

Our assets require significant amounts of capital for maintenance, upgrades and refurbishment and may require significant capital expenditures for new equipment.

Our hydraulic fracturing fleets and other completion service-related equipment require significant capital investment in maintenance, upgrades and refurbishment to maintain their competitiveness. The costs of components and labor have increased in the past and may increase in the future with increases in demand, which will require us to incur additional costs for any fleets we may acquire in the future. Our fleets and other equipment typically do not generate revenue while they are undergoing maintenance, upgrades or refurbishment. Any maintenance, upgrade or refurbishment project for our assets could increase our indebtedness or reduce cash available for other opportunities. Furthermore, such projects may require proportionally greater capital investments as a percentage of total asset value, which may make such projects difficult to finance on acceptable terms. To the extent we are unable to fund such projects, we may have less equipment available for service or our equipment may not be attractive to potential or current customers. Additionally, competition or advances in technology within our industry may require us to update or replace existing fleets or build or acquire new fleets. Such demands on our capital or reductions in demand for our hydraulic fracturing fleets and the increase in cost of labor necessary for such maintenance and improvement, in each case, could have a material adverse effect on our business, liquidity position, financial condition, prospects and results of operations and may increase our costs.

We rely on certain third parties for materials, and delays in deliveries of such materials, increases in the cost of such materials or our contractual obligations to pay for materials that we ultimately do not require could harm our business, results of operations and financial condition.

We have established relationships with certain suppliers of our materials (such as, but not limited to, proppant and chemical additives) and other parts, supplies and items needed for our operations. Delays or shortages in materials can result from a variety of reasons, including those caused by weather and natural disasters. Historically, the United States has undergone supply chain disruptions due to backlogged ports and trucking shortages, and our business is not immune from these effects. Even once the root cause of the supply chain disruption or any future shortage or delay has passed, it can take time for our supply chain to recover and run in a regular fashion. Should the nationwide supply chain disruption continue, or should any of our current suppliers be unable to provide the necessary materials or otherwise fail to deliver the materials in a timely manner and in the quantities required, any resulting delays in the provision of services could have a material adverse effect on our business, results of operations and financial condition. Additionally, increasing costs of such materials may negatively impact demand for our services or the profitability of our business operations. In the past, our industry faced sporadic proppant shortages associated with hydraulic fracturing operations requiring work stoppages, which are believed to have adversely impacted the operating results of several competitors. We may not be able to mitigate any future shortages of materials, including proppant, or the impact of supply chain disruptions. Furthermore, to the extent our contracts require us to purchase more materials, including proppant, than we ultimately require, we may be forced to pay for the excess amount under “take or pay” contract provisions.

We currently utilize a limited number of assemblers and suppliers for major equipment to both build new fleets and upgrade any fleets we acquire to our preferred specifications, and our reliance on these vendors exposes us to risks including price and timing of delivery.

We currently utilize a limited number of assemblers and suppliers for major equipment to both build our new fleets and upgrade any fleets we may acquire to our custom design. If demand for hydraulic fracturing fleets or the components necessary to build such fleets increases or these vendors face financial distress or bankruptcy, these vendors may not be able to provide the new or upgraded fleets on schedule or at the current price. If this were to occur, we could be required to seek another assembler or other suppliers for major equipment to build or upgrade our fleets, which may adversely affect our revenues or increase our costs.

Interruptions of service on the rail lines by which we receive proppant could adversely affect our results of operations.

We receive a portion of the proppant used in our hydraulic fracturing services by rail. Rail operations are subject to various risks that may result in a delay or lack of service, including lack of available capacity, mechanical problems, extreme weather conditions, work stoppages, labor strikes, terrorist attacks and operating hazards. Additionally, if we increase the amount of proppant we require for delivery of our services, we may face difficulty in securing rail transportation for such additional amount of proppant. Any delay or failure in the rail services on which we rely could have a material adverse effect on our financial condition and results of operations.

Changes in transportation regulations may increase our costs and negatively impact our results of operations.

We are subject to various transportation regulations including as a motor carrier by the Department of Transportation and by various federal, state, provincial and tribal agencies, whose regulations include certain permit requirements of highway and safety authorities. These regulatory authorities exercise broad powers over our equipment transportation operations, generally governing such matters as the authorization to engage in motor carrier operations, safety, equipment testing, driver requirements and specifications and insurance requirements. The trucking industry is subject to possible regulatory and legislative changes that may impact our operations, such as changes in fuel emissions limits, hours of service regulations that govern the amount of time a driver may drive or work in any specific period and requiring onboard electronic logging devices or limits on vehicle weight and size. As the federal government continues to develop and propose regulations relating to fuel quality, engine efficiency and greenhouse gasses emissions, we may experience an increase in costs related to truck purchases and maintenance, impairment of equipment productivity, a decrease in the residual value of vehicles, unpredictable fluctuations in fuel prices and an increase in operating expenses. Additionally, we rely on third parties to provide trucking services, including hauling proppant to our customer work sites, and these third parties may fail to comply with various transportation regulations, resulting in our inability to use such third-party providers. Increased truck traffic may contribute to deteriorating road conditions in some areas where our operations are performed. Our operations, including routing and weight restrictions, could be affected by road construction, road repairs, detours and state and local regulations and ordinances restricting access to certain roads. Proposals to increase federal, state, provincial or local taxes, including taxes on motor fuels, are also made from time to time, and any such increase would increase our operating costs. Also, state and local regulation of permitted routes and times on specific roadways could adversely affect our operations. We cannot predict whether, or in what form, any legislative or regulatory changes or municipal ordinances applicable to our logistics operations will be enacted and to what extent any such legislation or regulations could increase our costs or otherwise adversely affect our business or operations.

We face a variety of risks related to our diversification and entry into a new line of business.

The proposed diversification of our business as a scaled distributed power and energy storage solutions provider carries a number of risks. We will become subject to laws and regulations previously inapplicable to our existing business and this could lead to additional litigation and regulatory risk. Our expansion into the distributed power solutions business will create the need for additional capital and other resources, the cost and availability of which may depend on market conditions, regulatory landscape, financial and operating results, interest rates, inflationary considerations, compliance with covenants under our credit facility, and other considerations. Furthermore, while our management team has a track record of successfully executing on the growth of our existing business, the team has not directly engaged in the distributed power solutions business before and this lack of experience could have adverse impacts and complications such as on cost and timing to execute on the new business and the overall success of the program. If we are unable to successfully execute on this new line of business, our revenue and profitability may not grow as expected, our competitiveness may be materially and adversely affected, and our reputation and business may be harmed.

As we continue our diversification into a new line of business, the market price for our common stock will become subject to factors different from those that have historically and currently impacted our common stock.

Our financial performance and results of operations with respect to the proposed new line of business will be subject to certain factors that may differ or be inapplicable to our existing business. Accordingly, the market price and performance of our common stock may be impacted differently in connection with our expansion into the distributed power systems line of business.

Our current and future indebtedness could adversely affect our financial condition.

Effective January 23, 2023, using proceeds from borrowings on our ABL Facility (as defined herein), we repaid all amounts outstanding under the Term Loan Facility (as defined herein). As of February 3, 2025, the Company had $261.0 million outstanding under our ABL Facility, in addition to letters of credit in the amount of $14.0 million, with $93.0 million of remaining availability. Please see "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources."

Moreover, subject to the limits contained in our ABL Facility, we may incur substantial additional debt from time to time. Any borrowings we may incur in the future would have several important consequences for our future operations, including that:

- covenants contained in the documents governing such indebtedness may require us to meet or maintain certain financial tests, which may affect our flexibility in planning for, and reacting to, changes in our industry, such as being able to take advantage of acquisition opportunities when they arise;
- our ability to obtain additional financing for working capital, capital expenditures, acquisitions, general corporate and other purposes may be limited;
- our ability to use operating cash flow in other areas of our business may be limited because we must dedicate a substantial portion of these funds to make principal and interest payments on our indebtedness;
- we may be more vulnerable to interest rate increases to the extent that we incur variable rate indebtedness;
- we may be competitively disadvantaged to our competitors that are less leveraged or have greater access to capital resources; and
- we may be more vulnerable to adverse economic and industry conditions.

If we incur indebtedness in the future, we may have significant principal payments due at specified future dates under the documents governing such indebtedness. Our ability to meet such principal obligations will be dependent upon future performance, which in turn will be subject to general economic conditions, industry cycles and financial, business and other factors affecting our operations, many of which are beyond our control. Our business may not continue to generate sufficient cash flow from operations to repay any incurred indebtedness. If we are unable to generate sufficient cash flow from operations, we may be required to sell assets, to refinance all or a portion of such indebtedness or to obtain additional financing.

Unsatisfactory safety performance may negatively affect our customer relationships and, to the extent we fail to retain existing customers or attract new customers, adversely impact our revenues.

Our ability to retain existing customers and attract new business is dependent on many factors, including our ability to demonstrate that we can reliably and safely operate our business in a manner that is consistent with applicable laws, rules and permits, which legal requirements are subject to change. Existing and potential customers consider the safety record of their third-party service providers to be of high importance in their decision to engage such providers. If one or more accidents were to occur at one of our operating sites, the affected customer may seek to terminate or cancel its use of our equipment or services and may be less likely to continue to use our services, which could cause us to lose substantial revenues. Furthermore, our ability to attract new customers may be impaired if they elect not to engage us because they view our safety record as unacceptable. In addition, it is possible that we will experience multiple or particularly severe accidents in the future, causing our safety record to deteriorate. This may be more likely as we continue to grow, if we experience high employee turnover or labor shortage, or hire inexperienced personnel to bolster our staffing needs.

If we are unable to fully protect our intellectual property rights, we may suffer a loss in our competitive advantage or market share.

We do not have patents or patent applications relating to many of our key processes and technology. If we are not able to maintain the confidentiality of our trade secrets, or if our competitors are able to replicate our technology or services, our competitive advantage would be diminished. We also cannot ensure that any patents we may obtain in the future would provide us with any significant commercial benefit or would allow us to prevent our competitors from employing comparable technologies or processes.

We may be adversely affected by disputes regarding intellectual property rights of third parties.

Third parties from time to time may initiate litigation against us by asserting that the conduct of our business infringes, misappropriates or otherwise violates intellectual property rights. We may not prevail in any such legal proceedings related to such claims, and our products and services may be found to infringe, impair, misappropriate, dilute or otherwise violate the intellectual property rights of others. If we are sued for infringement and lose, we could be required to pay substantial damages and/or be enjoined from using or selling the infringing products or technology. Any legal proceeding concerning intellectual property could be protracted and costly regardless of the merits of any claim and is inherently unpredictable and could have a material adverse effect on our financial condition, regardless of its outcome.

If we were to discover that our technologies or products infringe valid intellectual property rights of third parties, we may need to obtain licenses from these parties or substantially re-engineer our products in order to avoid infringement. We may not be able to obtain the necessary licenses on acceptable terms, or at all, or be able to re-engineer our products successfully. If our inability to obtain required licenses for our technologies or products prevents us from selling our products, that could adversely impact our financial condition and results of operations.

Additionally, we currently license certain third-party intellectual property in connection with our business, and the loss of any such license could adversely impact our financial condition and results of operations.

Seasonal weather conditions, natural disasters, public health crises, and other catastrophic events outside of our control could severely disrupt normal operations and harm our business.

Our operations are located in different regions of the United States and Canada. Some of these areas, including the DJ Basin, Powder River Basin, Williston Basin and our Canadian operations, are adversely affected by seasonal weather conditions, primarily in the winter and spring. Weather-related hazards exist in almost all the areas where we operate. During periods of heavy snow, ice or rain, we may be unable to move our equipment between locations or obtain adequate supplies of raw material or fuel, thereby reducing our ability to provide services and generate revenues. The exploration activities of our customers may also be affected during such periods of adverse weather conditions. Additionally, extended drought conditions in our operating regions could impact our ability or our customers' ability to source sufficient water or increase the cost for such water. As a result, a natural disaster or inclement weather conditions could severely disrupt the normal operation of our business and adversely impact our financial condition and results of operations. Furthermore, if the area in which we operate or the market demand for oil and natural gas is affected by a public health crisis, such as the COVID-19 pandemic, or other similar catastrophic event outside of our control, our business and results of operations could be adversely impacted.

The sand mining operations are subject to a number of risks relating to the proppant industry.

We operate two sand mines in the Permian Basin. Sand mining operations are subject to risks normally encountered in the proppant industry. These risks include, among others: unanticipated ground, grade or water conditions; inability to acquire or maintain, or public or nongovernmental organization opposition to, necessary permits for mining, access or water rights; our ability to timely obtain necessary authorizations, approvals and permits from regulatory agencies (including environmental agencies, such as the FWS, where our operations in West Texas may be slowed, limited or halted due to conservation efforts targeted at the habitat of the dunes sagebrush lizard); pit wall or pond failures, and sluffing events; costs associated with environmental compliance or as a result of unauthorized releases into the environment; restrictions imposed on our operations related to the protection of natural resources, including plant and animal species; and reduction in the amount of water available for processing. Any of these risks could result in delays, limitations or cancellations in mining or processing activities, losses or possible legal liability.

Silica-related legislation, health issues and litigation could have a material adverse effect on our business, reputation or results of operations.

We are subject to laws and regulations relating to human exposure to crystalline silica. Historically, our environmental compliance costs with respect to existing crystalline silica requirements have not had a material adverse effect on our results of operations; however, federal regulatory authorities and analogous state agencies may continue to propose changes in their regulations regarding workplace exposure to crystalline silica, such as permissible exposure limits, required controls and personal protective equipment. We may not be able to comply with any new laws and regulations that are adopted, and any new laws and regulations could have a material adverse effect on our operating results by requiring us to modify or cease our operations.

In addition, the inhalation of respirable crystalline silica is associated with the lung disease silicosis. There is evidence of an association between crystalline silica exposure or silicosis and lung cancer and a possible association with other diseases, including immune system disorders such as scleroderma. The actual or perceived health risks of handling hydraulic fracture sand could materially and adversely affect hydraulic fracturing service providers, including us, through reduced use of hydraulic fracture sand, the threat of product liability or employee lawsuits, increased scrutiny by federal, state and local regulatory authorities of us and our customers or reduced financing sources available to the industry. Furthermore, we may incur additional costs with respect to purchasing specialized equipment designed to reduce exposure to crystalline silica in connection with our operations or invest capital in new equipment.

We are subject to the Federal Mine Safety and Health Act of 1977, which imposes stringent health and safety standards on certain aspects of our operations.

Our operations are subject to the Federal Mine Safety and Health Act of 1977, as amended by the Mine Improvement and New Emergency Response Act of 2006, which imposes stringent health and safety standards on numerous aspects of mineral extraction and processing operations, including the training of personnel, operating procedures, operating equipment, and other matters. Our failure to comply with such standards, or changes in such standards or the re-interpretation or more stringent enforcement thereof, could have a material adverse effect on our business and financial condition or otherwise impose significant restrictions on its ability to conduct mineral extraction and processing operations.

Distributed power systems involve long sales cycles.

The sales cycle for distributed power systems, from initial contact with potential customers to the commencement of operations, may be lengthy. Customers generally consider a wide range of solutions before deciding to rent or to purchase power systems. Before a customer commits to rent or purchase power systems, they often require a significant technical review, assessment of competitive offerings and approval at a number of management levels within their organization. During the time customers are evaluating our power solutions offerings, we may incur substantial sales and marketing, engineering, and research and development expenses.

The occurrence of explosive incidents could disrupt our operations and could adversely affect our business, financial condition and results of operations.

The wireline service we provide to oil and natural gas E&P customers involves the storage and handling of explosive materials. Despite the use of specialized facilities to store explosive materials and intensive employee training programs, the handling of explosive materials could result in incidents that temporarily shut down or otherwise disrupt our or E&P customers' operations or could cause restrictions, delays or cancellations in the delivery of services. It is possible that an explosion could result in death or significant injuries to employees and other persons. Material property damage to us, E&P customers and third parties could also occur. Any explosive incident could expose us to adverse publicity or liability for damages or cause production restrictions, delays or cancellations, any of which developments could have a material adverse effect on our ability to compete, business, financial condition and results of operations.

Geopolitical conditions, including political turmoil and volatility, regional conflicts, terrorism and war could result in market instability, which could adversely affect our business, financial condition and results of operations.

The global economy has been negatively impacted by geopolitical conflicts, such as the continuing military conflict between Russia and Ukraine and the conflict between Israel and Hamas, which has resulted in instability in the Middle East. Such conflicts have led and may continue to lead to significant market and other disruptions, including significant volatility in commodity prices and supply of energy resources, instability in financial markets, higher inflation, supply chain interruptions, political and social instability, changes in consumer or purchaser preferences as well as increase in cyberattacks and espionage. As a result of the invasion and ongoing military conflict in Ukraine, governments in the European Union, the United States, the United Kingdom, Switzerland and other countries have implemented and may implement additional sanctions, export controls or other measures against Russia, Belarus and other countries, regions, officials, individuals or industries in the respective territories. Such sanctions, and other measures, as well as the existing and potential further responses from Russia or other countries to such sanctions, supply chain disruptions, tensions and military actions, could adversely affect the global economy and financial markets and could adversely affect our business, financial condition and results of operations, and could also aggravate the other risk factors that we identify herein.

The choice of forum provisions in our charter and bylaws could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us.

Our Amended and Restated Certificate of Incorporation (as amended, the "Charter") provides that unless the Company consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will, to the fullest extent permitted by applicable law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Company, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer, employee or agent of the Company to the Company or the Company's stockholders, (iii) any action asserting a claim against the Company or any director or officer or other employee of the Company arising pursuant to any provision of the General Corporation Law of the State of Delaware, the Charter or the Company's bylaws, or (iv) any action asserting a claim against the Company or any director or officer or other employee of the Company governed by the internal affairs doctrine, in each such case subject to Court of Chancery having personal jurisdiction over the indispensable parties named as defendants therein. Our Second Amended and Restated Bylaws (the "Bylaws") further provide that unless the Company consents in writing to the selection of an alternative forum, the federal district courts of the United States of America will be the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act. Under the Securities Act, federal and state courts have concurrent jurisdiction over all suits brought to enforce any duty or liability created by the Securities Act, and stockholders cannot waive compliance with the federal securities laws and the rules and regulations thereunder. Accordingly, there is uncertainty as to whether a court would enforce such a forum selection provision as written in connection with claims arising under the Securities Act. Any person or entity purchasing or otherwise acquiring any interest in shares of common stock of the Company will be deemed to have notice of and have consented to the provisions of our Charter and Bylaws related to choice of forum. The choice of forum provisions in our Charter and Bylaws may limit our stockholders' ability to obtain a favorable judicial forum for disputes with us. Additionally, the enforceability of choice of forum provisions in other companies' governing documents has been challenged in legal proceedings, and it is possible that, in connection with any applicable action brought against us, a court could find the choice of forum provisions contained in our Charter and Bylaws to be inapplicable or unenforceable in such action. If so, we may incur additional costs associated with resolving such action in other jurisdictions, which could harm our business, results of operations, and financial condition.

There can be no assurance we will repurchase shares of our Class A Common Stock in any particular amounts.

The stock markets in general have experienced substantial price and trading fluctuations, which have resulted in volatility in the market prices of securities that often are unrelated or disproportionate to changes in operating performance. These broad market fluctuations may adversely affect the trading price of our Class A Common Stock. Price volatility over a given period may also cause the average price at which we repurchase our own Class A Common Stock to exceed the stock's price at a given point in time. In addition, significant changes in the trading price of our Class A Common Stock and our ability to access capital on terms favorable to us could impact our ability to repurchase shares of our Class A Common Stock. The timing and amount of any repurchases will be determined by the Company's management based on its evaluation of market conditions, capital allocation alternatives and other factors beyond our control. Our share repurchase program may be modified, suspended, extended or terminated by the Company at any time and without notice.

Item 1B. Unresolved Staff Comments

None.

Item 1C. Cybersecurity

Risk Management and Strategy

We recognize the critical importance of developing, implementing, and maintaining robust cybersecurity measures to safeguard our information systems and protect the confidentiality, integrity, and availability of our information systems and the data residing therein.

We have integrated cybersecurity risk management into our broader risk management framework to promote a company-wide practice of cybersecurity risk management. This integration ensures that cybersecurity considerations are part of our decision-making processes. Our cybersecurity risk management processes include technical security controls, policy enforcement mechanisms, monitoring systems, employee training, contractual arrangements, tools and related services from third-party providers, and management oversight to identify, assess, and manage material risks from cybersecurity threats. As part of our cybersecurity risk management process, we have conducted simulated cybersecurity incidents to ensure that we are prepared to respond to such an incident and to highlight any areas for potential improvement in our cyber incident preparedness.

Engagement of Third-Parties

Recognizing the complexity and evolving nature of cybersecurity threats, we may periodically engage a range of external experts, including cybersecurity assessors, consultants, and auditors to evaluate and test our information systems. These partnerships enable us to leverage specialized knowledge and insights, ensuring our cybersecurity strategies and processes generally follow industry-recognized standards and frameworks, and are compliant with applicable laws.

Oversight of Third-Party Risk

Because we are aware of the risks associated with third-party service providers, we implement processes to oversee and manage these risks. We conduct security assessments of critical third-party providers before engagement and maintain ongoing monitoring to ensure compliance with our cybersecurity standards. The monitoring includes regular assessments by our Chief Information Officer (“CIO”) and cybersecurity staff and advisors. This approach is designed to mitigate risks related to data breaches or other security incidents involving third-parties.

Risks from Cybersecurity Threats

We have experienced, and may in the future experience, directly or indirectly through our third-party service providers, cybersecurity incidents. While prior cybersecurity incidents have not had a material impact on us, future incidents could have a material impact on our business strategy, results of operations, and financial condition. For more information about the cybersecurity risks we face, see “We are subject to cyber security risks. A cyber incident could occur and result in information theft, data corruption, operational disruption and/or financial loss” in “Risk Factors” in Part I, Item 1A of this Annual Report on Form 10-K.

Cybersecurity Governance

Board of Directors Oversight

Our Board of Directors (the “Board”) has designated the Audit Committee to oversee risk management associated with cybersecurity threats. The Audit Committee is comprised of board members with diverse expertise including risk management, technology, and finance, which we believe enables them to oversee cybersecurity risks.

Management’s Role

We have a cybersecurity risk management committee comprised of senior leadership, including our CIO. The committee evaluates and addresses cybersecurity risks in alignment with our business objectives and operational needs. The Company’s cybersecurity risk management committee is also responsible for informing the Audit Committee on cybersecurity risks. The committee provides briefings to the Audit Committee on at least a quarterly basis, performs a comprehensive annual review of cybersecurity risks and threats, and assesses and adjusts the Company’s processes to prevent, detect, mitigate, and remediate any such risks and threats.

Primary responsibility for assessing, monitoring and managing our cybersecurity risks rests with our CIO. With over 30 years of experience in the field of information systems and cybersecurity, our CIO brings a wealth of expertise to this role. His background includes extensive experience as an enterprise CIO and his in-depth knowledge and experience are instrumental in developing and executing our cybersecurity strategies. Our CIO oversees our governance programs, tests our compliance with standards, remediates known risks, and leads our employee training program as such items relate to cybersecurity. Our CIO manages our cybersecurity risks with the help of key personnel overseeing cybersecurity, information technology networks and infrastructure, operational technology, and critical software applications.

Our CIO and information technology team are continually informed about the latest developments in cybersecurity, including potential threats and innovative risk management techniques. The CIO and information technology team implements and oversees processes for the regular monitoring of our information systems. This includes the deployment of advanced security measures and regular system audits to identify potential vulnerabilities. In the event of a cybersecurity incident, the CIO and information technology team are equipped with a well-defined incident response plan, which includes escalation to the cybersecurity risk management committee and the Audit Committee, and relevant public disclosure, as appropriate.

Item 2. Properties

Information regarding our properties is contained in "Item 1. Business" and is incorporated by reference herein.

Item 3. Legal Proceedings

The information with respect to this Item 3. Legal Proceedings is set forth in Note 15—Commitments & Contingencies in Part II, Item 8 of this Annual Report.

Item 4. Mine Safety Disclosures

Our mining operations are subject to regulation by the federal Mine Safety and Health Administration under the Federal Mine Safety and Health Act of 1977. Information concerning mine safety violations or other regulatory matters required by section 1503(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act and Item 104 of Regulation S-K is included in Exhibit 95 to this Annual Report.

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Market Information

On January 17, 2018, we consummated an initial public offering of our Class A Common Stock at a price of $17.00 per share. Our Class A Common Stock is traded on the NYSE under the symbol "LBRT." Prior to that time, there was no public market for our Class A Common Stock. There is no public market for our Class B Common Stock.

Holders of our Common Stock

As of February 3, 2025, there were 14 stockholders of record of our Class A Common Stock and no stockholders of record of our Class B Common Stock. The number of record holders is based upon the actual number of holders registered on the books of the Company at such date and does not include holders of shares in "street names" or persons, partnerships, associations, corporations or other entities identified in security position listings maintained by depositories.

Dividend Policy

The Company has paid consecutive quarterly cash dividends since December 2022. Dividends are usually declared in January, April, July, and October, paid on the 20th of March, June, September, and December to stockholders of record as of the 6th of each respective payment month. If the record or payment date falls on a weekend or holiday, it is moved to the preceding or following business day.

The declaration of dividends is subject to approval by the Board and to the Board's continuing determination that such declaration of dividends is in the best interests of the Company and its stockholders. Future dividends may be adjusted at the Board's discretion based on market conditions and capital availability. We are not required to pay dividends, and our stockholders will not be guaranteed, or have contractual or other rights to receive, dividends.

See Note 10—Equity to the consolidated financial statements included in Part II, Item 8 of this Annual Report for further details.

Recent Sales of Unregistered Equity Securities

We had no sales of unregistered equity securities during the period covered by this Annual Report that were not previously reported in a Current Report on Form 8-K (or on Form 10-Q in lieu of Form 8-K).

Purchase of Equity Securities by the Issuer and Affiliated Purchasers

On July 25, 2022, the Board authorized and the Company announced a share repurchase program that allowed the Company to repurchase up to $250.0 million of the Company's Class A Common Stock beginning immediately and continuing through July 31, 2024. Additionally, on January 24, 2023, the Board authorized and the Company announced an increase of the cumulative repurchase authorization to $500.0 million. Furthermore, on January 23, 2024, the Board authorized and the Company announced an increase of the cumulative repurchase authorization to $750.0 million and extended the authorization through July 31, 2026 (collectively "the Share Repurchase Plan"). Shares may be repurchased from time to time for cash in open market transactions, through block trades, in privately negotiated transactions, through derivative transactions, or by other means in accordance with applicable federal securities laws. The timing and the amount of repurchases will be determined by the Company at its discretion based on an evaluation of market conditions, capital allocation alternatives and other factors. The share repurchase program does not require us to purchase any dollar amount or number of shares of our Class A Common Stock and may be modified, suspended, extended or terminated at any time without prior notice. The Company expects to fund any repurchases by using cash on hand, borrowings under the ABL Facility, and expected free cash flow to be generated through the duration of the share repurchase program.

As of December 31, 2024, $294.2 million remained authorized for future repurchases of Class A Common Stock under the share repurchase program.

The following sets forth information with respect to our repurchases of shares of Class A Common Stock during the three months ended December 31, 2024:

Period	Total number of shares purchased	Average price paid per share (2)	Total number of shares purchased as part of publicly announced plans or programs (1)	Approximate dollar value of shares that may yet be purchased under the plans or programs (1)
October 1, 2024 - October 31, 2024	539,005	17.60	539,005	313,005,770
November 1, 2024 - November 30, 2024	700,687	17.92	700,687	300,451,128
December 1, 2024 - December 31, 2024	341,803	18.31	341,803	294,191,766
Total	1,581,495	17.90	1,581,495	294,191,766

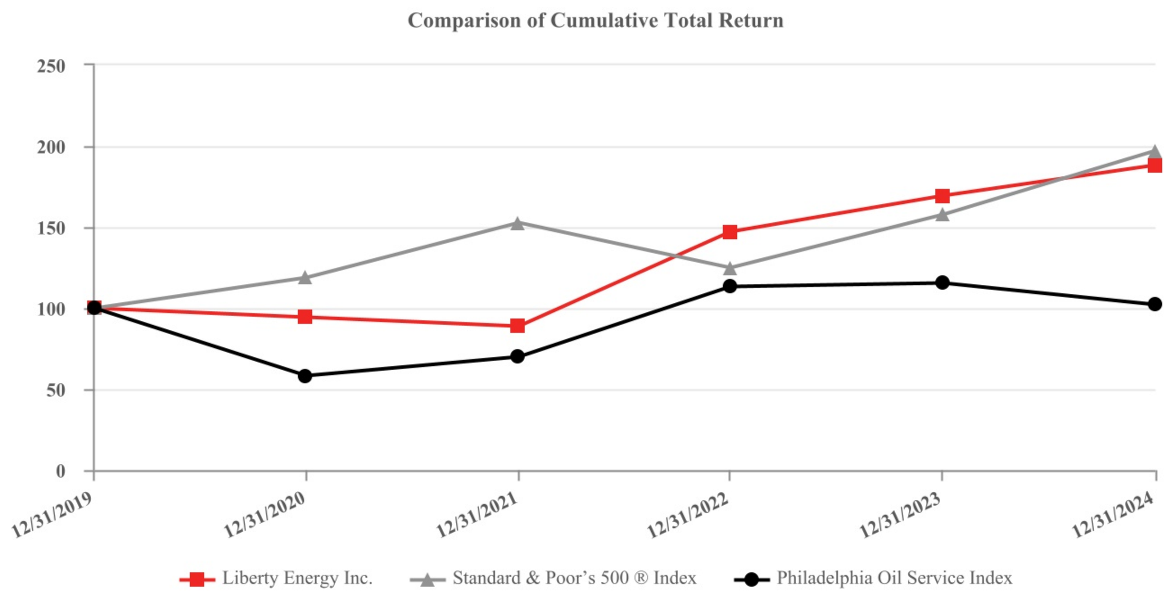
(1) All share repurchases are executed under the Share Repurchase Plan, as defined above. The shares may be repurchased from time to time in open market transactions, through block trades, in privately negotiated transactions, through derivative transactions, or by other means in accordance with applicable state and federal securities laws.

(2) The average price paid per share of $17.90 was calculated including commissions.

Stock Performance Graph

The following graph and table compares the cumulative total return on our Class A Common Stock with the cumulative total return on the Standard & Poor’s 500 ® Index and the Philadelphia Oil Service Index, since December 31, 2019 and each annual period thereafter through December 31, 2024. The graph assumes that $100 was invested in our Class A Common Stock in each index on December 31, 2019 and that any dividends were reinvested on the last day of the month in which they were paid. The cumulative total return set forth is not necessarily indicative of future performance.

The following graph and related information shall not be deemed “soliciting material” or to be “filed” with the SEC, nor shall such information be incorporated by reference into any future filing under the Securities Act or the Exchange Act, except to the extent that we specifically incorporate it by reference into such filing.



	For the Years Ended December 31					
	2019	2020	2021	2022	2023	2024
Liberty Energy Inc.	$ 100.00	$ 94.44	$ 88.85	$ 147.11	$ 169.06	$ 188.06
Standard & Poor’s 500 ® Index	100.00	118.40	152.39	124.79	157.59	197.02
Philadelphia Oil Service Index	100.00	57.92	69.93	112.94	115.11	101.68

Item 6. [Reserved]

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our audited consolidated financial statements and related notes appearing elsewhere in this Annual Report. The following discussion contains "forward-looking statements" that reflect our future plans, estimates, beliefs and expected performance. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of a variety of risks and uncertainties, including those described in this Annual Report under "Cautionary Note Regarding Forward-Looking Statements" and "Item 1A. Risk Factors." Except as required by law, we assume no obligation to update any of these forward-looking statements. This section of this Annual Report generally discusses 2024 and 2023 items and year-to-year comparisons between 2024 and 2023. For discussion of year ended December 31, 2022, as well as the year ended 2023 compared to the year ended December 31, 2022, refer to Part II, Item 7— Management's Discussion and Analysis of Financial Condition and Results of Operations of our 2023 Annual Report.

Overview

The Company, together with its subsidiaries, is a leading integrated energy services and technology company focused on providing innovative hydraulic fracturing services and related technologies to onshore oil and natural gas E&P companies. We offer customers hydraulic fracturing services, together with complementary services including wireline services, proppant delivery solutions, field gas processing and treating, CNG delivery, data analytics, related goods (including our sand mine operations), and technologies to facilitate lower emission completions, thereby helping our customers reduce their emissions profile. We have grown from one active hydraulic fracturing fleet in December 2011 to approximately 40 active fleets as of December 31, 2024. We provide our services primarily in the Permian Basin, the Williston Basin, the Haynesville Shale, the Eagle Ford Shale, the Denver-Julesburg Basin (the "DJ Basin"), the Western Canadian Sedimentary Basin, the Powder River Basin, and the Appalachian Basin (Marcellus Shale and Utica Shale). Our operations also extend to a few smaller shale basins, including the Anadarko Basin, the Uinta Basin, the San Juan Basin, and the Beetaloo Basin in Northern Territory, Australia, as well as to two sand mines in the Permian Basin.

In early 2023, the Company launched Liberty Power Innovations LLC ("LPI"), an integrated alternative fuel and power solutions provider for remote applications. LPI provides CNG supply, field gas processing and treating, and well site fueling and logistics. LPI was formed with the initial focus on supporting the Company's transition towards our next generation digiFleets℠ and dual fuel fleets, as CNG fueling services can be limited in the market, yet critical to maintaining highly efficient well site operations. Through 2024, LPI was primarily focused on supporting an industry transition to natural gas fueled technologies, serving as a key enabler of the next step of cost and emissions reductions in the oilfield. In January 2025, we announced LPI's expansion into the distributed power business, where we expect to leverage our experience in providing electric power for our digiFrac pumps into other areas inside and outside of the oilfield.

We believe technical innovation and strong relationships with our customer and supplier bases distinguish us from our competitors and are the foundations of our business. We expect that E&P companies will continue to focus on technological innovation as completion complexity and fracture intensity of horizontal wells increases, particularly as customers are increasingly focused on reducing emissions from their completions operations. We remain proactive in developing innovative solutions to industry challenges, including developing: (i) our databases of U.S. unconventional wells to which we apply our proprietary multi-variable statistical analysis technologies to provide differential insight into fracture design optimization; (ii) our Liberty Quiet Fleet® design which significantly reduces noise levels compared to conventional hydraulic fracturing fleets; (iii) hydraulic fracturing fluid systems tailored to the specific reservoir properties in the basins in which we operate; (iv) our dual fuel dynamic gas blending ("DGB") fleets that allow our engines to run diesel or a combination of diesel and natural gas, to optimize fuel use, reduce emissions and lower costs; (v) our digiFleets℠, comprising of digiFrac℠ and digiPrime℠ pumps and other complementary equipment, including power generation units (together "digiTechnologies℠"), our innovative, purpose-built electric and hybrid frac pumps that have approximately 25% lower CO_{2e} emission profile than the Tier IV DGB; (vi) our wet sand handling technology which eliminates the need to dry sand, enabling the deployment of mobile mines nearer to wellsites; and (vii) the launch of LPI to support the transition to our digiFleets as well as the transition to lower costs and emissions in the oilfield. In addition, our integrated supply chain includes proppant, chemicals, equipment, natural gas fueling services, logistics and integrated software which we believe promotes wellsite efficiency and leads to more pumping hours and higher productivity throughout the year to better service our customers. In order to achieve our technological objectives, we carefully manage our liquidity and debt position to promote operational flexibility and invest in the business throughout the full commodity cycle in the regions we operate.

Recent Trends and Outlook

Moderate declines in frac activity, that started in 2023, continued throughout 2024. However, the market appears to have reached an inflection point in early 2025 as completions activity emerges from 2024 lows. In 2025, E&P operators, especially those with an oil exploration focus, are working to maintain production levels from 2024. Improving natural gas fundamentals are encouraging as well. For the full year, industry-wide lateral footage completed is expected to be approximately flat with 2024.

The slowing pace of activity in late 2024 resulted in near term price pressure to start 2025, most notably impacting conventional fleets. The fundamental outlook for next generation, higher quality fleets remains strong, as operators continue to demand technologies that provide significant emissions reductions, fuel savings, and operational efficiency advantages. The growing complexities of E&P demands and the continued drive for efficiency gains promote continued investment in technology and partnering with high quality service companies.

Global oil markets reflect ongoing uncertainties in geopolitics, Chinese economic growth, OPEC+ production plans, and a change in the domestic political climate, but the resulting commodity price fluctuation has not led to a meaningful change in E&P activity plans. Natural gas demand is supported by LNG export capacity expansion and a large projected multi-year increase in North American power consumption.

During the year 2024, the posted WTI price traded at an average of $76.63 per barrel (“Bbl”), as compared to the 2023 average of $77.58 per Bbl, and the 2022 average of $94.90 per Bbl. In addition, the average domestic onshore rig count for the United States and Canada was 765 rigs reported in the fourth quarter of 2024, down from the average in the fourth quarter of 2023 of 781, according to a report from Baker Hughes.

Acquisitions

On April 6, 2023, LPI accelerated its expansion by acquiring Siren, a Permian focused integrated natural gas compression and CNG delivery business with 16 MMcf per day of natural gas compression capacity at two expandable Permian sites and transportation, logistics, and pressure reduction services, for cash consideration of $75.7 million, after post-closing adjustments and net of cash received. LPI currently delivers fuel to customers in both the drilling and completions markets, and its logistics system is designed to deliver CNG, renewable natural gas, or hydrogen to remote locations. We believe that the added natural gas compression capability is a key enabler of the next step of cost and emissions reductions in the industry.

Increase in Drilling Efficiency and Service Intensity of Completions

Over the past decade, E&P companies have focused on exploiting the vast resource potential available across many of North America’s unconventional resource plays through the application of horizontal drilling and completion technologies, including the use of multi-stage hydraulic fracturing, in order to increase recovery of oil and natural gas. As E&P companies have improved drilling and completion techniques to maximize return and efficiency, we believe that well economics have improved, and unconventional oil and gas production is globally competitive. Liberty has been a significant partner with our customers in driving these continued improvements.

Improved drilling economics from horizontal drilling and greater rig efficiencies. According to Baker Hughes, as reported on January 24, 2025, horizontal rigs accounted for approximately 90% of all rigs drilling in the United States and Canada, up from 77% as of December 26, 2014. Over the past several years, North American E&P companies have benefited from improved drilling economics driven by technologies that reduce the number of days, and the cost, of drilling wells. North American drilling rigs have incorporated newer technologies, which allow them to drill rock more effectively and quickly, meaning each rig can drill more wells in a given period. These include improved drilling technologies and the incorporation of geosteering techniques which allow better placement of the wellbore. Drilling rigs have also incorporated new technology which allows fully assembled rigs to automatically “walk” from one location to the next without disassembling and reassembling the rig, greatly reducing the time it takes to move from one drilling location to the next. Today the majority of E&P drilling is on multi-well pad development, allowing efficient drilling of multiple horizontal wellbores from the same pad or location. The aggregate effect of these improved techniques and technologies have reduced the average days required to drill a well, which according to Lium Research, has dropped from 28 days in 2014 to 16 days in 2024.

Increased complexity and service intensity of horizontal well completions. In addition to improved rig efficiencies discussed above, E&P companies are also improving the subsurface techniques and technologies used to exploit unconventional resources. These improvements have targeted increasing the exposure of each wellbore to the reservoir by drilling longer horizontal lateral sections of the wellbore. To complete the well, hydraulic fracturing is applied in stages along the wellbore to break-up the resource so that oil and gas can be produced. As wellbores have increased in length, the number of frac stages and/or the number of perforation clusters (frac initiation points) has also increased. Further, E&P companies have improved production from each stage by applying increasing amounts of proppant in each stage, which better connects the well to the resource. The aggregate effect of increased number of stages and the increasing amount of proppant in each stage has greatly increased the total amount of proppant used in each well, according to Liberty’s FracTrends database, from six million pounds per well in 2014 to roughly 22 million pounds per well in 2024. Further efficiency gains are being sought via the “simul-frac,” “trimul-frac,” and other techniques. When compared to typical zipper-frac operations, these methods allow operators to complete a pad of wells quicker, thereby shortening the time from spud to first production.

These industry trends continue to keep our customers as important suppliers to the global oil and natural gas markets, which directly benefit hydraulic fracturing companies like us that have the expertise and innovative technology to effectively service today’s more efficient oilfield drilling activity and the increasing complexity and intensity of well completions. Given the expected returns that E&P companies have reported for new well development activities due to improved rig efficiencies and increasing well completion complexity and intensity, we expect these industry trends to continue.

Recent Leadership Updates

On February 3, 2025, Christopher A. Wright, our Chief Executive Officer and Chairman of the Board, was confirmed to the position of Secretary of Energy of the United States and resigned from his positions as Chairman of the Board, Director, and Chief Executive Officer of the Company. Also, on February 3, 2025, in accordance with the Company’s succession plan, the Board appointed William Kimble as the non-executive Chairman of the Board and Ron Gusek as the Company’s Chief Executive Officer and Director. Lastly, on January 22, 2025, the Board approved an increase to the size of the Board from nine to 10 directors and appointed Arjun Murti to fill the newly created vacancy.

How We Generate Revenue

We currently generate revenue through the provision of hydraulic fracturing, wireline services and goods, including sand from our Permian Basin sand mines, proppant delivery and logistics, and natural gas compression and delivery. These services and goods are provided under a variety of contract structures, primarily master service agreements (“MSAs”) as supplemented by statements of work, pricing agreements and specific quotes. A portion of our statements of work, under MSAs, include provisions that establish pricing arrangements for a period of up to approximately one year in length. However, the majority of those agreements provide for pricing adjustments based on market conditions. The majority of our services are priced based on prevailing market conditions and changing input costs at the time the services are provided, giving consideration to the specific requirements of the customer.

Our hydraulic fracturing and wireline services are performed in sections, which we refer to as fracturing stages. The estimated number of fracturing stages to be completed for a particular horizontal well is determined by the customer’s well completion design. We primarily recognize revenue based on pump hours, fracturing stages, or days on location, although total revenue depends on the actual volumes and types of proppants, chemicals, and fluid utilized on each pad. The number of fracturing stages that we are able to complete in a period is directly related to the number and utilization of our deployed fleets and size of stages.

Costs of Conducting Our Business

The principal expenses involved in conducting our business are direct cost of personnel, services, and materials used in the provision of services, general and administrative expenses, and depreciation, depletion, and amortization. A large portion of the costs we incur in our business are variable based on the number of hydraulic fracturing jobs and the requirements of services provided to our customers. We manage the level of our fixed costs, except depreciation, depletion, and amortization, based on several factors, including industry conditions and expected demand for our services.

How We Evaluate Our Operations

We use a variety of qualitative, operational and financial metrics to assess our performance. First and foremost, of these is a qualitative assessment of customer satisfaction because ensuring we are a valuable partner to our customers is the key to achieving our quantitative business metrics. Among other measures, management considers each of the following:

- Revenue;
- Operating Income;
- Net Income;
- EBITDA; and
- Adjusted EBITDA;

Revenue

We analyze our revenue by comparing actual revenue to our internal projections for a given period and to prior periods to assess our performance.

Operating Income

We analyze our operating income, which we define as revenues less direct operating expenses, depreciation, depletion, and amortization and general and administrative expenses, to measure our financial performance. We believe operating income is a meaningful metric because it provides insight on profitability and true operating performance based on the historical cost basis of our assets. We also compare operating income to our internal projections for a given period and to prior periods.

Net Income

We analyze our net income, which we define as operating income adjusted for other income or expense, net, including interest expense, net, and income tax expense. We analyze net income by comparing actual net income to our internal projections for a given period and to prior periods to assess our performance.

EBITDA and Adjusted EBITDA

We view EBITDA and Adjusted EBITDA as important indicators of performance. We define EBITDA as net income before interest, income taxes, and depreciation, depletion, and amortization. We define Adjusted EBITDA as EBITDA adjusted to eliminate the effects of items such as non-cash stock-based compensation, new fleet or new basin start-up costs, fleet lay-down costs, costs of asset acquisitions, gain or loss on the disposal of assets, provision for credit losses, transaction, severance, and other costs, the gain or loss on remeasurement of liability under our tax receivable agreements, the gain or loss on investments, and other non-recurring expenses that management does not consider in assessing ongoing performance. See "Comparison of Non-GAAP Financial Measures" for more information and a reconciliation of EBITDA and Adjusted EBITDA to net income, the most comparable financial measures calculated and presented in accordance with GAAP.

Results of Operations

Year Ended December 31, 2024, Compared to Year Ended December 31, 2023

Description	Years Ended December 31, 2024	2023	Change
		(in thousands)	
Revenue	$ 4,315,161	$ 4,747,928	$ (432,767)
Cost of services, excluding depreciation, depletion, and amortization shown separately	3,200,506	3,349,370	(148,864)
General and administrative	225,474	221,406	4,068
Transaction and other costs	—	2,053	(2,053)
Depreciation, depletion, and amortization	505,050	421,514	83,536
Gain on disposal of assets, net	(5,337)	(6,994)	1,657
Operating income	389,468	760,579	(371,111)
Other (income) expense, net	(13,803)	25,689	(39,492)
Net income before income taxes	403,271	734,890	(331,619)
Income tax expense	87,261	178,482	(91,221)
Net income	316,010	556,408	(240,398)
Less: Net income attributable to non-controlling interests	—	91	(91)
Net income attributable to Liberty Energy Inc. stockholders	$ 316,010	$ 556,317	$ (240,307)

Revenue

Our revenue decreased $432.8 million, or 9%, to $4.3 billion for the year ended December 31, 2024 compared to $4.7 billion for the year ended December 31, 2023. The decrease in revenue was primarily attributable to a decrease in service and materials pricing, partially offset by higher activity levels primarily from increased fleet efficiency.

Cost of Services

Cost of services (excluding depreciation, depletion, and amortization) decreased $148.9 million, or 4%, to $3.2 billion for the year ended December 31, 2024 compared to $3.3 billion for the year ended December 31, 2023. The decrease in expense was primarily related to decreases in materials costs and lower repairs and maintenance costs, partially offset by increased personnel costs related to higher activity levels discussed above, during the year ended December 31, 2024.

General and Administrative

General and administrative expenses increased $4.1 million, or 2%, to $225.5 million for the year ended December 31, 2024 compared to $221.4 million for the year ended December 31, 2023 primarily related to increased corporate costs to support our additional service offerings, partially offset by a decrease in cash incentive and stock-based compensation expense due to lower operating results compared to the prior year period.

Transaction and Other Costs

Transaction and other costs decreased $2.1 million, or 100%, as the Company did not incur such costs for the year ended December 31, 2024 compared to $2.1 million for the year ended December 31, 2023. The costs incurred during the year ended December 31, 2023 primarily consisted of due diligence and integration costs for the Siren Acquisition. See Note 3—Acquisitions to the consolidated financial statements included in Part II, Item 8 of this Annual Report for further details.

Depreciation, Depletion, and Amortization

Depreciation, depletion, and amortization expense increased $83.5 million, or 20%, to $505.1 million for the year ended December 31, 2024 compared to $421.5 million for the year ended December 31, 2023. The increase in 2024 was due to additional equipment placed in service since the prior year period, including equipment related to the deployment of our digiTechnologies℠.

Gain on Disposal of Assets, net

The Company recorded a gain on disposal of assets, net of $5.3 million for the year ended December 31, 2024 compared to $7.0 million for the year ended December 31, 2023. The gain recognized in the year ended December 31, 2024 was primarily related to the disposal of used older technology field equipment that was no longer operational. The gain recognized in the year ended December 31, 2023 was a result of the Company selling used field equipment and light duty trucks in a strong used vehicle and equipment market.

Other (Income) Expense, net

Other (income) expense, net changed by $39.5 million to $13.8 million income for the year ended December 31, 2024 compared to $25.7 million expense during the year ended December 31, 2023. Other (income) expense, net is comprised of loss on remeasurement of liability under the TRAs of $3.2 million during the year ended December 31, 2024, compared to a gain of $1.8 million for the year ended December 31, 2023. It also includes an unrealized gain on investments, net of $49.2 million related to investments in equity securities measured at fair value during the year ended December 31, 2024, compared to $0 for the year ended December 31, 2023. Interest expense, net increased $3.2 million primarily as a result of the addition of finance lease liabilities, refer to "Liquidity and Capital Resources" below for further discussion of the Company's finance leases. Additionally, interest income—related party decreased $1.5 million related to a note receivable agreement executed in December 2022, amended in August 2023, and fully collected in March 2024.

Income Tax Expense

The Company recognized income tax expense of $87.3 million for the year ended December 31, 2024, an effective rate of 21.6%, compared to $178.5 million, for the year ended December 31, 2023, an effective rate of 24.3%. The decrease in income tax expense was primarily attributable to the decrease in net income before income taxes and increased U.S. federal tax credits.

Comparison of Non-GAAP Financial Measures

We view EBITDA and Adjusted EBITDA as important indicators of performance. We define EBITDA as net income before interest, income taxes, and depreciation, depletion, and amortization. We define Adjusted EBITDA as EBITDA adjusted to eliminate the effects of items such as non-cash stock-based compensation, new fleet or new basin start-up costs, fleet lay-down costs, gain or loss on the disposal of assets, net, bad debt reserves, transaction and other costs, the gain or loss on remeasurement of liability under our tax receivable agreements, the unrealized gain or loss on investments, net, and other non-recurring expenses that management does not consider in assessing ongoing performance.

Our Board, management, investors, and lenders use EBITDA and Adjusted EBITDA to assess our financial performance because it allows them to compare our operating performance on a consistent basis across periods by removing the effects of our capital structure (such as varying levels of interest expense), asset base (such as depreciation, depletion, and amortization) and other items that impact the comparability of financial results from period to period. We present EBITDA and Adjusted EBITDA because we believe they provide useful information regarding the factors and trends affecting our business in addition to measures calculated under GAAP.

Note Regarding Non-GAAP Financial Measures

EBITDA and Adjusted EBITDA are not financial measures presented in accordance with GAAP. We believe that the presentation of these non-GAAP financial measures will provide useful information to investors in assessing our financial performance and results of operations. Net income is the GAAP financial measure most directly comparable to EBITDA and Adjusted EBITDA. Our non-GAAP financial measures should not be considered as alternatives to the most directly comparable GAAP financial measure. Each of these non-GAAP financial measures has important limitations as an analytical tool due to exclusion of some but not all items that affect the most directly comparable GAAP financial measures. You should not consider EBITDA or Adjusted EBITDA in isolation or as substitutes for an analysis of our results as reported under GAAP. Because EBITDA and Adjusted EBITDA may be defined differently by other companies in our industry, our definitions of these non-GAAP financial measures may not be comparable to similarly titled measures of other companies, thereby diminishing their utility.

The following tables present a reconciliation of EBITDA and Adjusted EBITDA to our net income, which is the most directly comparable GAAP financial measure for the periods presented:

Year Ended December 31, 2024, Compared to Year Ended December 31, 2023: EBITDA and Adjusted EBITDA

	Years Ended December 31,		
Description	2024	2023	Change
		(in thousands)	
Net income	$ 316,010	$ 556,408	$ (240,398)
Depreciation, depletion, and amortization	505,050	421,514	83,536
Interest expense, net	32,214	27,506	4,708
Income tax expense	87,261	178,482	(91,221)
EBITDA	$ 940,535	$ 1,183,910	$ (243,375)
Stock-based compensation expense	32,412	33,026	(614)
Gain on disposal of assets, net	(5,337)	(6,994)	1,657
Unrealized gain on investments, net	(49,227)	—	(49,227)
Loss (gain) on remeasurement of liability under tax receivable agreements	3,210	(1,817)	5,027
Provision for credit losses	—	808	(808)
Transaction and other costs	—	2,053	(2,053)
Fleet start-up and lay-down costs	—	2,082	(2,082)
Adjusted EBITDA	$ 921,593	$ 1,213,068	$ (291,475)

EBITDA was $940.5 million for the year ended December 31, 2024 compared to $1.2 billion for the year ended December 31, 2023. Adjusted EBITDA was $921.6 million for the year ended December 31, 2024 compared to $1.2 billion for the year ended December 31, 2023. The decreases in EBITDA and Adjusted EBITDA primarily resulted from lower pricing and partially offset by changes in activity levels in 2024 as described above under the captions *Revenue*, *Cost of Services,* and *General and Administrative Expenses for the Year Ended December 31, 2024, Compared to Year Ended December 31, 2023*.

Liquidity and Capital Resources

Overview

Our primary sources of liquidity consist of cash flows from operations and borrowings under our ABL Facility (as defined below). We believe that we can fund operations and current organic growth plans with these sources. We monitor the availability and cost of capital resources such as equity, debt, and lease financings that could be leveraged for current or future financial obligations including those related to acquisitions, capital expenditures, working capital, and other liquidity requirements. We may incur additional indebtedness or issue equity in order to meet our capital expenditure activities and liquidity requirements, as well as to fund organic and other growth opportunities that we pursue, including via acquisition. Our primary uses of capital have been capital expenditures to support organic growth and funding ongoing operations, including maintenance and fleet upgrades, as well as the repurchases of, and dividends on, shares of our Class A Common Stock.

Cash and cash equivalents decreased by $16.8 million to $20.0 million as of December 31, 2024 compared to $36.8 million as of December 31, 2023, while working capital excluding cash and current liabilities under debt and lease arrangements decreased $88.2 million.

On September 19, 2017, the Company entered into two credit agreements, (i) a revolving line of credit up to $250.0 million, subsequently increased to $525.0 million, see below, (the "ABL Facility") and (ii) a $175.0 million term loan (the "Term Loan Facility", and together with the ABL Facility the "Credit Facilities").

As of December 31, 2024, the Company had $525.0 million committed under the ABL Facility, subject to certain borrowing base limitations based on a percentage of eligible accounts receivable and inventory available to finance working capital needs. As of December 31, 2024, the borrowing base was calculated to be $319.8 million, and the Company had $190.5 million outstanding, in addition to letters of credit totaling $14.0 million, with $115.3 million of remaining availability.

On January 23, 2023, the Company entered into an Eighth Amendment to the ABL Facility (the "Eighth ABL Amendment"). The Eighth ABL Amendment amends certain terms, provisions and covenants of the ABL Facility, including, among other things: (i) increasing the maximum revolver amount from $425.0 million to $525.0 million (the "Upsized Revolver"); (ii) increasing the amount of the accordion feature from $75.0 million to $100.0 million; (iii) extending the maturity date from October 22, 2026 to January 23, 2028; (iv) modifying the dollar amounts of various credit facility triggers and tests proportionally to the Upsized Revolver; (v) permitting repayment under the Term Loan Facility prior to February 10, 2023; and (vi) increasing certain indebtedness, intercompany advance, and investment baskets. The Eighth ABL Amendment also includes an agreement from Wells Fargo Bank, National Association, as administrative agent, to release its second priority liens and security interests on all collateral that served as first priority collateral under the Term Loan Facility. This release was completed during the three months ended June 30, 2023.

Additionally, on January 23, 2023, the Company borrowed $106.7 million on the ABL Facility and used the proceeds to pay off and terminate the Term Loan Facility. The amount paid included the balance of the Term Loan Facility upon payoff of $104.7 million, $0.9 million of accrued interest, and a $1.1 million prepayment premium. Additionally, there were $0.2 million in administrative agent and lender legal fees included in the pay off.

The ABL Facility contains covenants that restrict our ability to take certain actions. At December 31, 2024, we were in compliance with all debt covenants.

See Note 8—Debt to the consolidated financial statements included in Part II, Item 8 of this Annual Report for further details.

We have no material off balance sheet arrangements as of December 31, 2024, except for purchase commitments under supply agreements as disclosed below under Note 15—Commitments & Contingencies in Part II, Item 8 of this Annual Report. As such, we are not materially exposed to any other financing, liquidity, market, or credit risk that could arise if we had engaged in such financing arrangements.

Share Repurchase Program

Under our share repurchase program, the Company is authorized to repurchase up to $750.0 million of outstanding Class A Common Stock through and including July 31, 2026. Shares may be repurchased from time to time for cash in open market transactions, through block trades, in privately negotiated transactions, through derivative transactions, or by other means in accordance with applicable federal securities laws. The timing and the amount of repurchases will be determined by the Company at its discretion based on an evaluation of market conditions, capital allocation alternatives and other factors. The share repurchase program does not require us to purchase any dollar amount or number of shares of our Class A Common Stock and may be modified, suspended, extended or terminated at any time without prior notice. The Company expects to fund any repurchases by using cash on hand, borrowings under the ABL Facility, and expected free cash flow to be generated through the duration of the share repurchase program. During the year ended December 31, 2024, the Company repurchased and retired shares of Class A Common Stock for $127.4 million, under the share repurchase program.

Cash Flows

The following table summarizes our cash flows for the periods indicated:

Description	Years Ended December 31, 2024	2023	Change
	(in thousands)		
Net cash provided by operating activities	$ 829,374	$ 1,014,583	$ (185,209)
Net cash used in investing activities	(643,113)	(672,328)	29,215
Net cash used in financing activities	(202,705)	(349,315)	146,610

Analysis of Cash Flow Changes Between the Years Ended December 31, 2024 and December 31, 2023

Operating Activities. Net cash provided by operating activities was $829.4 million for the year ended December 31, 2024, compared to $1.0 billion for the year ended December 31, 2023. The $185.2 million decrease in cash from operating activities is primarily attributable to a $432.8 million decrease in revenues, offset by a $145.3 million decrease in cash operating expenses, interest expense, net, and income tax expense, and a $9.4 million decrease in cash from changes in working capital for the year ended December 31, 2024, compared to a $111.7 million decrease in cash from changes in working capital for the year ended December 31, 2023.

Investing Activities. Net cash used in investing activities was $643.1 million for the year ended December 31, 2024, compared to $672.3 million for the year ended December 31, 2023. Cash used in investing activities was lower during the year ended December 31, 2024, compared to the year ended December 31, 2023 primarily due to the Siren Acquisition and higher equity investments in the prior year period, offset by higher capital spending in the current year period, and lower proceeds from asset sales. The Company purchased Siren Energy for $75.7 million in cash, net of cash received, during the year ended December 31, 2023. Refer to Note 3—Acquisitions to the consolidated financial statements in Part II, Item 8 of this Annual Report for additional information related to the Siren Acquisition. Investments in equipment, including the new digiTechnologies℠ suite and capitalized maintenance of existing equipment increased $47.7 million, from $603.3 million for the year ended December 31, 2023 to $651.0 million for the year ended December 31, 2024. Proceeds from asset sales decreased $2.9 million, from $26.9 million to $24.0 million as the Company benefited from strong used vehicle and equipment markets in the prior period. Finally, during the year ended December 31, 2024, the Company invested $16.1 million for equity investments in Tamboran Resources Corporation, Empire Energy Group Ltd., and Falcon Oil & Gas Ltd, compared to $20.3 million for equity investments in Tamboran Resources Corporation and Oklo Inc. during the year ended December 31, 2023.

Financing Activities. Net cash used in financing activities was $202.7 million for the year ended December 31, 2024, compared to $349.3 million for the year ended December 31, 2023. The $146.6 million decrease in cash used in financing activities was primarily due to net borrowings of $50.5 million during the current year period compared to $79.7 million in net repayment of borrowings during the prior year as well as a $73.9 million decrease in share repurchases for the year ended December 31, 2024, compared to the year ended December 31, 2023. These decreases in cash used in financing activities were offset by a $32.9 million increase in cash paid for finance leases, a $10.5 million increase in cash tax withholding on restricted stock unit vestings, and a $10.6 million increase in dividends paid.

Cash Requirements

Our material cash commitments consist primarily of obligations under long-term debt on the ABL Facility, TRAs, finance and operating leases for property and equipment, cash used to pay for repurchases of, and dividends on, shares of our Class A Common Stock, and purchase obligations as part of normal operations. Certain amounts included in our contractual obligations as of December 31, 2024 are based on our estimates and assumptions about these obligations, including pricing, volumes, and duration. We have no material off balance sheet arrangements as of December 31, 2024, except for purchase commitments under supply agreements disclosed below.

See Note 8—Debt to the consolidated financial statements included in Part II, Item 8 of this Annual Report for information regarding scheduled maturities of our long-term debt. See Note 6—Leases to the consolidated financial statements included in Part II, Item 8 of this Annual Report for information regarding scheduled maturities of finance and operating leases.

During the year ended December 31, 2024, the Company expanded its equipment lease facilities resulting in the addition of $149.0 million in new finance lease obligations. The term on these new leases range from three to five years. As of December 31, 2024, the Company had finance lease obligations of $87.5 million payable within the next twelve months and $222.5 million payable thereafter. Included in those liabilities, the Company had expected cash payments for estimated interest on our finance lease obligations of $17.1 million payable within the next twelve months and $22.4 million payable thereafter.

On January 23, 2023, the Company borrowed $106.7 million on the ABL Facility and used the proceeds to pay off and terminate the Term Loan Facility. The balance of the Term Loan Facility at pay off was $104.7 million and included $0.9 million of accrued interest, and a $1.1 million prepayment premium. As such, the only outstanding debt facility as of December 31, 2024 and 2023 was the ABL Facility.

As of December 31, 2024, the Company has purchase obligations of $26.3 million payable within the next twelve months. See Note 15—Commitments & Contingencies to the consolidated financial statements in Part II, Item 8 of this Annual Report for information regarding scheduled contractual obligations.

As of December 31, 2024, the Company expects to make a $40.8 million payment under the TRAs within the next twelve months. Future amounts payable under the TRAs are dependent upon future events. See Note 12—Income Taxes to the consolidated financial statements included in Part II, Item 8 of this Annual Report for information regarding the TRAs.

There have been no other material changes to cash requirements during the year ended December 31, 2024.

Other Factors Affecting Liquidity

Customer receivables: In line with industry practice, we typically bill our customers for services provided in arrears dependent upon contractual terms. In weak economic environments, we may experience delays in collection from our customers. In the past, we have experienced delays in customer payments and periodically agreed to extended payment terms, however, we have not experienced any material non-payment events.

Tax Receivable Agreements

In connection with the IPO, on January 17, 2018, the Company entered into two TRAs with the TRA Holders. The TRAs generally provide for the payment by the Company of 85% of the net cash savings, if any, in U.S. federal, state, and local income tax and franchise tax (computed using simplifying assumptions to address the impact of state and local taxes) that the Company actually recognizes (or is deemed to recognize in certain circumstances) in periods after the IPO as a result, as applicable to each of the TRA Holders, of (i) certain increases in tax basis that occur as a result of the Company's acquisition (or deemed acquisition for U.S. federal income tax purposes) of all or a portion of such TRA Holders' Liberty LLC Units in connection with the IPO or pursuant to the exercise of the right of each Liberty Unit Holder (the "Redemption Right"), subject to certain limitations, to cause Liberty LLC to acquire all or a portion of its Liberty LLC Units for, at Liberty LLC's election, (A) shares of our Class A Common Stock at the specific redemption ratio or (B) an equivalent amount of cash, or, upon the exercise of the Redemption Right, the right of the Company (instead of Liberty LLC) to, for administrative convenience, acquire each tendered Liberty LLC Unit directly from the redeeming Liberty Unit Holder (the "Call Right") for, at its election, (1) one share of Class A Common Stock or (2) an equivalent amount of cash, (ii) any net operating losses available to the Company as a result of the Corporate Reorganization, and (iii) imputed interest deemed to be paid by the Company as a result of, and additional tax basis arising from, any payments the Company makes under the TRAs. On January 31, 2023, the last redemption of the Liberty LLC Units occurred.

With respect to obligations the Company expects to incur under the TRAs (except in cases where the Company elects to terminate the TRAs early, the TRAs are terminated early due to certain mergers, asset sales, or other changes of control or the Company has available cash but fails to make payments when due), generally the Company may elect to defer payments due under the TRAs if the Company does not have available cash to satisfy its payment obligations under the TRAs or if its contractual obligations limit its ability to make such payments. Any such deferred payments under the TRAs generally will accrue interest. In certain cases, payments under the TRAs may be accelerated and/or significantly exceed the actual benefits, if any, the Company realizes in respect of the tax attributes subject to the TRAs. The Company accounts for amounts payable under the TRAs in accordance with Accounting Standard Codification ("ASC") Topic 450, *Contingencies* ("ASC Topic 450").

If the Company experiences a change of control (as defined under the TRAs) or the TRAs otherwise terminate early, the Company's obligations under the TRAs could have a substantial negative impact on its liquidity and could have the effect of delaying, deferring or preventing certain mergers, asset sales, or other forms of business combinations or changes of control. There can be no assurance that we will be able to finance our obligations under the TRAs.

Income Taxes

The Company is a corporation and is subject to U.S. federal, state, and local income tax. The Company is also subject to Canada and Australia federal and provincial income tax on its foreign operations.

The effective global income tax rate applicable to the Company for the year ended December 31, 2024 was 21.6% compared to 24.3% for the year ended December 31, 2023. The Company's effective tax rate for both years is greater than the statutory federal income tax rate of 21.0% due to the Company's Canadian operations, state income taxes in the states the Company operates, as well as nondeductible executive compensation, partially offset by U.S. federal income tax credits.

The Company recognized income tax expense of $87.3 million and $178.5 million for the years ended December 31, 2024 and 2023, respectively. The Company's effective tax rate can be volatile and may change with, among other things, the amount of jurisdiction pre-tax income or loss, ability to utilize foreign tax credits, excess tax benefits or deficiencies from share-based compensation and changes in tax laws in the jurisdictions that we operate.

Deferred income tax assets and liabilities are recognized for the estimated future tax consequences attributable to differences between the financial reporting and tax bases of assets and liabilities, and are measured using enacted tax rates in effect for the year in which those temporary differences are expected to be recovered or settled. In the year ended December 31, 2024, the Company's U.S. net deferred tax liabilities were $137.7 million and Canada net deferred tax assets were $1.5 million. The Company has no valuation allowances recorded against the deferred tax assets for the year ended December 31, 2024 and 2023.

Refer to Note 12— Income Taxes to the consolidated financial statements in Part II, Item 8 of this Annual Report for additional information related to income tax expense.

Critical Accounting Policies and Estimates

The preparation of financial statements requires the use of judgments and estimates. Our critical accounting policies are described below to provide a better understanding of how we develop our assumptions and judgments about future events and related estimates and how they can impact our financial statements. A critical accounting estimate is one that requires our most difficult, subjective or complex estimates and assessments and is fundamental to our results of operations.

We base our estimates on historical experience and on various other assumptions we believe to be reasonable according to the current facts and circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. We believe the following are the critical accounting policies used in the preparation of our consolidated financial statements, as well as the significant estimates and judgments affecting the application of these policies. This discussion and analysis should be read in conjunction with our consolidated financial statements and related notes included in Part II, Item 8 of this Annual Report.

Revenue Recognition: Revenue from hydraulic fracturing services is recognized as specific services are provided in accordance with contractual arrangements. If our assessment of performance under a particular contract change, our revenue and / or costs under that contract may change. In connection with *ASC Topic 842 - Leases* ("Topic 842"), the Company determined that certain of its service revenue contracts contain a lease component. The Company elected to adopt a practical expedient available to lessors, which allows the Company to combine the lease and service component for certain of the Company's service contracts when the service component is the predominant component and continues to account for the combined component under *ASC Topic 606 - Revenue from Contracts with Customers*.

Inventory: Inventory consists of raw materials used in the hydraulic fracturing process, such as proppants, chemicals and field service equipment maintenance parts, and is stated at the lower of cost or net realizable value, determined using the weighted average cost method. Net realizable value is determined based on our estimates of selling prices in the ordinary course of business, less reasonably predictable cost of completion, disposal, and transportation, each of which require us to apply judgment.

Property and Equipment: We calculate depreciation and amortization on our assets based on the estimated useful lives and estimated salvage values that we believe are reasonable. The estimated useful lives and salvage values are subject to key assumptions such as maintenance, utilization and job variation. These estimates may change due to a number of factors such as changes in operating conditions or advances in technology.

We incur maintenance costs on our major equipment. The determination of whether an expenditure should be capitalized or expensed requires management judgment in the application of how the costs benefit future periods, relative to our capitalization policy. Costs that either establish or increase the efficiency, productivity, functionality or life of a fixed asset are capitalized and depreciated over the remaining useful life of the asset.

Impairment of long-lived assets: Long-lived assets, such as property and equipment, right-of-use lease assets and intangible assets, are evaluated for impairment whenever events or changes in circumstances indicate that their carrying value may not be recoverable. Possible indicators of impairment may include events or changes in circumstances affecting the manner in which the assets are being used, historical and estimated future profitability measures, and other adverse events or changes that could affect the value of the assets. If a triggering event is identified, recoverability is assessed using undiscounted future net cash flows of assets grouped at the lowest level for which there are identifiable cash flows independent of the cash flows of other groups of assets. When alternative courses of action to recover the carrying amount of the asset group are under consideration, estimates of future undiscounted cash flows take into account possible outcomes and probabilities of their occurrence, which require us to apply judgment. If the carrying amount of the asset is not recoverable based on its estimated undiscounted cash flows expected to result from the use and eventual disposition, an impairment loss is recognized in an amount by which its carrying amount exceeds its estimated fair value. The inputs used to determine such fair value are primarily based upon internally developed cash flow models. Our cash flow models are based on a number of estimates regarding future operations that may be subject to significant variability, are sensitive to changes in market conditions, and are reasonably likely to change in the future.

Leases: In accordance with ASC Topic 842, *Leases*, the Company determines if an arrangement is a lease at inception and evaluates identified leases for operating or finance lease treatment. Operating or finance lease right-of-use assets and liabilities are recognized at the commencement date based on the present value of lease payments over the lease term. We use our incremental borrowing rate based on the information available at the commencement date in determining the present value of lease payments. Lease terms may include options to renew; however, we typically cannot determine our intent to renew a lease with reasonable certainty at inception.

Tax Receivable Agreements: In connection with the IPO, on January 17, 2018, the Company entered into two TRAs with the TRA Holders. The TRAs generally provide for the payment by the Company of 85% of the net cash savings, if any, in U.S. federal, state, and local income tax and franchise tax that the Company actually realizes in periods after the IPO as a result of certain tax attributes applicable to each TRA Holder. The Company accounts for amounts payable under the TRAs in accordance with ASC Topic 450, *Contingencies*.

Share Repurchases: The Company accounts for the purchase price of repurchased Class A Common Stock in excess of par value ($0.01 per share of Class A Common Stock) as a reduction of additional paid-in capital, and will continue to do so until additional paid-in capital is reduced to zero. Thereafter, any excess purchase price will be recorded as a reduction to retained earnings. All Class A Common Stock shares repurchased to date have been retired upon repurchase.

Item 7A. Quantitative and Qualitative Disclosure about Market Risk

Industry Risk

The demand, pricing and terms for hydraulic fracturing services and related goods provided by us are largely dependent upon the level of drilling and completions activity in the U.S. oil and natural gas industry, as well as the available supply of hydraulic fracturing equipment. These activity levels are influenced by numerous factors over which we have no control, including, but not limited to: the supply of and demand for oil and natural gas; the level of prices, and expectations about future prices of oil and natural gas; the cost of exploring for, developing, producing and delivering oil and natural gas; the expected rates of declining current production; the discovery rates of new oil and natural gas reserves; supply of actively marketed and staffed fracturing fleets; available rail and other transportation capacity; weather conditions; domestic and worldwide economic conditions; political instability in oil-producing countries; environmental regulations; technical advances affecting energy consumption; the price and availability of alternative fuels; the ability of E&P companies to raise equity capital and debt financing; and merger and divestiture activity among E&P companies.

The level of U.S. oil and natural gas drilling can be volatile. Expected trends in oil and natural gas production activities may not materialize and demand for our services may not reflect the level of activity in the industry. Any prolonged and substantial reduction in oil and natural gas prices would likely affect oil and natural gas production levels and therefore affect demand for our services. A material decline in oil and natural gas prices or U.S. activity levels could have a material adverse effect on our business, financial condition, results of operations and cash flows.

Interest Rate Risk

As of December 31, 2024, the Company had $190.5 million of debt outstanding, with a weighted average interest rate of 6.8%. Interest is calculated under the terms of our ABL Facility based on our selection, from time to time, of one of the index rates available to us plus an applicable margin that varies based on certain factors. See Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources. Assuming no change in the amount outstanding, the impact on interest expense of a 1% increase or decrease in the weighted average interest rate would be approximately $1.9 million per year. We do not currently have or intend to enter into any derivative arrangements to protect against fluctuations in interest rates applicable to our outstanding indebtedness.

Commodity Price Risk

Our material and fuel purchases expose us to commodity price risk. Material costs primarily include inventory consumed while performing hydraulic fracturing services. Fuel costs consist of diesel fuel and natural gas used by trucks and other motorized equipment used for hydraulic fracturing services. At times, we have been able to pass along price increases for material costs and fuel costs to customers and conversely have been required to pass along price decreases for material costs to our customers, depending on market conditions. Further, we have purchase commitments with certain vendors to supply proppant inventory used in our operations at a fixed purchase price, including certain commitments which include minimum purchase obligations. Refer to Note 15—Commitments & Contingencies included in Part II, Item 8. of this Annual Report for further discussion regarding purchase commitments.

Foreign Translation Risk

Our consolidated financial statements are expressed in U.S. dollars but a portion of our operations is conducted in a currency other than U.S. dollars. The Canadian dollar and the Australian dollar are the functional currencies of the Company's foreign subsidiaries as it is the primary currency within the economic environment in which the subsidiaries operate. Changes in the exchange rate can affect our revenues, earnings, and the carrying value of our assets and liabilities in our consolidated balance sheet, either positively or negatively. Adjustments resulting from the translation of the subsidiary's financial statements are reported in other comprehensive (loss) income. During the years ended December 31, 2024 and 2023, the Company recorded a foreign currency translation loss of $13.7 million and a foreign currency translation gain of $1.3 million to comprehensive income, respectively.

Item 8. Financial Statements and Supplementary Data

Our financial statements and supplementary data are included in this Annual Report beginning on page F-1 and incorporated by reference herein.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

In accordance with the Securities Exchange Act of 1934 Rules 13a-15 and 15d-15, we carried out an evaluation, under the supervision and with the participation of management, including our principal executive officer and principal financial officer, of the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act) as of the end of the period covered by this report. Based on that evaluation, our principal executive officer and principal financial officer concluded that our disclosure controls and procedures were effective as of December 31, 2024 to provide reasonable assurance that information required to be disclosed in our reports filed or submitted under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC. Our disclosure controls and procedures include controls and procedures designed to ensure that information required to be disclosed in reports filed or submitted under the Exchange Act is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate, to allow timely decisions regarding required disclosures.

There were no changes to our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that occurred during our last fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

See page F-1 for Management's Report on Internal Control Over Financial Reporting and page F-4 for Report of Independent Registered Public Accounting Firm on its assessment of our internal control over financial reporting.

Item 9B. Other Information

During the quarter ended December 31, 2024, none of our directors or Section 16 officers informed us of the adoption, modification, or termination of any "Rule 10b5-1 trading arrangement" or "non-Rule 10b5-1 trading arrangement" (in each case, as defined in Item 408(a) of Regulation S-K).

PART III

Item 10. Directors, Executive Officers and Corporate Governance

The information required by this item concerning our executive officers, directors and corporate governance is incorporated herein by reference to our definitive proxy statement for our 2025 annual meeting of stockholders, which will be filed with the SEC no later than 120 days after December 31, 2024, under the captions “Proposal 1 — Election of Directors,” “The Board and its Committees,” “Executive Officers” and “Delinquent Section 16(a) Reports.”

Item 11. Executive Compensation

The information required by this item concerning executive compensation is incorporated herein by reference to our definitive proxy statement for our 2025 annual meeting of stockholders, which will be filed with the SEC no later than 120 days after December 31, 2024, under the captions “The Board and its Committees,” “Compensation Discussion & Analysis,” “Compensation Committee Report,” “Executive Compensation Tables,” “Director Compensation,” and “CEO Pay Ratio,” except for the information required by Item 402(v) of Regulation S-K, which is specifically not incorporated by reference.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required by this item concerning the security ownership of certain beneficial owners and management and related stockholder matters are incorporated herein by reference to our definitive proxy statement for our 2025 annual meeting of stockholders, which will be filed with the SEC no later than 120 days after December 31, 2024, under the captions “Security Ownership of Certain Beneficial Owners and Management” and “Equity Compensation Plan Information.”

Item 13. Certain Relationships and Related Transactions, and Director Independence

The information required by this item concerning certain relationships and related person transactions and director independence is incorporated herein by reference to our definitive proxy statement for our 2025 annual meeting of stockholders, which will be filed with the SEC no later than 120 days after December 31, 2024, under the captions “Certain Relationships and Related Party Transactions” and “the Board and its Committees.”

Item 14. Principal Accountant Fees and Services

The information required by this item concerning principal accounting fees and services is incorporated herein by reference to our definitive proxy statement for our 2025 annual meeting of stockholders, which will be filed with the SEC no later than 120 days after December 31, 2024, under the caption “Proposal 3 — Ratification of Appointment of the Company’s Independent Registered Public Accounting Firm.”

PART IV

Item 15. Exhibits and Financial Statement Schedules

(a) Financial Statements and Financial Statement Schedules

Refer to Index to Financial Statements on page 53.

All schedules are omitted as information required is inapplicable or the information is presented in the consolidated financial statements and the related notes.

(b) Exhibits

The documents listed in the Index to Exhibits are filed, furnished or incorporated by reference as part of this Annual Report, and such Index to Exhibits are incorporated herein by reference.

Item 16. Form 10-K Summary

None.

INDEX TO EXHIBITS

Exhibit Number	Description
2.1	Master Reorganization Agreement, dated as of January 11, 2018, by and among Liberty Oilfield Services Inc., Liberty Oilfield Services Holdings LLC, Liberty Oilfield Services New HoldCo LLC, and the other parties named therein (2)
2.2	Master Transaction Agreement, dated as of August 31, 2020, by and among Schlumberger Technology Corporation, Schlumberger Canada Limited, Liberty Oilfield Services Holdings LLC, Liberty Canada Operations Inc. and Liberty Oilfield Services Inc. (10)
3.1	Amended and Restated Certificate of Incorporation of Liberty Oilfield Services Inc. (2)
3.2	Certificate of Amendment to Amended and Restated Certificate of Incorporation (13)
3.3	Second Amended and Restated Bylaws of Liberty Energy Inc., as amended effective January 24, 2023 (17)
4.1	Description of the Registrant's Securities Registered pursuant to Section 12 of the Securities Exchange Act of 1934. (20)
10.1	Second Amended and Restated Limited Liability Company Operating Agreement of Liberty Oilfield Services New HoldCo LLC (2)
10.2	Form of Joinder Agreement to Second Amended and Restated Limited Liability Company Operating Agreement of Liberty Oilfield Services New HoldCo LLC (12)
10.3	Tax Receivable Agreement, dated January 17, 2018, by and among Liberty Oilfield Services Inc., R/C Energy IV Direct Partnership, L.P., and R/C Energy IV Direct Partnership, L.P., as agent (2)
10.4	Tax Receivable Agreement, dated January 17, 2018, by and among Liberty Oilfield Services Inc., and the other parties named therein (2)
10.5	Agent Designation Amendment to the Tax Receivable Agreement, dated as of February 22, 2022, by and among Liberty Oilfield Services Inc. and R/C Energy IV Direct Partnership, L.P. (15)
10.6	Credit Agreement, dated September 19, 2017, by and among Wells Fargo Bank, National Association, as Administrative Agent, Wells Fargo Bank, National Association, JPMorgan Chase Bank, N.A. and Citibank, N.A., as Joint Lead Arrangers, Wells Fargo Bank, National Association, as Book Runner, JPMorgan Chase Bank, N.A. and Citibank, N.A., as Syndication Agents, the lender parties thereto, Liberty Oilfield Services Holdings LLC, as Parent and Liberty Oilfield Services LLC and LOS Acquisition Co I LLC, each as a Borrower (1)
10.7	Amendment and Parent Joinder to Credit Agreement, dated January 17, 2018, by and among Liberty Oilfield Services Holdings LLC, Liberty Oilfield Services LLC, LOS Acquisition Co I LLC, Liberty Oilfield Services Inc., Liberty Oilfield Services New Holdco LLC, Wells Fargo Bank, National Association, as Administrative Agent, and the lenders signatory thereto (3)
10.8	Second Amendment and Parent Joinder to Credit Agreement, dated March 21, 2018, by and among Liberty Oilfield Services LLC, LOS Acquisition Co I LLC, Liberty Oilfield Services Inc., Liberty Oilfield Services New Holdco LLC, R/C IV Non-U.S. LOS Corp, Wells Fargo Bank, National Association, as Administrative Agent, and the lenders signatory thereto (3)
10.9	Third Amendment to Credit Agreement, dated May 29, 2020, by and among Liberty Oilfield Services LLC, Liberty Oilfield Services Inc., Liberty Oilfield Services New Holdco LLC, R/C IV Non-U.S. LOS Corp, and Wells Fargo Bank, National Association as Administrative Agent, and the lenders signatory thereto (8)
10.10	Fourth Amendment to Credit Agreement, dated August 12, 2020, by and among Liberty Oilfield Services LLC, Liberty Oilfield Services Inc., Liberty Oilfield Services New Holdco LLC, R/C IV Non-U.S. LOS Corp, Wells Fargo Bank, National Association, as Administrative Agent, and the lenders signatory thereto (9)
10.11	Consent and Fifth Amendment to Credit Agreement, dated December 29, 2020, by and among Liberty Oilfield Services LLC, Liberty Oilfield Services Inc., Liberty Oilfield Services New Holdco LLC, R/C IV Non-U.S. LOS Corp, LOS Cibolo RE Investments, LLC, LOS Odessa RE Investments, LLC, ST9 Gas and Oil LLC, Wells Fargo Bank, National Association, as Administrative Agent, and the lenders signatory thereto (11)

10.12	Sixth Amendment to Credit Agreement and Second Amendment to Guaranty and Security Agreement, dated October 22, 2021, by and among Liberty Oilfield Services LLC, Liberty Oilfield Services Inc., Liberty Oilfield Services New HoldCo LLC, R/C IV Non-U.S. LOS Corp, LOS Solar Acquisition LLC, Freedom Proppant LLC, LOS Kermit LLC, LOS Cibolo RE Investments, LLC, LOS Odessa RE Investments, LLC, ST9 Gas and Oil LLC, Wells Fargo Bank, National Association, as Administrative Agent, and the lenders signatory thereto (12)
10.13	Increase Joinder and Seventh Amendment to Credit Agreement, dated July 18, 2022, by and among Liberty Oilfield Services LLC, Liberty Energy Inc., Liberty Oilfield Services New Holdco LLC, R/C IV Non-U.S. LOS Corp, Freedom Proppant LLC, LOS Kermit LLC, LOS Leasing Company LLC, LOS Cibolo RE Investments, LLC, LOS Odessa RE Investments, LLC, Proppant Express Solutions, LLC, ST9 Gas and Oil LLC, Well Fargo Bank, National Association, as Administrative Agent, and the lenders signatory thereto. (14)
10.14	Eighth Amendment to Credit Agreement, dated January 23, 2023, by and among Liberty Oilfield Services LLC, Liberty Energy Inc., Liberty Oilfield Services New Holdco LLC, R/C IV Non-U.S. LOS Corp, Freedom Proppant LLC, LOS Kermit LLC, LOS Leasing Company LLC, LOS Cibolo RE Investments, LLC, LOS Odessa RE Investments, LLC, Proppant Express Solutions, LLC, ST9 Gas and Oil LLC, Well Fargo Bank, National Association, as Administrative Agent, and the lenders signatory thereto. (17)
10.15	Joinder Agreement, dated December 31, 2021, by and among LOS Leasing Company LLC and Wells Fargo Bank, National Association, as Administrative Agent (16)
10.16	Liberty Energy Services 401(k) Savings Plan *
10.17	Form of Restricted Stock Unit Grant Notice and Restricted Stock Unit Award Agreement under the Long Term Incentive Plan (4)†
10.18	Form of Restricted Stock Unit Grant Notice under the Long Term Incentive Plan (11)†
10.19	Form of Performance Restricted Stock Unit Grant Notice and Performance Restricted Stock Unit Agreement under the Liberty Oilfield Services Inc. Long Term Incentive Plan (5)†
10.20	Liberty Energy Inc. Amended and Restated Long Term Incentive Plan (18)†
10.21	Form of Performance Restricted Stock unit Grant Notice and Agreement under the Liberty Energy Inc. Amended and Restated Long Term Incentive Plan (19)†
10.22	Form of Restricted Stock unit Grant Notice and Agreement under the Liberty Energy Inc. Amended and Restated Long Term Incentive Plan (19)†
10.23	Form of Restricted Stock unit Grant Notice under the Liberty Energy Inc. Amended and Restated Long Term Incentive Plan (19)†
10.24	Form of Director and Officer Indemnification Agreement *
10.25	Form of Change in Control Agreement (6)†
10.26	Form of Indemnification Agreement between the Company and each of its Directors and Executive Officers (7)
19.1	Insider Trading Policy (20)
21.1	List of subsidiaries of Liberty Energy Inc. *
23.1	Consent of Deloitte & Touche LLP *
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 *
31.2	Certification of Chief Financial Officer pursuant to 13a-14(a) as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 *
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 **
32.2	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 **
95	Mine Safety Disclosure *
97	Compensation Recovery Policy (20)
101.INS	XBRL Instance Document *
101.SCH	XBRL Taxonomy Extension Schema Document *

101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document *
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document *
101.LAB	XBRL Taxonomy Extension Label Linkbase Document *
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document *
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)*

(1)	Incorporated by reference to the exhibits to the registrant's Registration Statement on Form S-1, as amended (SEC File 333-216050).
(2)	Incorporated by reference to the exhibits to the registrant's Current Report on Form 8-K, filed on January 18, 2018.
(3)	Incorporated by reference to the exhibits to the registrant's Annual Report on Form 10-K, filed on March 23, 2018.
(4)	Incorporated by reference to the exhibits to the registrant's Quarterly Report on Form 10-Q, filed on May 10, 2018.
(5)	Incorporated by reference to the exhibits to the registrant's Quarterly Report on Form 10-Q, filed on May 3, 2019.
(6)	Incorporated by reference to the exhibits to the registrant's Current Report on Form 8-K, filed on August 30, 2019.
(7)	Incorporated by reference to the exhibits to the registrant's Annual Report on Form 10-K, filed on February 27, 2020.
(8)	Incorporated by reference to the exhibits to the registrant's Current Report on Form 8-K, filed on June 3, 2020.
(9)	Incorporated by reference to the exhibits to the registrant's Quarterly Report on Form 10-Q, filed on October 30, 2020.
(10)	Incorporated by reference to the exhibits to the registrant's Current Report on Form 8-K, filed on September 1, 2020.
(11)	Incorporated by reference to the exhibits to the registrant's Annual Report on Form 10-K, filed on February 24, 2021.
(12)	Incorporated by reference to the exhibits to the registrant's Quarterly Report on Form 10-Q, filed on October 28, 2021.
(13)	Incorporated by reference to the registrant's Current Report on Form 8-K, filed on April 21, 2022.
(14)	Incorporated by reference to the registrant's Current Report on Form 8-K, filed on July 22, 2022.
(15)	Incorporated by reference to the exhibits to the registrant's Quarterly Report on Form 10-Q, filed on April 25, 2022.
(16)	Incorporated by reference to the exhibits to the registrant's Annual Report on Form 10-K, filed on February 22, 2022.
(17)	Incorporated by reference to the exhibits to the registrant's Current Report on Form 8-K, filed on January 26, 2023.
(18)	Incorporated by reference to Annex A of the registrant's Definitive Proxy Statement on Schedule 14A, filed on March 7, 2024.
(19)	Incorporated by reference to the registrant's Registration Statement on Form S-8, filed on May 17, 2024.
(20)	Incorporated by reference to the registrant's Annual Report on Form 10-K, filed on February 9, 2024.
*	Filed herewith.
**	Furnished herewith.
†	Denotes a management contract or compensatory plan or arrangement.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

LIBERTY ENERGY INC.

Date:	February 6, 2025	By:	/s/ Ron Gusek Ron Gusek *Chief Executive Officer*

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Ron Gusek Ron Gusek	Chief Executive Officer and Director (Principal Executive Officer)	February 6, 2025
/s/ Michael Stock Michael Stock	Chief Financial Officer (Principal Financial Officer)	February 6, 2025
/s/ Ryan T. Gosney Ryan T. Gosney	Chief Accounting Officer and Vice President of Finance (Principal Accounting Officer)	February 6, 2025
/s/ Simon Ayat Simon Ayat	Director	February 6, 2025
/s/ Ken Babcock Ken Babcock	Director	February 6, 2025
/s/ Peter A. Dea Peter A. Dea	Director	February 6, 2025
/s/ William F. Kimble William F. Kimble	Director	February 6, 2025
/s/ James R. McDonald James R. McDonald	Director	February 6, 2025
/s/ Gale A. Norton Gale A. Norton	Director	February 6, 2025
/s/ Audrey Robertson Audrey Robertson	Director	February 6, 2025
/s/ Cary D. Steinbeck Cary D. Steinbeck	Director	February 6, 2025
/s/ Arjun Murti Arjun Murti	Director	February 6, 2025

Index to Financial Statements

Liberty Energy Inc.

MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

The management of Liberty Energy Inc. is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) of the Securities Exchange Act.

Internal control over financial reporting, no matter how well designed, has inherent limitations. Therefore, a system of internal control over financial reporting can provide only reasonable assurance and may not prevent or detect misstatements. Further, because of changes in conditions, effectiveness of internal controls over financial reporting may vary over time.

Under the supervision of, and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting as of December 31, 2024 based on the framework and criteria established in *Internal Control-Integrated Framework (2013)*, issued by the Committee of Sponsoring Organizations of the Treadway Commission.

Based on this evaluation, management concluded that, as of December 31, 2024, our internal control over financial reporting was effective.

The effectiveness of Liberty Energy Inc.'s internal control over financial reporting as of December 31, 2024 has been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report that is included herein.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the stockholders and the Board of Directors of Liberty Energy Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Liberty Energy Inc. and subsidiaries (the "Company") as of December 31, 2024 and 2023, the related consolidated statements of operations, comprehensive income, changes in equity, and cash flows, for each of the three years in the period ended December 31, 2024, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2024 and 2023, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2024, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2024, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 6, 2025, expressed an unqualified opinion on the Company's internal control over financial reporting.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matters

The critical audit matter communicated below is a matter arising from the current-period audit of the financial statements that was communicated or required to be communicated to the audit committee and that (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing separate opinions on the critical audit matter or on the accounts or disclosures to which it relates.

Property and equipment — Determination of Impairment Indicators — *Refer to Note 2 to the financial statements*

Critical Audit Matter Description

As described in Note 2 to the consolidated financial statements, the Company assesses its property and equipment for impairment whenever events or changes in circumstances indicate that the carrying value of an asset may not be recoverable, referred to as triggering events. Possible indications of impairment may include events or changes in circumstances affecting the manner in which the assets are being used, historical and estimated future profitability measures, and other adverse events or changes that could affect the value of the assets. If a triggering event is identified, the Company evaluates its property and equipment for impairment by comparing undiscounted future cash flows expected to be generated over the life of the assets to the respective carrying amount. If the carrying amount of the assets exceeds the undiscounted future cash flows, an analysis is performed to determine the fair value of the assets.

We identified the evaluation of property and equipment for impairment triggering events as a critical audit matter. The Company makes assumptions to evaluate property and equipment for possible indications of impairment. Changes in these assumptions could have a significant impact on the assets identified for further analysis. For the year ended December 31, 2024, the Company concluded that no triggering events had occurred, and no impairment was recognized.

Given the Company's evaluation of possible indications of impairment of property and equipment requires management to make assumptions, performing audit procedures to evaluate whether management appropriately identified events or changes in circumstances indicating that the carrying amounts of property and equipment may not be recoverable required a high degree of auditor judgment.

How the Critical Audit Matter Was Addressed in the Audit

Our audit procedures related to the evaluation of property and equipment for possible indications of impairment included the following, among others:

- We tested the effectiveness of internal controls over financial reporting related to management's evaluation of impairment. This included controls related to the Company's process to identify and evaluate triggering events, including the consideration of forecasted to actual results and market conditions in determining whether a triggering event exists.
- We considered the completeness of management's identification of impairment indicators by:
    - Considering industry and analysts reports and the impact of macroeconomic factors, such as adverse changes in the regulatory environment, legislation or other factors that may represent impairment indicators not previously contemplated in management's analysis.
    - Inspecting minutes of the board of directors and committees to understand if there were factors that would represent potential impairment indicators for property and equipment.
    - Developing an independent expectation of impairment indicators and compared such expectation to management's analysis.
- We evaluated management's determination of the property and equipment's estimated useful life as well as any factors impacting the useful life, such as plans to sell and any relevant purchase and sales agreements for assets sold.

/s/ DELOITTE & TOUCHE LLP

Denver, Colorado
February 6, 2025

We have served as the Company's auditor since 2016.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the stockholders and the Board of Directors of Liberty Energy Inc.

Opinion on Internal Control over Financial Reporting

We have audited the internal control over financial reporting of Liberty Energy Inc. (the “Company”) as of December 31, 2024, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2024, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by COSO.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated financial statements as of and for the year ended December 31, 2024, of the Company and our report dated February 6, 2025, expressed an unqualified opinion on those financial statements.

Basis for Opinion

The Company’s management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company’s internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control over Financial Reporting

A company’s internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company’s internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company’s assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ DELOITTE & TOUCHE LLP

Denver, Colorado
February 6, 2025

LIBERTY ENERGY INC.
Consolidated Balance Sheets
As of December 31, 2024 and 2023
(Dollars in thousands, except share data)

	2024	2023
Assets		
Current assets:		
Cash and cash equivalents	$ 19,984	$ 36,784
Accounts receivable—trade, net of allowances for credit losses of $848 and $939, respectively	350,412	381,185
Accounts receivable—related party	4,234	17,345
Unbilled revenue (including amounts from related parties of $0 and $13,379, respectively)	185,210	188,940
Inventories	203,469	205,865
Prepaid and other current assets	85,214	124,135
Total current assets	848,523	954,254
Property and equipment, net	1,890,998	1,645,368
Finance lease right-of-use assets	283,113	182,319
Operating lease right-of-use assets	73,322	92,640
Other assets (including amounts from related parties of $0 and $14,785, respectively)	119,402	127,330
Investment in Nomad Proppant Services LLC	10,674	11,363
Investment in Oklo Inc.	51,611	10,000
Investment in Tamboran Resources Corporation	18,751	10,283
Total assets	$ 3,296,394	$ 3,033,557
Liabilities and Equity		
Current liabilities:		
Accounts payable (including amounts due to related parties of $582 and $0, respectively)	$ 314,123	$ 293,733
Accrued liabilities	206,713	261,066
Income taxes payable	9,693	12,060
Current portion of payable pursuant to tax receivable agreements	40,776	5,170
Current portion of finance lease liabilities	66,648	39,867
Current portion of operating lease liabilities	28,570	27,528
Total current liabilities	666,523	639,424
Long-term debt	190,500	140,000
Deferred tax liability	137,728	102,340
Payable pursuant to tax receivable agreements	74,886	112,471
Noncurrent portion of finance lease liabilities	203,511	133,654
Noncurrent portion of operating lease liabilities	44,377	64,260
Total liabilities	1,317,525	1,192,149
Commitments & contingencies (Note 15)		
Stockholders' equity:		
Preferred Stock, $0.01 par value, 10,000 shares authorized and none issued and outstanding	—	—
Common Stock:		
Class A, $0.01 par value, 400,000,000 shares authorized and 161,858,784 issued and outstanding as of December 31, 2024 and 166,610,199 issued and outstanding as of December 31, 2023	1,619	1,666
Class B, $0.01 par value, 400,000,000 shares authorized and none issued and outstanding	—	—
Additional paid in capital	977,484	1,093,498
Retained earnings	1,019,517	752,328
Accumulated other comprehensive loss	(19,751)	(6,084)
Total stockholders' equity	1,978,869	1,841,408
Total liabilities and equity	$ 3,296,394	$ 3,033,557

See Notes to Consolidated Financial Statements.

LIBERTY ENERGY INC.
Consolidated Statements of Operations
For the Years Ended December 31, 2024, 2023, and 2022
(In thousands, except per share data)

	2024	2023	2022
Revenue:			
Revenue	$ 4,183,821	$ 4,533,048	$ 4,000,780
Revenue—related parties	131,340	214,880	148,448
Total revenue	4,315,161	4,747,928	4,149,228
Operating costs and expenses:			
Cost of services (exclusive of depreciation, depletion, and amortization shown separately below)	3,200,506	3,349,370	3,149,036
General and administrative	225,474	221,406	180,040
Transaction and other costs	—	2,053	5,837
Depreciation, depletion, and amortization	505,050	421,514	323,028
Gain on disposal of assets, net	(5,337)	(6,994)	(4,603)
Total operating costs and expenses	3,925,693	3,987,349	3,653,338
Operating income	389,468	760,579	495,890
Other (income) expense:			
Loss (gain) on remeasurement of liability under tax receivable agreements	3,210	(1,817)	76,191
Unrealized gain on investments, net	(49,227)	—	(2,525)
Interest income—related party	(478)	(1,987)	—
Interest expense, net	32,692	29,493	22,715
Total other (income) expense, net	(13,803)	25,689	96,381
Net income before income taxes	403,271	734,890	399,509
Income tax expense (benefit)	87,261	178,482	(793)
Net income	316,010	556,408	400,302
Less: Net income attributable to non-controlling interests	—	91	700
Net income attributable to Liberty Energy Inc. stockholders	$ 316,010	$ 556,317	$ 399,602
Net income attributable to Liberty Energy Inc. stockholders per common share:			
Basic	$ 1.91	$ 3.24	$ 2.17
Diluted	$ 1.87	$ 3.15	$ 2.11
Weighted average common shares outstanding:			
Basic	165,026	171,845	184,334
Diluted	169,398	176,360	189,349

See Notes to Consolidated Financial Statements.

LIBERTY ENERGY INC.
Consolidated Statements of Comprehensive Income
For the Years Ended December 31, 2024, 2023, and 2022
(In thousands)

	2024	2023	2022
Net income	$ 316,010	$ 556,408	$ 400,302
Other comprehensive (loss) income			
Foreign currency translation adjustments	(13,667)	1,313	(7,097)
Comprehensive income	$ 302,343	$ 557,721	$ 393,205
Comprehensive income attributable to non-controlling interest	—	92	693
Comprehensive income attributable to Liberty Energy Inc.	$ 302,343	$ 557,629	$ 392,512

See Notes to Consolidated Financial Statements.

LIBERTY ENERGY INC.
Consolidated Statements of Changes in Equity
For the Years Ended December 31, 2024 and 2023
(In thousands, except per share and per unit data)

	Shares of Class A Common Stock	Shares of Class B Common Stock	Class A Common Stock, Par Value	Class B Common Stock, Par Value	Additional Paid in Capital	Retained Earnings	Accumulated Other Comprehensive Loss	Total Equity
Balance—December 31, 2023	166,610	—	$ 1,666	$ —	$ 1,093,498	$ 752,328	$ (6,084)	$ 1,841,408
$0.29/share of Class A Common Stock dividend	—	—	—	—	—	(48,821)	—	(48,821)
Share repurchases	(6,321)	—	(63)	—	(127,332)	—	—	(127,395)
Excise tax on share repurchases	—	—	—	—	(924)	—	—	(924)
Stock-based compensation expense	—	—	—	—	32,412	—	—	32,412
Vesting of restricted stock units, net	1,570	—	16	—	(20,170)	—	—	(20,154)
Currency translation adjustment	—	—	—	—	—	—	(13,667)	(13,667)
Net income	—	—	—	—	—	316,010	—	316,010
Balance—December 31, 2024	161,859	—	$ 1,619	$ —	$ 977,484	$ 1,019,517	$ (19,751)	$ 1,978,869

	Shares of Class A Common Stock	Shares of Class B Common Stock	Class A Common Stock, Par Value	Class B Common Stock, Par Value	Additional Paid in Capital	(Accumulated Deficit) Retained Earnings	Accumulated Other Comprehensive Loss	Total Stockholders' equity	Non-controlling Interest	Total Equity
Balance - December 31, 2022	178,753	250	$ 1,788	$ 3	$ 1,266,097	$ 234,525	$ (7,396)	$ 1,495,017	$ 2,289	$ 1,497,306
Exchange of Class B Common Stock for Class A Common Stock	250	(250)	3	(3)	2,360	—	—	2,360	(2,360)	—
Offering Costs	—	—	—	—	(223)	—	—	(223)	—	(223)
Deferred tax and tax receivable agreements impact of Liberty LLC merger into the Company	—	—	—	—	6,681	—	—	6,681	—	6,681
$0.22/share of Class A Common Stock dividend	—	—	—	—	—	(38,514)	—	(38,514)	—	(38,514)
Share repurchases	(13,706)	—	(137)	—	(202,940)	—	—	(203,077)	(23)	(203,100)
Excise tax on share repurchases	—	—	—	—	(1,855)	—	—	(1,855)	—	(1,855)
Stock-based compensation expense	—	—	—	—	33,023	—	—	33,023	3	33,026
Vesting of restricted stock units, net	1,313	—	12	—	(9,645)	—	—	(9,633)	(1)	(9,634)
Currency translation adjustment	—	—	—	—	—	—	1,312	1,312	1	1,313
Net income	—	—	—	—	—	556,317	—	556,317	91	556,408
Balance - December 31, 2023	166,610	—	$ 1,666	$ —	$ 1,093,498	$ 752,328	$ (6,084)	$ 1,841,408	$ —	$ 1,841,408

See Notes to Consolidated Financial Statements.

LIBERTY ENERGY INC.
Consolidated Statements of Cash Flows
For the Years Ended December 31, 2024, 2023, and 2022
(Dollars in thousands)

	2024	2023	2022
Cash flows from operating activities:			
Net income	$ 316,010	$ 556,408	$ 400,302
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation, depletion, and amortization	505,050	421,514	323,028
Gain on disposal of assets, net	(5,337)	(6,994)	(4,603)
Stock-based compensation expense	32,412	33,026	23,108
Deferred income tax expense (benefit)	33,844	120,312	(12,472)
Unrealized gain on investments, net	(49,227)	—	(2,525)
Cash return on equity method investment	3,967	—	—
Loss (gain) on remeasurement of liability under tax receivable agreements	3,210	(1,817)	76,191
Other non-cash items, net	178	7,111	7,986
Changes in operating assets and liabilities:			
Accounts receivable and unbilled revenue	18,187	19,612	(166,605)
Accounts receivable and unbilled revenue—related party	41,275	(19,855)	(25,522)
Inventories	66	(114)	(84,989)
Prepaid and other assets	(28,196)	(66,182)	(56,161)
Accounts payable and accrued liabilities	(41,319)	(45,133)	57,203
Accounts payable and accrued liabilities—related party	582	—	(1,864)
Initial payment of operating lease liability	(1,328)	(3,305)	(2,713)
Net cash provided by operating activities	829,374	1,014,583	530,364
Cash flows from investing activities:			
Purchases of property and equipment and construction in-progress	(651,034)	(603,298)	(451,905)
Investment in sand logistics	—	—	(7,415)
Investment in equity securities	(16,056)	(20,283)	(15,000)
Acquisition of Siren Energy, net of cash received	—	(75,656)	—
Proceeds from sales of assets	23,977	26,909	23,664
Net cash used in investing activities	(643,113)	(672,328)	(450,656)
Cash flows from financing activities:			
Proceeds from borrowings on line-of-credit	2,238,000	1,153,000	713,000
Repayments of borrowings on line-of-credit	(2,187,500)	(1,128,000)	(616,000)
Repayments of borrowings on term loan	—	(104,716)	(1,750)
Payments on finance lease obligations	(50,302)	(17,392)	(6,947)
Class A Common Stock dividends and dividend equivalents upon restricted stock vesting	(48,310)	(37,684)	(9,164)
Per unit distributions to non-controlling interest unitholders	—	—	(13)
Other distributions and advance payments to non-controlling interest unitholders	—	—	920
Share repurchases, including related excise tax	(129,250)	(203,100)	(125,313)
Tax withholding on restricted stock units	(20,154)	(9,634)	(9,716)
Payments under TRA liability	(5,189)	—	—
Payment of equity issuance costs	—	(223)	(79)
Payments of debt issuance costs	—	(1,566)	(708)
Net cash used in financing activities	(202,705)	(349,315)	(55,770)
Net (decrease) increase in cash and cash equivalents	(16,444)	(7,060)	23,938
Translation effect on cash	(356)	168	(260)
Cash and cash equivalents—beginning of period	36,784	43,676	19,998
Cash and cash equivalents—end of period	$ 19,984	$ 36,784	$ 43,676

LIBERTY ENERGY INC.
Consolidated Statements of Cash Flows (cont.)
For the Years Ended December 31, 2024, 2023, and 2022
(Dollars in thousands)

	2024	2023	2022
Supplemental disclosure of cash flow information:			
Net cash paid for income taxes	$ 35,857	$ 66,685	$ 10,744
Cash paid for interest	$ 33,077	$ 26,651	$ 20,310
Non-cash investing and financing activities:			
Capital expenditures included in accounts payable and accrued liabilities	$ 102,203	$ 99,165	$ 107,514
Capital expenditures reclassified from prepaid and other current assets	$ 58,288	$ 50,313	$ 14,922
Capital expenditures reclassified from finance lease right-of-use assets	$ 6,894	$ —	$ —

See Notes to Consolidated Financial Statements.

Note 1—Organization and Basis of Presentation

Organization

Liberty Energy Inc., formerly known as Liberty Oilfield Services Inc. (the “Company”), was incorporated as a Delaware corporation on December 21, 2016, to become a holding corporation for Liberty Oilfield Services New HoldCo LLC (“Liberty LLC”) and its subsidiaries upon completion of a corporate reorganization (the “Corporate Reorganization”) and planned initial public offering of the Company (“IPO”). On April 19, 2022, the stockholders of the Company approved an amendment to the Company’s Amended and Restated Certificate of Incorporation for the purpose of changing the Company’s name from “Liberty Oilfield Services Inc.” to “Liberty Energy Inc.” and thereafter, the Company filed with the Secretary of State of the State of Delaware a Certificate of Amendment to the Company’s Amended and Restated Certificate of Incorporation to reflect the new name, effective April 25, 2022.

Effective January 31, 2023, Liberty LLC was merged into the Company, with the Company surviving the merger (the “Merger”). In connection with the Merger, all outstanding shares of the Company’s Class B Common Stock, par value $0.01 per share (the “Class B Common Stock”), were redeemed and exchanged for an equal number of shares of the Company’s Class A Common Stock, par value $0.01 per share (the “Class A Common Stock”). The Company did not make any distributions or receive any proceeds in connection with this exchange. The Merger did not have a significant impact on the Company’s consolidated financial statements.

The Company, together with its subsidiaries, is a leading integrated energy services and technology company focused on providing innovative hydraulic fracturing services and related technologies to onshore oil and natural gas exploration and production (“E&P”) companies. We offer customers hydraulic fracturing services, together with complementary services including wireline services, proppant delivery solutions, field gas processing, compressed natural gas (“CNG”) delivery, data analytics, related goods (including our sand mine operations), and technologies to facilitate lower emission completions, thereby helping our customers reduce their emissions profile.

Basis of Presentation

The accompanying consolidated financial statements were prepared using generally accepted accounting principles in the United States of America (“GAAP”) and the instructions to Form 10-K, Regulation S-X and the rules and regulations of the Securities and Exchange Commission.

The accompanying consolidated financial statements and related notes present the consolidated financial position of the Company and equity of the Company as of and for the years ended December 31, 2024 and 2023, and the results of operations and cash flows of the Company for the years ended December 31, 2024, 2023, and 2022.

The consolidated financial statements include the amounts of the Company and all majority owned subsidiaries where the Company has the ability to exercise control. All intercompany amounts have been eliminated in the presentation of the consolidated financial statements of the Company.

Our chief operating decision maker (“CODM”), the Chief Executive Officer, manages the Company’s business activities as a single operating and reportable segment at the consolidated level. Accordingly, our CODM uses consolidated net income to measure segment profit or loss, allocate resources, and assess performance. Further, the CODM is regularly provided with and utilizes consolidated functional expenses, as presented in the accompanying consolidated statements of operations, and total assets at the consolidated level, as included in the consolidated balance sheets herein, to manage the Company’s operations.

Note 2—Significant Accounting Policies

Business Combinations

Business combinations are accounted for using the acquisition method of accounting in accordance with the *Accounting Standard Codification (“ASC”) Topic 805 - Business Combinations,* as amended by Accounting Standards Update (“ASU”) 2017-01, *Business Combinations (Topic 805), Clarifying the Definition of a Business,* and ASU No. 2021-08, *Business Combinations: Accounting for Contract Assets and Contract Liabilities from Contracts with Customers.* The purchase price is allocated to the assets acquired and liabilities assumed based on their estimated fair values. Fair value of the acquired assets and liabilities is measured in accordance with the guidance of ASC 850, *Fair Value Measurements,* using discounted cash flows and other applicable valuation techniques. Any acquisition related costs incurred by the Company are expensed as incurred. Any excess purchase price over the fair value of the net identifiable assets acquired is recorded as goodwill if the definition of a business is met. Operating results of an acquired business are included in our results of operations from the date of acquisition. Refer to Note 3—Acquisitions.

Use of Estimates

The preparation of consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

The consolidated financial statements include certain amounts that are based on management's best estimates and judgments. The most significant estimates relate to the fair value of assets acquired and liabilities assumed, collectability of accounts receivable and estimates of allowance for doubtful accounts, the useful lives and salvage values of long-lived assets, future cash flows associated with long-lived assets, net realizable value of inventory, equity unit valuation, deferred taxes, and the tax receivable agreements value. These estimates may be adjusted as more current information becomes available.

Cash and Cash Equivalents

The Company considers all highly liquid instruments purchased with an original maturity of three months or less to be cash equivalents. The Company continually monitors its positions with, and the credit quality of, the financial institutions with which it has banking relationships. As of the balance sheet date, and periodically throughout the year, the Company has maintained balances in various operating accounts in excess of federally insured limits.

Accounts Receivable

In accordance with Accounting Standards Updates ASU 2016-13, *Financial Instruments-Credit Losses (Topic 326)*: *Measurement of Credit Losses on Financial Instruments* ("ASU 2016-13"), the Company applies historic loss factors to its receivable portfolio segments that were not expected to be further impacted by current economic developments, and additional economic conditions factor to portfolio segments anticipated to experience greater losses in the current economic environment. Additionally, the Company continuously evaluates customers based on risk characteristics, such as historical losses and current economic conditions. Due to the cyclical nature of the oil and gas industry, the Company often evaluates its customers' estimated losses on a case-by-case basis. The Company did not record an additional provision for credit losses during the year ended December 31, 2024 and 2022. During the year ended December 31, 2023, the Company recorded a provision for credit losses of $0.8 million, related to certain customers' inability to pay. Provisions for credit losses are included in general and administrative expenses in the accompanying consolidated statements of operations. Refer to "Credit Risk" within Note 9—Fair Value Measurements and Financial Instruments for additional disclosures required under ASU 2016-13.

Inventories

Inventories consist of raw materials used in the hydraulic fracturing process, such as proppants, chemicals, and field service equipment maintenance parts and other and are stated at the lower of cost, determined using the weighted average cost method, or net realizable value. Inventories are charged to cost of services as used when providing hydraulic fracturing services. Net realizable value is the estimated selling prices in the ordinary course of business, less reasonably predictable cost of completion, disposal, and transportation.

Property and Equipment

Property and equipment are stated at cost. Depreciation expense is recognized on property and equipment, excluding land, utilizing the straight-line method over the estimated useful lives, ranging from two to 30 years. The Company estimates salvage values that it does not depreciate.

Construction in-progress, a component of property and equipment, represents long-lived assets not yet in service or being developed by the Company. These assets are not subject to depreciation until they are completed and ready for their intended use, at which point the Company reclassifies them to field services equipment, vehicles, or buildings and facilities, as appropriate.

The Company incurs maintenance costs on its major equipment. The determination of whether an expenditure should be capitalized or expensed requires management judgment in the application of how the costs incurred benefit future periods, relative to the Company's capitalization policy. Costs that either establish or increase the efficiency, productivity, functionality or life of a fixed asset are capitalized and depreciated over the remaining useful life of the asset.

Impairment of long-lived assets

Long-lived assets, such as property and equipment, right-of-use lease assets and intangible assets, are evaluated for impairment whenever events or changes in circumstances indicate that their carrying value may not be recoverable. Possible indicators of impairment may include events or changes in circumstances affecting the manner in which the assets are being used, historical and estimated future profitability measures, and other adverse events or changes that could affect the value of the assets. If a triggering event is identified, recoverability is assessed using undiscounted future net cash flows of assets grouped at the lowest level for which there are identifiable cash flows independent of the cash flows of other groups of assets. The Company determined the lowest level of identifiable cash flows to be at the asset group, which is the aggregate of the Company's hydraulic fracturing fleets that are in service. A long-lived asset is not recoverable if its carrying amount exceeds the sum of estimated undiscounted cash flows expected to result from the use and eventual disposition. When alternative courses of action to recover the carrying amount of the asset group are under consideration, estimates of future undiscounted cash flows take into account possible outcomes and probabilities of their occurrence. If the carrying amount of the asset is not recoverable, an impairment loss is recognized in an amount by which its carrying amount exceeds its estimated fair value, such that its carrying amount is adjusted to its estimated fair value, with an offsetting charge to impairment expense.

The Company measures the fair value of its long-lived assets using the discounted cash flow method. The expected future cash flows used for impairment reviews and related fair value calculations are based on judgmental assessments of projected revenue growth, fleet count, utilization, gross margin rates, selling, general and administrative rates, working capital fluctuations, capital expenditures, discount rates and terminal growth rates.

Goodwill

Goodwill represents the excess of the acquisition purchase price over the estimated fair value of net tangible and intangible assets required. Goodwill is not amortized, but instead tested for impairment at least annually, June 30, or more frequently if events and circumstances indicate that the asset might be impaired. In testing goodwill for impairment, the Company performs a qualitative assessment to determine whether the existence of events or circumstances indicate that it is more likely than not that the fair value of a reporting unit is less than its carrying amount. If the qualitative assessment determines that an impairment is more likely than not, then the Company performs the one-step quantitative impairment test by determining the fair value of the reporting unit. The fair value of the reporting unit is determined using either the income approach by utilizing estimated discounted future cash flows or the market approach utilizing recent transaction activity for comparable properties. These approaches are considered Level 3 fair value measurements. If the carrying amount of a reporting unit exceeds the fair value, an impairment loss is recognized in the current period in an amount equal to the excess.

For purposes of assessing goodwill, the Company has one reporting unit. No goodwill impairment was identified during the years ended December 31, 2024 and 2023.

Leases

In accordance with ASC Topic 842, the Company determines if an arrangement is a lease at inception and evaluates identified leases for operating or finance lease treatment. Operating or finance lease right-of-use assets and liabilities are recognized at the commencement date based on the present value of lease payments over the lease term. The Company uses the rate implicit in the lease, when available, or an estimated fully collateralized incremental borrowing rate corresponding with the lease term and the information available at the commencement date in determining the present value of lease payments. Lease terms may include options to renew, however, the Company typically cannot determine its intent to renew a lease with reasonable certainty at inception.

Additionally, the Company is a lessor in several operating leases in which the lease equipment is carried at amortized cost. Depreciation expense is recorded on a straight-line basis over its useful life to the estimated residual value. The lessee may not purchase the leased equipment and must return such equipment by the lease's scheduled maturity date.

Equity Investments

The Company may from time to time invest in equity securities of public and private companies. Equity investments are measured and recorded as follows:

Marketable equity investments are equity investments with a readily determinable fair value and are recorded at fair value on a recurring basis with changes in fair value, whether realized or unrealized, recorded through the income statement. Unrealized gains and losses resulting from changes in fair value are recorded in unrealized gain on investments, net.

Equity method investments are equity securities in investees we do not control, but over which we have the ability to exercise significant influence. Equity method investments are measured at cost minus impairment, if any, plus or minus the Company's share of equity method investee income or loss, less distributions received as return on investment.

The Company's share of equity method investee income or loss is recorded as a component of cost of services as the investee is a supplier of the Company, refer to Note 14—Related Party Transactions *Nomad Proppant Services LLC* for further discussion of the Company's equity method investment. Equity method investments are monitored for other-than-temporary decreases in investment value, which considers the severity and duration of a potential decline in fair value below cost and our ability and intent to hold the investment for a sufficient period of time to allow for recovery.

Income Taxes

Deferred income taxes are computed using the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the consolidated financial statements. Deferred tax assets and liabilities are measured using the enacted tax rates in effect for the year in which the deferred tax asset or liability are expected to reverse. The Company classifies all deferred tax assets and liabilities as non-current. The Company records Global Intangible Low-Tax Income inclusion as a current period expense.

The Company evaluates its deferred tax assets quarterly and considers both positive and negative evidence in applying the guidance of ASC 740 Income Taxes ("ASC 740") related to the realizability of its deferred tax assets. As of December 31, 2024 and 2023 there were no valuation allowances recorded against the Company's deferred tax assets.

The Company recognizes the financial statement effects of a tax position when it is more-likely-than-not, based on the technical merits, that the position will be sustained upon examination. A tax position that meets the more-likely-than-not recognition threshold is measured as the largest amount of tax benefit that is greater than 50% likely of being realized upon ultimate settlement with a taxing authority. Previously recognized tax positions are reversed in the first period in which it is no longer more-likely-than-not that the tax position would be sustained upon examination. Income tax related interest and penalties, if applicable, are recorded as a component of the provision for income tax expense.

Tax Receivable Agreements

In connection with the IPO, on January 17, 2018, the Company entered into two Tax Receivable Agreements (the "TRAs") with the R/C Energy IV Direct Partnership, L.P. and certain legacy owners that continued to own Liberty LLC Units (each such person and any permitted transferee, a "Tax Receivable Agreement Holder" and together, the "Tax Receivable Agreement Holders"). The TRAs generally provide for the payment by the Company of 85% of the net cash savings, if any, in U.S. federal, state, and local income tax and franchise tax (computed using simplifying assumptions to address the impact of state and local taxes) that the Company actually realizes (or is deemed to realize in certain circumstances) in periods after the IPO as a result, as applicable to each Tax Receivable Agreement Holder, of (i) certain increases in tax basis that occur as a result of the Company's acquisition (or deemed acquisition for U.S. federal income tax purposes) of all or a portion of such Tax Receivable Agreement Holder's Liberty LLC Units in connection with the IPO or pursuant to the exercise of the right (the "Redemption Right") or the Company's right (the "Call Right"), (ii) any net operating losses available to the Company as a result of the Corporate Reorganization, and (iii) imputed interest deemed to be paid by the Company as a result of, and additional tax basis arising from, any payments the Company makes under the TRAs.

With respect to obligations the Company expects to incur under the TRAs (except in cases where the Company elects to terminate the TRAs early, the TRAs are terminated early due to certain mergers, asset sales, or other changes of control or the Company has available cash but fails to make payments when due), generally the Company may elect to defer payments due under the TRAs if the Company does not have available cash to satisfy its payment obligations under the TRAs or if its contractual obligations limit its ability to make such payments. Any such deferred payments under the TRAs generally will accrue interest. In certain cases, payments under the TRAs may be accelerated and/or significantly exceed the actual benefits, if any, the Company realizes in respect of the tax attributes subject to the TRAs. The Company accounts for amounts payable under the TRAs in accordance with ASC Topic 450, *Contingencies*.

If the Company experiences a change of control (as defined under the TRAs) or the TRAs otherwise terminate early, the Company's obligations under the TRAs could have a substantial negative impact on its liquidity and could have the effect of delaying, deferring or preventing certain mergers, asset sales, or other forms of business combinations or changes of control.

Share Repurchases

The Company accounts for the purchase price of repurchased Class A Common Stock in excess of par value ($0.01 per share of Class A Common Stock) as a reduction of additional paid-in capital, and will continue to do so until additional paid-in capital is reduced to zero. Thereafter, any excess purchase price will be recorded as a reduction to retained earnings. All Class A Common Stock shares repurchased to date have been retired upon repurchase.

Revenue Recognition

Under ASC Topic 606-*Revenue from Contracts with Customers*, revenue recognition is based on the transfer of control, or the customer's ability to benefit from the services and products in an amount that reflects the consideration expected to be received in exchange for those services and products. In recognizing revenue for services and products, the transaction price is determined from sales orders or contracts with customers. Revenue is recognized at the completion of each fracturing stage, and in most cases the price at the end of each stage is fixed, however, in limited circumstances contracts may contain variable consideration.

Variable consideration typically may relate to discounts, price concessions and incentives. The Company estimates variable consideration based on the amount of consideration we expect to receive. The Company accrues revenue on an ongoing basis to reflect updated information for variable consideration as performance obligations are met.

The Company also assesses customers' ability and intention to pay, which is based on a variety of factors including historical payment experience and financial condition. Payment terms and conditions vary by contract type, although terms generally include a requirement of payment within 30 to 45 days.

In connection with the adoption of ASC Topic 842, the Company determined that certain of its service revenue contracts contain a lease component. The Company elected to adopt a practical expedient available to lessors, which allows the Company to combine the lease and non-lease components and account for the combined component in accordance with the accounting treatment for the predominant component. Therefore, the Company combines the lease and service component for certain of the Company's service contracts and continues to account for the combined component under ASC Topic 606, *Revenue from Contracts with Customers.*

Transaction and Other Costs

During 2024, the Company did not incur transaction and integration related costs.

During 2023, the Company incurred transaction and integration related costs in connection with the Siren Acquisition (as defined in Note 3—Acquisitions). Such costs include investment banking, legal, accounting and other professional services provided in connection with closing the transaction and are expensed as incurred.

During 2022, the Company incurred transaction and integration related costs in connection with a prior period acquisition. Such costs include investment banking, legal, accounting and other professional services provided in connection with closing the transaction and are expensed as incurred.

Foreign Currency Translation

The Company records foreign currency translation adjustments from the process of translating the functional currency of the financial statements of its foreign subsidiaries into the U.S. dollar reporting currency. The Canadian dollar and the Australian dollar are the functional currencies of the Company's foreign subsidiaries as they are the primary currencies within the economic environment in which the subsidiaries operates. Assets and liabilities of the subsidiary's operations are translated into U.S. dollars at the rate of exchange in effect on the balance sheet date and income and expenses are translated at the average exchange rate in effect during the reporting period. Adjustments resulting from the translation of the subsidiary's financial statements are reported in other comprehensive income.

Recently Adopted Accounting Standards

Segment Reporting: Improvements to Reportable Segment Disclosures

In November 2023, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2023-07, *Segment Reporting: Improvements to Reportable Segment Disclosures*, which requires more detailed disclosures, on an annual and interim basis, related to the Company's reportable segment. The guidance is effective for annual periods beginning after December 15, 2023, and interim periods within fiscal years beginning after December 15, 2024. The Company adopted this guidance during the most recent quarter. See Note 1—Organization and Basis of Presentation for further detail.

Recently Issued Accounting Standards

Income Taxes: Improvements to Income Tax Disclosures

In December 2023, the FASB issued ASU No. 2023-09, *Income Taxes: Improvements to Income Tax Disclosures*, which requires disaggregation of certain components included in the Company's effective tax rate and income taxes paid disclosures. The guidance is effective for annual periods beginning after December 15, 2024. The Company is currently assessing the impact of this ASU on the Company's financial statements but does not expect it will have a material impact.

Income Statement - Reporting Comprehensive Income - Expense Disaggregation Disclosures: Disaggregation of Income Statement Expenses

In November 2024, the FASB issued ASU No. 2024-03, *Income Statement - Reporting Comprehensive Income - Expense Disaggregation Disclosures: Disaggregation of Income Statement Expenses*, which requires disclosure of specified information about certain costs and expenses. The guidance is effective for annual periods beginning after December 15, 2026 and interim periods beginning after December 15, 2027. The Company is currently assessing the impact of this ASU on the Company's financial statements.

Reclassifications

Certain amounts in the prior period financial statements have been reclassified to conform to current period financial statement presentation. Amounts in the prior period financial statements have been reclassified from "Tax withheld on vesting of restricted stock units" into "Vesting of restricted stock units, net" in the accompanying consolidated statements of changes in equity.

In the accompanying consolidated balance sheets, amounts in the prior period financial statements have been reclassified from "Other assets" into "Investment in Nomad Proppant Services LLC," "Investment in Oklo Inc.," and "Investment in Tamboran Resources Corporation".

Additionally, in the accompanying consolidated statement of cash flows, amounts in the prior period financial statements have been reclassified from "Other non-cash items, net" into "Unrealized gain on investments, net".

These reclassifications had no effect on the previously reported net income.

Note 3—Acquisitions

Siren Acquisition

On April 6, 2023, the Company completed the acquisition of a Permian focused integrated natural gas compression and compressed natural gas delivery business, Siren Energy & Logistics, LLC, for cash consideration of $75.7 million, after post closing adjustments and net of cash received (the "Siren Acquisition"). The Siren Acquisition was accounted for under the acquisition method of accounting for business combinations. Accordingly, the Company conducted assessments of the net assets acquired and recognized amounts for identifiable assets acquired and liabilities assumed at their estimated acquisition date fair values, while transaction and integration costs associated with the acquisition were expensed as incurred. In connection with the Siren Acquisition, the Company recorded goodwill of $42.0 million, property and equipment of $34.9 million, net working capital of $2.5 million, deferred revenue of $5.2 million, and other assets of $1.8 million. Goodwill is recorded in other assets in the accompanying consolidated balance sheets. Due to the immateriality of the Siren Acquisition, the related revenue and earnings, supplemental pro forma financial information, and detailed purchase price allocation are not disclosed.

In accordance with ASC Topic 805, an acquirer is allowed a period, referred to as the measurement period, in which to complete its accounting for the transaction. Such measurement period ends at the earliest date that the acquirer a) receives the information necessary or b) determines that it cannot obtain further information, and such period may not exceed one year. As the Siren Acquisition closed on April 6, 2023, the Company completed the purchase price allocation during the year ended December 31, 2023.

Note 4—Inventories

Inventories consist of the following:

	December 31,	
($ in thousands)	**2024**	**2023**
Proppants	$ 9,341	$ 17,124
Chemicals	18,629	16,896
Maintenance parts and other	175,499	171,845
	$ 203,469	$ 205,865

During the years ended December 31, 2024, 2023, and 2022, the lower of cost or net realizable value analysis resulted in the Company recording write-downs to the inventory carrying value of $1.0 million, $5.8 million, and $1.7 million, respectively. All are included as a component in cost of services in the consolidated statements of operations.

Note 5—Property and Equipment

Property and equipment consist of the following:

($ in thousands)	Estimated useful lives (in years)	December 31, 2024	December 31, 2023
Land	N/A	$ 30,041	$ 29,384
Field services equipment	2-10	3,068,681	2,520,336
Vehicles	4-7	61,433	63,423
Lease equipment	10	163,889	138,781
Buildings and facilities	5-30	180,010	149,876
Mineral reserves	>25	80,070	76,823
Office equipment and furniture	2-7	12,532	11,836
		3,596,656	2,990,459
Less accumulated depreciation and depletion		(1,917,551)	(1,501,685)
		1,679,105	1,488,774
Construction in-progress	N/A	211,893	156,594
Property and equipment, net		$ 1,890,998	$ 1,645,368

Depreciation expense for the years ended December 31, 2024, 2023, and 2022 was $448.1 million, $387.8 million, and $302.3 million, respectively. Depletion expense for the years ended December 31, 2024, 2023, and 2022 was $1.2 million, $1.1 million, and $1.2 million, respectively.

As of December 31, 2024 and December 31, 2023, the Company concluded that no triggering events that could indicate possible impairment of property and equipment had occurred, other than related to the assets held for sale discussed below.

As of December 31, 2024, the Company had no property that met the assets held for sale criteria.

However, as of December 31, 2023, the Company classified $0.7 million of land and $0.8 million of buildings, net of accumulated depreciation, of one property as held for sale.

During the year ended December 31, 2024, the Company sold two properties, including the property that was classified as held for sale as of December 31, 2023, resulting in a nominal gain included as a component of gain on disposal of assets, net in the accompanying consolidated statements of operations.

Note 6—Leases

Lessee Arrangements

The Company has operating and finance leases primarily for vehicles, equipment, railcars, office space, and facilities. The terms and conditions for these leases vary by the type of underlying asset.

Certain leases include variable lease payments for items such as property taxes, insurance, maintenance, and other operating expenses associated with leased assets. Payments that vary based on an index or rate are included in the measurement of lease assets and liabilities at the rate as of the commencement date. All other variable lease payments are excluded from the measurement of lease assets and liabilities, and are recognized in the period in which the obligation for those payments is incurred.

The components of lease expense for the years ended as of December 31, 2024, and 2023 were as follows:

($ in thousands)	2024	2023
Finance lease cost:		
Amortization of right-of-use assets	$ 43,364	$ 19,040
Interest on lease liabilities	16,972	6,060
Operating lease cost	35,861	40,275
Variable lease cost	6,392	5,116
Short-term lease cost	3,422	7,717
Total lease cost, net	$ 106,011	$ 78,208

Supplemental cash flow and other information related to leases for the years ended December 31, 2024 and 2023 were as follows:

($ in thousands)	2024	2023
Cash paid for amounts included in measurement of liabilities:		
Operating leases	$ 35,653	$ 41,143
Finance leases	67,181	23,463
Right-of-use assets obtained in exchange for new lease liabilities:		
Operating leases	14,581	31,449
Finance leases	149,005	160,546

During the year ended December 31, 2024, the Company amended certain operating leases, the change in terms of which caused the leases to be reclassified as finance leases. Additionally, the Company recognized finance lease right-of-use assets of $4.4 million and liabilities of $4.3 million. There was no gain or loss recognized as a result of these amendments. During the year ended December 31, 2023, the Company did not amend any operating or finance leases.

Lease terms and discount rates as of December 31, 2024 and 2023 were as follows:

	December 31, 2024	December 31, 2023
Weighted-average remaining lease term:		
Operating leases	3.8 years	4.3 years
Finance leases	3.2 years	3.3 years
Weighted-average discount rate:		
Operating leases	6.7 %	6.0 %
Finance leases	7.4 %	8.0 %

Future minimum lease commitments as of December 31, 2024 are as follows:

($ in thousands)	Finance	Operating
2025	$ 87,476	$ 31,771
2026	85,503	21,496
2027	55,016	11,932
2028	60,381	3,935
2029	21,625	2,795
Thereafter	—	9,874
Total lease payments	310,001	81,803
Less imputed interest	39,842	8,856
Total	$ 270,159	$ 72,947

The Company's vehicle leases typically include a residual value guarantee. For the Company's vehicle leases classified as operating leases, the total residual value guaranteed as of December 31, 2024 is $11.6 million; the payment is not probable and therefore has not been included in the measurement of the lease liability and right-of-use asset. For vehicle leases that are classified as finance leases, the Company includes the residual value guarantee, estimated in the lease agreement, in the financing lease liability.

Lessor Arrangements

The Company leases dry and wet sand containers, conveyor belts, and other equipment to customers through operating leases, where the lessor for tax purposes is considered to be the owner of the equipment during the term of the lease. The lease agreements do not include options for the lessee to purchase the underlying asset at the end of the lease term for either a stated fixed price or fair market value. However, some of the leases contain a termination clause in which the customer can cancel the contract. The leases can be subject to variable lease payments if the customer requests more units than what is agreed upon in the lease. The Company does not record any lease assets or liabilities related to these variable items.

The carrying amount of equipment leased to others, included in property, plant and equipment, under operating leases as of December 31, 2024 and 2023 were as follows:

($ in thousands)	December 31, 2024	December 31, 2023
Equipment leased to others - at original cost	$ 163,889	$ 138,781
Less: Accumulated depreciation	(41,223)	(25,819)
Equipment leased to others - net	$ 122,666	$ 112,962

Future payments receivable for operating leases as of December 31, 2024 are as follows:

($ in thousands)	
2025	$ 5,412
2026	2,239
2027	—
2028	—
2029	—
Thereafter	—
Total	$ 7,651

Revenues from operating leases for the years ended December 31, 2024 and 2023 were $39.0 million and $36.6 million, respectively.

Note 7—Accrued Liabilities

Accrued liabilities consist of the following:

($ in thousands)	December 31, 2024	December 31, 2023
Accrued vendor invoices	$ 73,591	$ 99,620
Operations accruals	56,375	61,150
Accrued benefits and other	76,747	100,296
	$ 206,713	$ 261,066

Note 8—Debt

Debt consists of the following:

($ in thousands)	December 31, 2024	December 31, 2023
Revolving Line of Credit	$ 190,500	$ 140,000

On September 19, 2017, the Company entered into two credit agreements, (i) a revolving line of credit up to $250.0 million, subsequently increased to $525.0 million, see below, (the “ABL Facility”) and (ii) a $175.0 million term loan (the “Term Loan Facility”).

Effective January 23, 2023, the Company entered into an Eighth Amendment to the ABL Facility (the “Eighth ABL Amendment”). The Eighth ABL Amendment amends certain terms, provisions and covenants of the ABL Facility, including, among other things: (i) increasing the maximum revolver amount from $425.0 million to $525.0 million (the “Upsized Revolver”); (ii) increasing the amount of the accordion feature from $75.0 million to $100.0 million; (iii) extending the maturity date from October 22, 2026 to January 23, 2028; (iv) modifying the dollar amounts of various credit facility triggers and tests proportionally to the Upsized Revolver; (v) permitting repayment under the Term Loan Facility prior to February 10, 2023; and (vi) increasing certain indebtedness, intercompany advance, and investment baskets. The Eighth ABL Amendment included an agreement from the Wells Fargo Bank, National Association, as administrative agent, to release its second priority liens and security interests on all collateral that served as first priority collateral under the Term Loan Facility, which was completed during the three months ended June 30, 2023.

Additionally, on January 23, 2023, the Company borrowed $106.7 million on the ABL Facility and used the proceeds to pay off and terminate the Term Loan Facility. The amount paid included the balance of the Term Loan Facility at pay off of $104.7 million, $0.9 million of accrued interest, and a $1.1 million prepayment premium. Additionally, there were $0.2 million in administrative and lender legal fees incurred in connection with the pay off.

The weighted average interest rate on all borrowings outstanding as of December 31, 2024 and December 31, 2023 was 6.8% and 7.6%, respectively.

Term Loan Facility

The Term Loan Facility provided for a $175.0 million term loan. In connection with the Eighth ABL Amendment and payoff of the Term Loan Facility, on January 23, 2023, the Company terminated the Term Loan Facility. See above for further discussion.

ABL Facility

Under the terms of the ABL Facility, up to $525.0 million may be borrowed, subject to certain borrowing base limitations based on a percentage of eligible accounts receivable and inventory. As of December 31, 2024, the borrowing base was calculated to be $319.8 million, and the Company had $190.5 million outstanding in addition to letters of credit totaling $14.0 million, with $115.3 million of remaining availability. Borrowings under the ABL Facility bear interest at Secured Overnight Financing Rate ("SOFR") or a base rate, plus an applicable SOFR margin of 1.5% to 2.0% or base rate margin of 0.5% to 1.0%, as described in the ABL Facility credit agreement (the "ABL Facility credit agreement"). Additionally, borrowings as of December 31, 2024 incurred interest at a weighted average rate of 6.8%. The average monthly unused commitment is subject to an unused commitment fee of 0.25% to 0.375%. Interest and fees are payable in arrears at the end of each month, or, in the case of SOFR loans, at the end of each interest period. The ABL Facility matures on January 23, 2028. Borrowings under the ABL Facility are collateralized by accounts receivable and inventory, and further secured by the Company, as parent guarantor.

The ABL Facility includes certain non-financial covenants, including but not limited to restrictions on incurring additional debt and certain distributions. Moreover, the ability of the Company to incur additional debt and to make distributions is dependent on maintaining a maximum leverage ratio.

The ABL Facility is not subject to financial covenants unless liquidity, as defined in the ABL Facility credit agreement, drops below a specific level. The Company is required to maintain a minimum fixed charge coverage ratio, as defined in the ABL Facility credit agreement, of 1.0 to 1.0 for each period if excess availability is less than 10% of the borrowing base or $52.5 million, whichever is greater.

The Company was in compliance with these covenants as of December 31, 2024.

Maturities of debt are as follows:

($ in thousands)

Years Ending December 31,		
2025	$	—
2026		—
2027		—
2028		190,500
Thereafter		—
	$	190,500

Note 9—Fair Value Measurements and Financial Instruments

The fair values of the Company's assets and liabilities represent the amounts that would be received to sell those assets or that would be paid to transfer those liabilities in an orderly transaction on the reporting date. These fair value measurements maximize the use of observable inputs. However, in situations where there is little, if any, market activity for the asset or liability on the measurement date, the fair value measurement reflects the Company's own judgments about the assumptions that market participants would use in pricing the asset or liability. The Company discloses the fair values of its assets and liabilities according to the quality of valuation inputs under the following hierarchy:

- Level 1 Inputs: Quoted prices (unadjusted) in an active market for identical assets or liabilities.
- Level 2 Inputs: Inputs other than quoted prices that are directly or indirectly observable.
- Level 3 Inputs: Unobservable inputs that are significant to the fair value of assets or liabilities.

The classification of an asset or liability is based on the lowest level of input significant to its fair value. Those that are initially classified as Level 3 are subsequently reported as Level 2 when the fair value derived from unobservable inputs is inconsequential to the overall fair value, or if corroborating market data becomes available. Assets and liabilities that are initially reported as Level 2 are subsequently reported as Level 3 if corroborating market data is no longer available. Transfers occur at the end of the reporting period. There were no transfers into or out of Levels 1, 2, and 3 during the years ended December 31, 2024 and 2023.

The Company's financial instruments consist of cash and cash equivalents, accounts receivable, notes receivable, investments in equity securities, accounts payable, accrued liabilities, long-term debt, and finance and operating lease obligations. The carrying values of all of the Company's financial instruments included in the accompanying consolidated balance sheets approximated or equaled their fair values on December 31, 2024 and 2023.

- The carrying values of cash and cash equivalents, accounts receivable, and accounts payable (including accrued liabilities) approximated fair value on December 31, 2024 and 2023, due to their short-term nature.
- The carrying value of investments in equity securities were measured at fair value on December 31, 2024 based on quoted prices in active markets.
- The carrying value of amounts outstanding under long-term debt agreements with variable rates approximated fair value on December 31, 2024 and 2023, as the effective interest rates approximated market rates.
- The carrying values of amounts outstanding under finance and operating lease obligations approximated fair value on December 31, 2024 and 2023, as the effective borrowing rates approximated market rates.

Nonrecurring Measurements

Certain assets and liabilities are measured at fair value on a nonrecurring basis. These items are not measured at fair value on an ongoing basis but may be subject to fair value adjustments in certain circumstances. These assets and liabilities include those acquired through the Siren Acquisition, which are required to be measured at fair value on the acquisition date in accordance with *ASC Topic 805*. See Note 3—Acquisitions.

During the year ended December 31, 2024, the Company sold two properties classified as held for sale resulting in a nominal gain included as a component of gain on disposal of assets, net in the accompanying consolidated statements of operations. Therefore, as of December 31, 2024, the Company had no property that met the assets held for sale criteria.

As of December 31, 2023, the Company recorded $0.7 million of land and $0.8 million of buildings of one property that met the held for sale criteria, to assets held for sale at a total fair value of $0.8 million, which are included in prepaid and other current assets in the accompanying consolidated balance sheets. The Company estimated the fair value of the property based on a communicated selling price for one property, which is a Level 3 input. The Company estimated that the carrying value of the assets is equal to the fair value less the estimated costs to sell, net of write-downs taken in the prior period, and therefore no gain or loss was recorded during the year ended December 31, 2023.

Other assets measured at fair value on a nonrecurring basis consisted of notes receivable—related party, which was recorded for trade receivables, created in the normal course of business, due from the Affiliate as of the Agreement Date, as defined and described in Note 14—Related Party Transactions. These notes were classified as Level 3 in the fair value hierarchy as the inputs to the determination of fair value were based upon unobservable inputs. During the year ended December 31, 2024, the notes were paid in full and therefore none was outstanding as of December 31, 2024. As of December 31, 2023, notes receivable—related party from the Affiliate was $14.8 million.

Recurring Measurements

The fair values of the Company's cash equivalents measured on a recurring basis pursuant to ASC 820-10 *Fair Value Measurements and Disclosures* are carried at estimated fair value. Cash equivalents consist of money market accounts which the Company has classified as Level 1 given the active market for these accounts. As of December 31, 2024 and 2023, the Company had cash equivalents, measured at fair value, of $0.3 million and $0.3 million, respectively.

The Company holds an investment in Oklo Inc. ("Oklo") made during the three months ended September 30, 2023. In May 2024, Oklo was acquired by a publicly traded special purpose acquisition company which resulted in the conversion of the Company's investment into common shares of Oklo, which are traded on the New York Stock Exchange. The Company measures this investment in equity securities at fair value using Level 1 inputs based on quoted prices in an active market. As of December 31, 2024, the fair value of the investment was estimated at $51.6 million. The change in Oklo's fair value resulted in an unrealized gain of $41.6 million during the year ended December 31, 2024, included in unrealized gain on investments, net in the accompanying consolidated statements of operations.

Additionally, during the three months ended December 31, 2023, the Company purchased depository interests representing shares of common stock in Tamboran Resources Corporation ("Tamboran"). In June 2024, Tamboran completed an initial public offering and listed its common stock on the New York Stock Exchange. In addition to the prior purchase of depository interests, the Company participated in Tamboran's initial public offering by purchasing an additional $10.0 million of Tamboran's common stock. The Company measures this investment in equity securities at fair value using Level 1 inputs based on quoted prices in an active market. As of December 31, 2024, the fair value of the investment was estimated at $18.8 million. The change in Tamboran's fair value resulted in an unrealized loss of $1.5 million during the year ended December 31, 2024, included in unrealized gain on investments, net in the accompanying consolidated statements of operations.

Nonfinancial assets

The Company estimates fair value to perform impairment tests as required on long-lived assets. The inputs used to determine such fair value are primarily based upon internally developed cash flow models and would generally be classified within Level 3 in the event that such assets were required to be measured and recorded at fair value within the consolidated financial statements. No such measurements were required as of December 31, 2024 and 2023 as no triggering event was identified.

Credit Risk

The Company's financial instruments exposed to concentrations of credit risk consist primarily of cash and cash equivalents, and trade receivables.

The Company's cash and cash equivalents balance on deposit with financial institutions total $20.0 million and $36.8 million as of December 31, 2024 and 2023, respectively, which exceeded Federal Deposit Insurance Corporation insured limits. The Company regularly monitors these institutions' financial condition.

The majority of the Company's customers have payment terms of 45 days or less.

As of December 31, 2024, Customer A and Customer B accounted for 13.7% and 10.4%, respectively, of total consolidated accounts receivable and unbilled revenue. As of December 31, 2023, no customers accounted for 10% of total consolidated accounts receivable and unbilled revenue. During the year ended December 31, 2024, Customer C accounted for 11.8% of consolidated revenues. During the years ended December 31, 2023, and 2022, no customers accounted for 10% of consolidated revenues.

The Company mitigates the associated credit risk by performing credit evaluations and monitoring the payment patterns of its customers.

As of December 31, 2024, the Company had $0.8 million in allowance for credit losses. As of December 31, 2023 and 2022, the Company had $0.9 million in allowance for credit losses and recorded a provision in 2023 related to certain customers' expected inability to pay.

The Company applies historic loss factors to its receivable portfolio segments that are not expected to be further impacted by current economic developments, and an additional economic conditions factor to portfolio segments anticipated to experience greater losses in the current economic environment. While the Company has not experienced significant credit losses in the past and has not seen material changes to the payment patterns of its customers, the Company cannot predict with any certainty the degree to which unforeseen events may affect the ability of its customers to timely pay receivables when due. Accordingly, in future periods, the Company may revise its estimates of expected credit losses.

($ in thousands)	2024	2023	2022
Allowance for credit losses, beginning of year	$ 939	$ 884	$ 884
Credit losses:			
Current period provision	—	808	—
Amounts written off, net of recoveries	(91)	(753)	—
Allowance for credit losses, end of year	$ 848	$ 939	$ 884

Note 10—Equity

Preferred Stock

As of December 31, 2024 and 2023, the Company had 10,000 shares of preferred stock authorized, par value $0.01, with none issued and outstanding. If issued, each class or series of preferred stock will cover the number of shares and will have the powers, preferences, rights, qualifications, limitations and restrictions determined by the Company's board of directors, which may include, among others, dividend rights, liquidation preferences, voting rights, conversion rights, preemptive rights and redemption rights. Except as provided by law or in a preferred stock designation, the holders of preferred stock will not be entitled to vote at or receive notice of any meeting of shareholders.

Class A Common Stock

The Company had a total of 161,858,784 and 166,610,199 shares of Class A Common Stock outstanding as of December 31, 2024 and 2023, respectively, none of which were restricted. Holders of Class A Common Stock are entitled to one vote per share on all matters to be voted upon by the stockholders and are entitled to ratably receive dividends when and if declared by the Company's board of directors.

Class B Common Stock

The Company had no shares of Class B Common Stock outstanding as of December 31, 2024 and 2023, respectively. Effective January 31, 2023, in connection with the Merger, all outstanding shares of the Class B Common Stock were redeemed and exchanged, with no shares remaining outstanding as of December 31, 2024.

Long Term Incentive Plan

On January 11, 2018, the Company adopted the Long Term Incentive Plan ("LTIP") to incentivize employees, officers, directors and other service providers of the Company and its affiliates. The LTIP provides for the grant, from time to time, at the discretion of the Company's board of directors or a committee thereof, of stock options, stock appreciation rights, restricted stock, restricted stock units, stock awards, dividend equivalents, other stock-based awards, cash awards, substitute awards and performance awards. Subject to adjustment in the event of certain transaction or changes of capitalization in accordance with the LTIP, 12,908,734 shares of Class A Common Stock were initially reserved for issuance pursuant to awards under the LTIP. Effective April 16, 2024, following receipt of stockholder approval, the Company adopted the amended and restated the LTIP, which, among other things, increased the total number of shares authorized for issuance under the amended and restated LTIP, including shares already issued, to 21,239,244 shares of Class A Common Stock. Class A Common Stock subject to an award that expires or is canceled, forfeited, exchanged, settled in cash or otherwise terminated without delivery of shares will again be available for delivery pursuant to other awards under the LTIP.

Restricted Stock Units

Restricted stock units ("RSUs") granted pursuant to the LTIP, if they vest, will be settled in shares of the Company's Class A Common Stock. RSUs were granted with vesting terms up to three years. Changes in non-vested RSUs outstanding under the LTIP during the year ended December 31, 2024 were as follows:

	Number of Units	Weighted Average Grant Date Fair Value per Unit
Non-vested as of December 31, 2023	2,985,218	$ 13.90
Granted	1,519,597	19.46
Vested	(1,491,085)	13.53
Forfeited	(75,322)	15.18
Outstanding at December 31, 2024	2,938,408	$ 16.93

Performance Restricted Stock Units

Performance restricted stock units ("PSUs") granted pursuant to the LTIP, if they vest, will be settled in shares of the Company's Class A Common Stock. PSUs were granted with a three-year cliff vesting and performance period, with the vesting percentage of the target award dependent on the satisfaction of the performance goals set forth in the applicable award agreement. The Company records compensation expense based on the Company's best estimate of the number of PSUs that will vest at the end of the performance period. If such performance targets are not met, or are not expected to be met, no compensation expense is recognized and any recognized compensation expense is reversed. Changes in non-vested PSUs outstanding under the LTIP during the year ended December 31, 2024 were as follows:

	Number of Units	Weighted Average Grant Date Fair Value per Unit
Non-vested as of December 31, 2023	1,339,568	$ 13.49
Granted	352,091	17.65
Vested	(584,720)	12.95
Forfeited	—	—
Outstanding at December 31, 2024	1,106,939	$ 15.10

Stock-based compensation is included in cost of services and general and administrative expenses in the Company's consolidated statements of operations. The Company recognized stock-based compensation expense of $32.4 million, $33.0 million, and $23.1 million for the years ended December 31, 2024, 2023, and 2022, respectively. There was approximately $39.3 million of unrecognized compensation expense relating to outstanding RSUs and PSUs as of December 31, 2024. The unrecognized compensation expense will be recognized on a straight-line basis over the weighted average remaining vesting period of two years.

Dividends

On October 18, 2022, the Company's Board of Directors (the "Board") reinstated quarterly dividends after they were suspended on April 2, 2020.

The Company paid cash dividends of $0.07 per share of Class A Common Stock on March 20, 2024, June 20, 2024, and September 20, 2024 to stockholders of record as of March 6, 2024, June 6, 2024, and September 6, 2024, respectively. Additionally, the Company paid cash dividends of $0.08 per share of Class A Common Stock on December 20, 2024 to stockholders of record as of December 6, 2024. During the year ended December 31, 2024, dividend payments totaled $47.7 million.

The Company paid cash dividends of $0.05 per share of Class A Common Stock on March 20, 2023, June 20, 2023, and September 20, 2023 to stockholders of record as of March 6, 2023, June 6, 2023, and September 6, 2023, respectively. Additionally, the Company paid cash dividends of $0.07 per share of Class A Common Stock on December 20, 2023 to stockholders of record as of December 6, 2023. During the year ended December 31, 2023, dividend payments totaled $37.5 million.

The Company paid cash dividends of $0.05 per share of Class A Common Stock on December 20, 2022 to stockholders of record as of December 6, 2022. Liberty LLC paid a distribution of $9.0 million, or $0.05 per Liberty LLC Unit, to all Liberty LLC unit holders as of December 6, 2022, $9.0 million of which was paid to the Company. The Company used the proceeds of the distribution to pay the dividend to all holders of shares of Class A Common Stock as of December 6, 2022, which totaled $9.0 million.

Additionally, the Company paid an accrued dividend equivalent upon vesting for the RSUs and PSUs with a 2024 vesting date, which totaled $0.7 million and $0.2 million for the years ended December 31, 2024 and 2023, respectively. As of December 31, 2024 and 2023, the Company had $1.5 million and $1.0 million of dividend equivalents payable related to RSUs and PSUs to be paid upon vesting, respectively. Dividend equivalents related to forfeited RSUs or PSUs will be forfeited.

Share Repurchase Program

On July 25, 2022, the Company's board of directors authorized and the Company announced a share repurchase program that allowed the Company to repurchase up to $250.0 million of the Company's Class A Common Stock beginning immediately and continuing through July 31, 2024. On January 24, 2023, the Board authorized and the Company announced an increase of the cumulative repurchase authorization to $500.0 million. Furthermore, on January 23, 2024 the Board authorized and the Company announced an increase of the cumulative repurchase authorization to $750.0 million and extended the authorization through July 31, 2026. The shares may be repurchased from time to time in open market transactions, through block trades, in privately negotiated transactions, through derivative transactions, or by other means in accordance with applicable state and federal securities laws. The timing, as well as the number and value of shares repurchased under the program, will be determined by the Company at its discretion and will depend on a variety of factors, including management's assessment of the intrinsic value of the Company's Class A Common Stock, the market price of the Company's Class A Common Stock, general market and economic conditions, available liquidity, compliance with the Company's debt and other agreements, applicable legal requirements, and other considerations. The exact number of shares to be repurchased by the Company is not guaranteed, and the program may be suspended, modified, or discontinued at any time without prior notice. The Company expects to fund any repurchases by using cash on hand, borrowings under the ABL Facility and expected free cash flow to be generated through the duration of the share repurchase program.

($ in thousands, except share count and per share data)	Year Ended December 31, 2024	Year Ended December 31, 2023	Year Ended December 31, 2022
Shares of Class A Common Stock	6,320,536	13,705,622	8,185,890
Cost of shares repurchased	$ 127,395	$ 203,100	$ 125,313
Average price per share including commissions	$ 20.16	$ 14.82	$ 15.31

As of December 31, 2024, $294.2 million remained authorized for future repurchases of Class A Common Stock under the share repurchase program.

The Company accounts for the purchase price of repurchased common shares in excess of par value ($0.01 per share of Class A Common Stock) as a reduction of additional paid-in capital, and will continue to do so until additional paid-in capital is reduced to zero. Thereafter, any excess purchase price will be recorded as a reduction to retained earnings.

As enacted by the Inflation Reduction Act of 2022 (the "Inflation Reduction Act"), the Company accrued stock repurchase excise tax of $0.9 million and $1.9 million for the years ended December 31, 2024 and 2023, respectively. As of December 31, 2024 and 2023, the Company had excise tax payables of $0.9 million and $1.9 million, respectively, in accrued liabilities in the accompanying consolidated balance sheets.

Note 11—Net Income per Share

Basic net income per share measures the performance of an entity over the reporting period. Diluted net income per share measures the performance of an entity over the reporting period while giving effect to all potentially dilutive common shares that were outstanding during the period. The Company uses the "if-converted" method to determine the potential dilutive effect of its Class B Common Stock and the treasury stock method to determine the potential dilutive effect of outstanding RSUs and PSUs.

The following table reflects the allocation of net income to common stockholders and net income per share computations for the periods indicated based on a weighted average number of shares of Class A Common Stock and Class B Common Stock outstanding:

(In thousands, except per share data)	Year Ended December 31, 2024		Year Ended December 31, 2023	
Basic Net Income Per Share				
Numerator:				
Net income attributable to Liberty Energy Inc. stockholders	$	316,010	$	556,317
Denominator:				
Basic weighted average common shares outstanding		165,026		171,845
Basic net income per share attributable to Liberty Energy Inc. stockholders	$	1.91	$	3.24
Diluted Net Income Per Share				
Numerator:				
Net income attributable to Liberty Energy Inc. stockholders	$	316,010	$	556,317
Effect of exchange of the shares of Class B Common Stock for shares of Class A Common Stock		—		73
Diluted net income attributable to Liberty Energy Inc. stockholders	$	316,010	$	556,390
Denominator:				
Basic weighted average shares outstanding		165,026		171,845
Effect of dilutive securities:				
Restricted stock units		4,372		4,494
Class B Common Stock		—		21
Diluted weighted average shares outstanding		169,398		176,360
Diluted net income per share attributable to Liberty Energy Inc. stockholders	$	1.87	$	3.15

Note 12—Income Taxes

The Company is a corporation and is subject to taxation in the United States, Canada, Australia and various state, local and provincial jurisdictions. Historically, Liberty LLC was treated as a partnership, and its income was passed through to its owners for income tax purposes. Liberty LLC's members, including the Company, were liable for federal, state and local income taxes based on their share of Liberty LLC's pass-through taxable income.

Effective January 31, 2023, the Company adopted a plan of merger, pursuant to which Liberty LLC merged into the Company, ceasing the existence of Liberty LLC with the Company remaining as the surviving entity. Liberty LLC filed a final tax return during the 2023 calendar year. The Company is still party to the TRAs; the associated liabilities are discussed below.

As of December 31, 2024, tax reporting by the Company for the years ended December 31, 2021, 2022, 2023, and the short period ended January 31, 2023 are subject to examination by the tax authorities. With few exceptions, as of December 31, 2024, the Company is no longer subject to U.S. federal, state or local examinations by tax authorities for tax years ended on or before December 31, 2020.

The components of the Company's income from continuing operations before income taxes on which the provision for income taxes was computed consisted of the following:

	Year Ended December 31,					
($ in thousands)	2024		2023		2022	
United States	$	356,340	$	668,338	$	375,758
Foreign		46,931		66,552		23,751
Total	$	403,271	$	734,890	$	399,509

The components of the provision for incomes taxes from continuing operations are summarized as follows:

	Year Ended December 31,		
($ in thousands)	**2024**	**2023**	**2022**
Current:			
Federal	$ 33,474	$ 36,319	$ 4,679
State	6,637	4,662	2,579
Foreign	13,306	17,189	4,421
Total Current	$ 53,417	$ 58,170	$ 11,679
Deferred:			
Federal	$ 32,087	$ 109,399	$ (12,967)
State	3,289	11,913	(1,182)
Foreign	(1,532)	(1,000)	1,677
Total Deferred	$ 33,844	$ 120,312	$ (12,472)
Income tax expense (benefit)	$ 87,261	$ 178,482	$ (793)

Income tax expense (benefit) attributable to net income (loss) before income taxes differed from the amounts computed by applying the statutory U.S. federal income tax rate of 21.0% to pre-tax income as a result of the following:

	Year Ended December 31,		
($ in thousands)	**2024**	**2023**	**2022**
Computed tax expense at the statutory rate	$ 84,687	$ 154,327	$ 83,897
Increase (decrease) in tax expense resulting from:			
State and local income tax expense, net	9,340	15,745	10,224
Non-controlling interest	—	(19)	(151)
Effect of foreign tax rates	1,231	1,818	697
Stock-based compensation	(1,771)	(239)	(2,724)
Change in valuation allowance	—	—	(91,336)
Other TRA adjustment	181	(248)	(2,763)
U.S. Federal tax credits	(6,743)	—	—
Nondeductible executive compensation	2,920	6,514	—
U.S. impact of foreign earnings	—	—	315
Other, net	(2,584)	584	1,048
Total income tax expense (benefit)	$ 87,261	$ 178,482	$ (793)

The effective tax rate for the years ended December 31, 2024, 2023, and 2022 was 21.6%, 24.3%, and (0.2)%, respectively.

The Company's effective tax rate is greater than the statutory federal income tax rate of 21.0% due to the Company's Canadian operations, state income taxes in the states the Company operates, as well as nondeductible executive compensation, partially offset by U.S. federal income tax credits.

The tax effects of temporary differences that give rise to significant portions of the deferred tax assets and deferred tax liabilities are presented below:

($ in thousands)	December 31, 2024	December 31, 2023
Deferred tax assets:		
Federal tax credit	$ 9,615	$ —
State net operating losses	859	1,286
Foreign net operating losses	920	—
Realized tax benefit - TRAs	79,175	87,260
Intangibles	22,440	22,825
Lease liabilities	67,603	51,504
Stock-based compensation	4,494	4,279
Inventory	2,604	3,361
Other	10,674	5,133
Total deferred tax assets	198,384	175,648
Deferred tax liabilities:		
Property and equipment	(233,649)	(221,337)
Lease assets	(83,137)	(55,801)
Other	(17,782)	(850)
Total deferred tax liabilities	(334,568)	(277,988)
Net deferred tax (liability)	$ (136,184)	$ (102,340)

During the year ended December 31, 2023, the Company adopted a plan of merger, pursuant to which Liberty LLC merged into the Company, ceasing the existence of Liberty LLC with the Company remaining as the surviving entity. As a result of this change, the Company no longer has a deferred tax liability for the difference between the book value and the tax value of the Company's investment in Liberty LLC and the associated net deferred tax liability balances have been allocated to the deferred tax asset and liability line items above. Significant deferred tax assets include the step up in basis of depreciable assets under Section 754 ("Section 754") of the Internal Revenue Code of 1986, as amended and deferred tax liabilities related to property and equipment.

As of December 31, 2024, the Company has utilized all U.S. federal net operating loss carryforwards and has $0.9 million state net operating loss carryforwards that will not expire in the foreseeable future. The Company also has $9.6 million U.S. federal income tax credits that will not expire for twenty years.

On October 8, 2021, the Organization for Economic Co-operation and Development ("OECD") released a statement on the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting, which agreed to a two-pillar solution to address tax challenges of the digital economy. On December 20, 2021, the OECD released Pillar Two model rules defining a 15% global minimum tax rate for large multinational corporations (the "Pillar Two Framework"). On June 20, 2024 and December 23, 2024, Canada and Australia, respectively, enacted the Pillar Two global minimum tax regime, which is not expected to have a material impact on the Company's financial statements for the fiscal year ended December 31, 2024. The OECD continues to release additional guidance and countries are implementing legislation, with widespread adoption of the Pillar Two Framework expected by 2025. The Company is continuing to evaluate the Pillar Two Framework and its potential impact on future periods, including any legislation enacted in the jurisdictions in which the Company operates.

The Company may distribute cash from foreign subsidiaries to its U.S. parent as business needs arise. The Company has not provided for deferred income taxes on the undistributed earnings from certain foreign subsidiaries earnings as such earnings are considered to be indefinitely reinvested. If such earnings were to be distributed, any income and/or withholding tax would not be significant.

During the year ended December 31, 2024, the Company entered into a Tax Credit Transfer Agreement ("TCTA") with a third-party seller, pursuant to which the Company agreed to purchase up to $33.5 million of transferable tax credits under the Inflation Reduction Act. The benefit for the federal income tax credits purchased has been recognized as a reduction to the Company's income tax expense in the current period.

Uncertain Tax Positions

The Company records uncertain tax positions on the basis of a two-step process in which (1) the Company determines whether it is more likely than not the tax positions will be sustained on the basis of the technical merits of the position and (2) for those tax positions meeting the more likely than not recognition threshold, the Company recognizes the largest amount of tax benefit that is more than 50% likely to be realized upon ultimate settlement with the related tax authority.

The Company determined that no liability for unrecognized tax benefits for uncertain tax positions was required at December 31, 2024. In addition, the Company does not believe that it has any tax positions for which it is reasonably possible that it will be required to record a significant liability for unrecognized tax benefits within the next twelve months. If the Company were to record an unrecognized tax benefit, the Company will recognize applicable interest and penalties related to income tax matters in income tax expense.

Tax Receivable Agreements

The term of each TRA commenced on January 17, 2018, and will continue until all such tax benefits that are subject to such TRA have been utilized or expired, unless the Company experiences a change of control (as defined in the TRAs, which includes certain mergers, asset sales and other forms of business combinations) or the TRAs are terminated early (at the Company's election or as a result of its breach), and the Company makes the termination payments specified in such TRA.

The amounts payable, as well as the timing of any payments, under the TRAs are dependent upon significant future events and assumptions, including the timing of the redemptions of Liberty LLC Units, the price of our Class A Common Stock at the time of each redemption, the extent to which such redemptions are taxable transactions, the amount of the redeeming unit holder's tax basis in its Liberty LLC Units at the time of the relevant redemption, the characterization of the tax basis step-up, the depreciation and amortization periods that apply to the increase in tax basis, the amount of net operating losses available to the Company as a result of the Corporate Reorganization, the amount and timing of taxable income the Company generates in the future, the U.S. federal income tax rate then applicable, and the portion of the Company's payments under the TRAs that constitute imputed interest or give rise to depreciable or amortizable tax basis.

At December 31, 2024, the Company's liability under the TRAs was $115.7 million of which $40.8 million is recorded as a current liability and $74.9 million is recorded as a component of long-term liabilities. The Company recorded a loss on remeasurement of the liabilities subject to the TRA of $3.2 million recorded as part of continuing operations in the current year.

At December 31, 2023, the Company's liability under the TRAs was $117.7 million, of which $5.2 million was presented as a current liability, and $112.5 million was presented as a long-term liability. The Company recorded a gain on remeasurement of the liabilities subject to the TRA of $1.8 million recorded as part of continuing operations in the prior year.

The Company made $5.2 million of TRA payments during the year ended December 31, 2024.

During the year ended December 31, 2023, exchanges of Liberty LLC Units and shares of Class B Common Stock resulted in an increase of $0.6 million in amounts payable under the TRAs, and a net increase of $0.7 million in deferred tax assets, all of which were recorded through equity. The Company did not make any TRA payments during the year ended December 31, 2023. On January 31, 2023, the Company recorded an increase of $6.6 million of deferred tax assets for the impact of the adopted plan of merger for Liberty LLC into the Company, all of which was recorded through equity.

Note 13—Defined Contribution Plan

The Company sponsors a 401(k) defined contribution retirement plan covering eligible employees. The Company makes matching contribution at a rate of $1.00 for each $1.00 of employee contribution, subject to a cap of 6% of the employee's salary and federal limits. Contributions made by the Company were $36.9 million, $32.9 million, and $25.8 million for the years ended December 31, 2024, 2023 and 2022, respectively.

Note 14—Related Party Transactions

Schlumberger Limited

During 2020, the Company acquired certain assets and liabilities of Schlumberger Technology Corporation ("Schlumberger") in exchange for the issuance of shares of the Company's Class A Common Stock amongst other consideration. During the year ended December 31, 2023, the Company repurchased and retired 3,000,000 shares of Class A Common Stock for $45.0 million or $15.00 average price per share from Schlumberger, under the share repurchase program. Effective January 31, 2023, after the repurchase and retirement, Schlumberger owns no shares of Class A Common Stock of the Company and no longer qualified as a related party.

During the year ended December 31, 2022, the Company repurchased and retired 1,700,000 shares of Class A Common Stock for $27.8 million or $16.35 average price per share from Schlumberger, under the share repurchase program.

On April 29, 2022, the Company, Liberty LLC, Schlumberger, and BofA Securities, Inc. and J.P. Morgan Securities LLC (together, the "Underwriters"), entered into an underwriting agreement, dated as of April 29, 2022, pursuant to which Schlumberger sold 14,500,000 shares of Class A Common Stock at a price of $15.50 per share to the Underwriters (the "Sale"). The Sale closed on May 3, 2022. Following the Sale, Schlumberger held 35,101,961 shares of Class A Common Stock. The Company did not receive any proceeds from the Sale.

Within the normal course of business, the Company purchased chemicals, proppant, other equipment, and maintenance parts from Schlumberger and its subsidiaries. During the period from January 1, 2023 until January 31, 2023, total purchases from Schlumberger were approximately $1.7 million. Although the Company continues to do business with Schlumberger, the Company no longer presents cash flows with Schlumberger as related party in the accompanying consolidated statements of cash flows. During the year ended December 31, 2022, total purchases from Schlumberger were approximately $21.7 million.

Additionally, the Company sold equipment to Schlumberger including $0.1 million during the year ended December 31, 2022. The Company recognized a minimal gain on the sale of equipment.

Franklin Mountain Energy, LLC

A member of the board of directors of the Company, Audrey Robertson, serves as Executive Vice President of Finance of Franklin Mountain Energy, LLC ("Franklin Mountain"). During the years ended December 31, 2024, 2023 and 2022, the Company performed hydraulic fracturing services for Franklin Mountain in the amount of $120.3 million, $176.1 million, and $131.8 million, respectively.

Amounts included in unbilled revenue from Franklin Mountain as of December 31, 2024 and 2023, were $0.0 million and $13.4 million, respectively. Receivables from Franklin Mountain as of December 31, 2024 and 2023, were $4.2 million and $12.1 million, respectively.

Liberty Resources LLC

Liberty Resources LLC, an oil and gas exploration and production company, and its successor entity (collectively, the "Affiliate") had certain common ownership and management with the Company. Effective March 14, 2024, the Affiliate was no longer a related party, following its acquisition by an unaffiliated party. The amounts of the Company's revenue related to hydraulic fracturing services provided to the Affiliate for the period January 1, 2024 through March 13, 2024, and the years ended December 31, 2023 and 2022, were $11.1 million, $38.8 million and $16.7 million, respectively.

On December 28, 2022 (the "Agreement Date"), the Company entered into an agreement with the Affiliate to amend payment terms for outstanding invoices due as of the Agreement Date to extend the due dates to April 1, 2024. Additionally, on August 15, 2023, the agreement was further amended in order to extend the due dates for certain invoices to January 1, 2025. Amounts outstanding from the Affiliate as of December 31, 2023 were $14.8 million, included in other assets in the consolidated balance sheets. All amounts outstanding with the Affiliate under the agreement were collected in full during the three months ended March 31, 2024.

Receivables from the Affiliate as of December 31, 2023 were $5.2 million, included in accounts receivable—related party.

During the period January 1, 2024 through March 13, 2024, and the years ended December 31, 2023 and 2022, interest income from the Affiliate was $0.5 million, $2.0 million, and $0.0 million, respectively.

Oklo Inc.

During the three months ended September 30, 2023, the Company invested $10.0 million in a fission power and nuclear fuel recycling company, Oklo. Effective May 10, 2024, through an acquisition by a special purpose acquisition company, the Company's investment converted into shares traded on the New York Stock Exchange. Additionally, Chris Wright, the Company's Chief Executive Officer and Chairman of the Board during fiscal year 2024, was appointed to the Oklo board of directors. During the year ended December 31, 2024, the Company recorded an unrealized gain of $41.6 million, included in unrealized gain on investments, net in the accompanying consolidated statements of operations. As of December 31, 2024, the fair value of the Company's investment using Level 1 inputs was $51.6 million. The Company was not party to any other transactions with Oklo during the years ended December 31, 2024, and 2023.

Nomad Proppant Services LLC

During the year ended December 31, 2021, the Company committed to investing $10.0 million in Nomad Proppant Services LLC ("Nomad"), a mobile sand mine company. Upon the commitment, the Company had a significant but non-controlling financial interest in Nomad. Within the normal course of business, the Company purchased proppant from Nomad for $5.5 million during the year ended December 31, 2024. Payables to Nomad as of December 31, 2024, were $0.6 million. Prior to the year ended December 31, 2024 the Company did not purchase any goods from Nomad.

As of December 31, 2024 and 2023, the value of the Company's investment using the equity method accounting was $10.7 million and $11.4 million, respectively. During the years ended December 31, 2024 and 2023, the Company received cash distributions from Nomad in the amounts of $4.0 million and $0.8 million, respectively.

Bettering Human Lives Foundation

In December 2023, the Company established the Bettering Human Lives Foundation (the "Foundation"), a nonprofit organization dedicated to promoting clean cooking solutions and improving the well-being of communities worldwide. Mr. Wright, the Company's CEO during fiscal year 2024, serves as the Chairman of the Foundation, and Anne Hyre serves as its executive director. Ms. Hyre is the sister-in-law of Mr. Wright. In December 2023, the Company made an initial commitment to make a charitable contribution of $1.0 million to the Foundation. In addition, effective January 1, 2024 Ms. Hyre is employed by a subsidiary of the Company and seconded to the Foundation, and Company and the Foundation entered into a professional services agreement (the "Professional Services Agreement"), whereby the Company provides certain administrative services for the Foundation. During the year ended December 31, 2024, the Company made charitable contributions of $0.9 million to the Foundation, and received $0.5 million in other service revenue under the Professional Services Agreement.

Note 15—Commitments & Contingencies

Purchase Commitments (tons are not in thousands)

The Company enters into purchase and supply agreements to secure supply and pricing of proppant and equipment. As of December 31, 2024 and 2023, the agreements provide pricing and committed supply sources for the Company to purchase 360,000 tons and 1,854,000 tons, respectively, of proppant through December 31, 2025. Amounts below also include commitments to pay for transport fees on minimum amounts of proppants.

Future proppant and equipment commitments are as follows:

($ in thousands)		
2025	$	26,348
2026		—
2027		—
2028		—
2029		—
Thereafter		—
	$	26,348

Certain supply agreements contain a clause whereby in the event that the Company fails to purchase minimum volumes, as defined in the agreement, during a specific time period, a shortfall fee may apply. In circumstances where the Company does not make the minimum purchase required under the contract, the Company and its suppliers have a history of amending such minimum purchase contractual terms and in rare cases does the Company incur shortfall fees. If the Company were unable to make any of the minimum purchases and the Company and its suppliers cannot come to an agreement to avoid such fees, the

Company could incur shortfall fees in the amounts of $5.4 million for the year ended December 31, 2025. Based on forecasted levels of activity, the Company does not currently expect to incur significant shortfall fees.

Included in the commitments for the year ending December 31, 2024 are $2.5 million of payments expected to be made in the first quarter of 2025 for the use of certain light duty trucks, heavy tractors, and field equipment used to various degrees in frac and wireline operations. The Company is in negotiations with the third-party owner of such equipment to lease or purchase some or all of such aforementioned vehicles and equipment, subject to agreement on terms and conditions. No gain or loss is expected upon consummation of any such agreement.

Litigation

From time to time, the Company is subject to legal and administrative proceedings, settlements, investigations, claims and actions. The Company's assessment of the likely outcome of litigation matters is based on its judgment of a number of factors including experience with similar matters, past history, precedents, relevant financial and other evidence and facts specific to the matter. Notwithstanding the uncertainty as to the final outcome, based upon the information currently available, management does not believe any matters, individually or in aggregate, will have a material adverse effect on the Company's financial position or results of operations.

Note 16—Subsequent Events

On January 22, 2025, the Company's Board of Directors (the "Board") approved a quarterly dividend of $0.08 per share of Class A Common Stock to be paid on March 20, 2025 to holders of record as of March 6, 2025.

On February 3, 2025, Christopher A. Wright, the Company's CEO was confirmed to the position of Secretary of Energy of the United States and resigned from his positions as Chairman of the Board, Director and Chief Executive Officer of the Company. In connection with Mr. Wright's resignation, the Company modified certain terms and conditions of Mr. Wright's stock awards granted under the LTIP. Unvested RSUs and PSUs granted to Mr. Wright in 2022, 2023, and 2024 vested effective February 3, 2025. In total 412,292 shares of Class A Common Stock were issued, net of tax withholding. As a result of the modification the Company expects to recognize $10.3 million of incremental non-cash stock-based compensation expense during the three months ended March 31, 2025.

No other significant subsequent events have occurred that would require recognition or disclosure in the consolidated financial statements and notes thereto.

PRINCIPAL FINANCIAL GROUP PRE-APPROVED BASIC SAVINGS PLAN - PLUS

Basic Plan No.: 04 To be used with

Adoption Agreement Plan No.: 006 Approved: June 30,

2020

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ARTICLE XI – TOP-HEAVY PLAN REQUIREMENTS

ATTACHMENTS

INTRODUCTION

The provisions of this Plan apply as of the Effective Date or such later date as may be specified in Item A of the Adoption Agreement, except as provided in any attached addendums.

ARTICLE I
FORMAT AND DEFINITIONS

SECTION 1.01 – FORMAT.

The Employer's retirement plan is set out in this document, the attached signed Adoption Agreement, and any amendments to these documents. If the Adoption Agreement indicates that a Trust Agreement has been set up, this retirement plan also includes the Trust Agreement(s), and any amendments to these agreements.

Words and phrases defined in Section 1.02 shall have that defined meaning when used in this Plan, unless the context clearly indicates otherwise. These words and phrases have initial capital letters to aid in identifying them as defined terms. References to "Section" are references to parts of this document; references to "Item" are references to parts of the Adoption Agreement.

Some of the defined terms and phrases in Section 1.02 and some of the provisions contained in the following articles do not apply to the Plan. The provisions of the attached Adoption Agreement shall determine whether or not the terms and provisions apply.

SECTION 1.02 – DEFINITIONS.

Account means the Participant's share of the Plan Fund. Separate accounting records shall be kept for those parts of his Account resulting from the following:

a) Required Contributions

b) Nondeductible Voluntary Contributions

c) Deductible Voluntary Contributions

d) Rollover Contributions

e) Pre-tax Elective Deferral Contributions

f) Roth Elective Deferral Contributions

g) In-plan Roth Rollovers

h) Qualified Matching Contributions

i) QACA Matching Contributions

j) Matching Contributions that are not Qualified Matching Contributions or QACA Matching Contributions

k) Qualified Nonelective Contributions

l) QACA Nonelective Contributions

m) Wage Rate Contributions

n) All other Employer Contributions

If the Participant's Vesting Percentage is less than 100% as to any of the Employer Contributions, a separate accounting record will be kept for any part of his Account resulting from such Employer Contributions and, if there has been a prior Forfeiture Date, from such Contributions made before a prior Forfeiture Date.

A Participant's Account shall be reduced by any distribution of his Vested Account and by any Forfeitures. The Participant's Account shall participate in the earnings credited, expenses charged, and any appreciation or depreciation of the Investment Fund. His Account is subject to any minimum guarantees applicable under the Annuity Contract or other investment arrangement and to any expenses associated therewith.

Accrual Service means an Employee's service defined in Item G(1) of the Additional Selections and Minor Modifications Addendum used to determine the number of units credited to a Participant for purposes of determining the amount of his Discretionary Contribution.

If Item I(1)(a)(iv) is selected, Accrual Service shall include service with a Predecessor Employer which did not maintain this Plan. If Item I(2)(b)(iii) is selected, Accrual Service shall include service with a Prior Employer. If Accrual Service includes service with a Predecessor Employer or Prior Employer, the crediting of such service shall be determined on a reasonably uniform basis to all similarly situated Employees based on all relevant facts and circumstances so as not to discriminate in favor of Highly Compensated Employees.

Accrual Service shall include a Period of Military Duty. If the elapsed time method is used, the entire Period of Military Duty shall be included to the extent it has not already been counted as Accrual Service. If the hours method is used, an Hour of Service shall be credited (without regard to the 501 Hours of Service limitation) for each hour the Employee would normally have been scheduled to work for the Employer during such Period of Military Duty to the extent such hour has not already been counted for purposes of Accrual Service.

If the elapsed time method is used, Accrual Service shall be measured from his Hire Date to his most recent Severance Date. This Period of Service shall be reduced by any Period of Severance that occurred prior to his most recent Severance Date, unless such Period of Severance is included under the service spanning rule below. This period of Accrual Service shall be expressed as years (on the basis that 365 days equal one year), months (for purposes of the aggregation of fractional months, 30 days equals one month) or days.

If the elapsed time method is used, Accrual Service shall include a Period of Severance (service spanning rule) if:

a) the Period of Severance immediately follows a period during which an Employee is not absent from work and ends within 12 months, or

b) the Period of Severance immediately follows a period during which an Employee is absent from work for any reason other than quitting, being discharged, or retiring (such as a leave of absence or layoff) and ends within 12 months of the date he was first absent.

Accrual Service Period means the period defined in Item R(3) and, if applicable, Item G(1) of the Additional Selections and Minor Modifications Addendum.

ACP Test means the nondiscrimination test described in Code Section 401(m)(2) as provided for in subparagraph (d) of Section 3.08.

ACP Test Safe Harbor means the method described in subparagraph (c) of Section 3.09 or Section 3.11 for satisfying the ACP Test with respect to Matching Contributions.

Active Participant means an Eligible Employee who is actively participating in the Plan according to the provisions of Section 2.01.

Additional Contributions means additional Employer Contributions or the Forfeitures that are reallocated according to Section 3.06 and deemed to be Additional Contributions. (See Item Q(2) and Sections 3.01 and 3.06.)

Adopting Employer means an employer that is listed in Item AB or the attached participation agreements.

Adoption Agreement means the attached document labeled Adoption Agreement that contains the selections and specifications for the Plan.

ADP Test means the nondiscrimination test described in Code Section 401(k)(3) as provided for in subparagraph (c) of Section 3.08.

ADP Test Safe Harbor means the method described in subparagraph (b) of Section 3.09 or Section 3.11 for satisfying the ADP Test.

Affiliated Service Group means any group of corporations, partnerships or other organizations of which the Employer is a part and that is affiliated within the meaning of Code Section 414(m) and the regulations thereunder. The term Controlled Group, as it is used in this Plan, shall include the term Affiliated Service Group.

Allocation Group means the designated groups of Employees for purposes of determining separate Discretionary Contributions in Item Q(3) of the Adoption Agreement. For this purpose, the groups are those identified in Item Q(3)(d).

Alternate Payee means any spouse, former spouse, child, or other dependent of a Participant who is recognized by a qualified domestic relations order as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to such Participant.

Annual Compensation means the Employee's annual Compensation defined in Item M(5).

Annuity Contract means the annuity contract or contracts into which the Employer, and the Adopting Employers adopting this Plan as a separate plan enter, or the Trustee enters, whichever is appropriate, with the Insurer for guaranteed benefits, for the investment of Contributions in separate accounts, and for the payment of benefits under this Plan.

Annuity Starting Date means the first day of the first period for which an amount is payable as an annuity or any other form.

Bargaining Employee means an Employee who is represented for collective bargaining purposes by any collective bargaining agreement between the Employer and employee representatives, if retirement benefits were the subject of good faith bargaining and if two percent or less of the Employees who are covered pursuant to that agreement are professionals as defined in section 1.410(b)-9 of the regulations. For this purpose, the term “employee representatives” does not include any organization more than half of whose members are Employees who are owners, officers, or executives of the Employer.

Basic Plan means this document that contains the basic provisions of the Plan.

Beneficiary means the person or persons named by a Participant to receive any benefits under the Plan when the Participant dies. (See Section 10.07.)

Benefit Factor means, for a Plan Year, a person's Annual Compensation for the Plan Year multiplied by his actuarial factor for the Plan Year determined in Appendix A, B, or C, as designated in Item Q(3)(c) of the Adoption Agreement.

Catch-up Contributions means Elective Deferral Contributions made to the Plan that are in excess of an otherwise applicable Plan limit and that are made by Participants who are age 50 or older by the end of their taxable year. An otherwise applicable Plan limit is a limit in the Plan that applies to Elective Deferral Contributions without regard to Catch-up Contributions, such as the limits on the Maximum Annual Additions, as defined in Section 3.07, the dollar limitation on Elective Deferral Contributions under Code Section 402(g) (not counting Catch-up Contributions), and the limit imposed by the ADP Test. (See Item N(4) and Section 3.01.)

Catch-up Contributions are not subject to the limits on the Maximum Annual Additions, as defined in Section 3.07, are not counted in the ADP Test, and are not counted in determining the minimum allocation under Code Section 416 (but Catch-up Contributions made in prior years are counted in determining whether the Plan is top-heavy).

Claimant means any person who makes a claim for benefits under this Plan. (See Section 9.05.)

Code means the Internal Revenue Code of 1986, as amended.

Compensation means one of the following as specified in Item M(1):

a) Information Required to be Reported Under Code Sections 6041, 6051, and 6052 ("Wages, Tips and Other Compensation" box on Form W-2). Compensation is defined as wages, within the meaning of Code Section 3401(a), and all other payments of compensation to an Employee by the Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the Employee a written statement under Code Sections 6041(d), 6051(a)(3), and 6052. Compensation shall be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).

b) Code Section 3401(a) Wages. Compensation is defined as wages within the meaning of Code Section 3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).

c) Simplified 415 Compensation. Compensation is defined as wages, salaries, Differential Wage Payments, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid to salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan (as described in section 1.62-2(c) of the regulations)), and excluding the following:

    1) employer contributions (other than elective contributions described in Code Section 402(e)(3), 408(k)(6), 408(p)(2)(A)(i), or 457(b)) to a plan of deferred compensation (including a simplified employee pension described in Code Section 408(k) or a simple retirement account described in Code Section 408(p), and whether or not qualified) to the

extent such contributions are not includible in the Employee's gross income for the taxable year in which contributed, and any distributions (whether or not includible in gross income when distributed) from a plan of deferred compensation (whether or not qualified), unless Item M(1)(b)(i) allows amounts received from a nonqualified unfunded deferred compensation plan to be included, to the extent includible in gross income;

2) amounts realized from the exercise of a nonstatutory stock option (that is, an option other than a statutory stock option as defined in section 1.421-1(b) of the regulations), or when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

3) amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option;

4) other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the gross income of the Employee and are not salary reduction amounts that are described in Code Section 125); and

5) other items of remuneration that are similar to any of the items listed in (1) through (4) above.

If Item I(1)(a)(v) is selected, Compensation shall include compensation with a Predecessor Employer that did not maintain this Plan. If Compensation includes compensation with a Predecessor Employer, the crediting of such compensation shall be determined on a reasonably uniform basis to all similarly situated Employees based on all relevant facts and circumstances so as not to discriminate in favor of Highly Compensated Employees.

For any Self-employed Individual, Compensation means Earned Income.

Except as provided herein, Compensation for a specified period is the Compensation actually paid or made available (or if earlier, includible in gross income) during such period. If Item M(4)(a) is selected, Compensation for a Compensation Year shall include amounts earned but not paid during the Compensation Year solely because of the timing of payroll periods and pay dates, provided the amounts are paid during the first few weeks of the next Compensation Year, the amounts are included on a uniform and consistent basis with respect to all similarly situated employees, and no Compensation is included in more than one Compensation Year.

Compensation for a Plan Year shall also include Compensation paid by the later of 2 1/2 months after an Employee’s Severance from Employment with the Employer or the end of the Plan Year that includes the date of the Employee’s Severance from Employment with the Employer if the payment is regular Compensation for services during the Employee’s regular working hours, or Compensation for services outside the Employee’s regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and absent a Severance from Employment, the payments would have been paid to the Employee while the Employee continued in employment with the Employer. If Item M(2)(a)(i) is selected, Compensation shall include payments for unused accrued bona fide sick, vacation or other leave that the Employee would have been able to use if employment had continued. If Item M(2)(a)(ii) is selected, Compensation shall include payments received by the Employee pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income.

Any payments not described above shall not be considered Compensation if paid after Severance from Employment, even if they are paid by the later of 2 1/2 months after the date of Severance from Employment or the end of the Plan Year that includes the date of Severance from Employment, except, if Item M(2)(a)(iii) is selected, Compensation paid to a Participant who is permanently and totally disabled, as defined in Code Section 22(e)(3). If Item M(2)(a)(iii)(B) is selected, such Compensation shall only be included for Participants who were Nonhighly Compensated Employees immediately before becoming disabled.

Back pay, within the meaning of section 1.415(c)-2(g)(8) of the regulations, shall be treated as Compensation for the Plan Year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included in this definition.

If elective contributions are not excluded in Item M(3), Compensation paid or made available during a specified period shall include amounts that would otherwise be included in Compensation but for an election under Code Section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b).

If deemed Code Section 125 Compensation is not excluded in Item M(3), Compensation shall also include deemed Code Section 125 Compensation. Deemed Code Section 125 Compensation is an amount that is excludible under Code Section 106 that is not available to a Participant in cash in lieu of group health coverage under a Code Section 125 arrangement solely because the Participant is unable to certify that he has other health coverage. Amounts are deemed Code Section 125 Compensation only if the Employer does not request or otherwise collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

If Code Section 414(s) safe harbor exclusions are not excluded in Item M(3), Compensation shall include reimbursements or other expense allowances, fringe benefits (cash and noncash), moving expenses, deferred compensation (other than elective contributions), and welfare benefits for purposes of calculating all contribution determinations that use Compensation.

Specific Compensation may be included or excluded from this definition if selected in Item M(4) or M(3) respectively.

For purposes of the ADP and ACP Tests in Section 3.08, the Employer may elect to use an alternative nondiscriminatory definition of Compensation in accordance with Code Section 414(s) and the regulations thereunder.

The annual Compensation of each Participant taken into account in determining contributions and allocations for any determination period (the period over which Compensation is determined) shall not exceed $275,000, as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B). If Item M(6)(a) of the Adoption Agreement is not selected and in modification of the foregoing, Elective Deferral Contributions may be made with respect to Compensation that exceeds the annual compensation limit, provided such Elective Deferral Contributions otherwise satisfy any applicable limitations. The cost-of-living adjustment in effect for a calendar year applies to any determination period beginning with or within such calendar year.

If a determination period consists of fewer than 12 months, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction. The numerator of the fraction is the number of months in the short determination period, and the denominator of the fraction is 12.

If Compensation for any prior determination period is taken into account in determining a Participant's contributions or allocations for the current Plan Year, the Compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that determination period.

Compensation means, for a Leased Employee, Compensation for the services the Leased Employee performs for the Employer, determined in the same manner as the Compensation of Employees who are not Leased Employees, regardless of whether such Compensation is received directly from the Employer or from the leasing organization.

Compensation Year means the consecutive 12-month period defined in Item M(5).

Contingent Annuitant means an individual named by the Participant to receive a lifetime benefit after the Participant's death in accordance with a survivorship life annuity.

Contribution Date means the date on which Wage Rate Contributions are calculated. (See Item Q(4).)

Contributions means Employer Contributions, Participant Contributions, and Rollover Contributions as set out in Article III, unless the context clearly indicates only specific contributions are meant.

Controlled Group means any group of corporations, trades, or businesses of which the Employer is a part that is under common control. A Controlled Group includes any group of corporations, trades, or businesses, whether or not incorporated, which is either a parent-subsidiary group, a brother-sister group, or a combined group within the meaning of Code Section 414(b), Code Section 414(c) and the regulations thereunder and, for purposes of determining contribution limitations under Section 3.07, as modified by Code Section 415(h). The term Controlled Group, as it is used in this Plan, shall include the term Affiliated Service Group and any other employer required to be aggregated with the Employer under Code Section 414(o) and the regulations thereunder.

Designated Beneficiary means the individual who is designated by the Participant (or the Participant's surviving spouse) as the Beneficiary of the Participant's interest under the Plan and who is the designated beneficiary under Code Section 401(a)(9) and section 1.401(a)(9)-4 of the regulations.

Designated Roth Account means the portion of a Participant's Account resulting from Roth Elective Deferral Contributions, In-plan Roth Rollovers, and the portion of a Rollover Contribution from a designated Roth account under another plan, and the respective earnings thereon. The Designated Roth Account shall be record kept in a manner that satisfies the separate accounting requirements of section 1.401(k)-1(f) of the regulations.

Differential Wage Payments means any payments that are made by an Employer to an individual with respect to any period during which the individual is performing Qualified Military Service while on active duty for a period of more than 30 days. Such payments shall be made in accordance with Code Section 3401(h) and represent all or a portion of the wages the individual would have received from the Employer if the individual were performing service for the Employer.

Direct Rollover means a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

Discretionary Contributions means discretionary Employer Contributions. (See Item Q(3) and Section 3.01.)

Distributee means an Employee or former Employee. In addition, the Employee's (or former Employee's) surviving spouse and the Employee's (or former Employee's) spouse or former spouse who is the Alternate Payee under a qualified domestic relations order, as defined in Code Section 414(p), are Distributees with regard to the interest of the spouse or former spouse. A Distributee includes the Employee's (or former Employee's) nonspouse Designated Beneficiary, in which case, the distribution can only be transferred to a traditional IRA or Roth IRA established on behalf of the nonspouse Designated Beneficiary for the purpose of receiving the distribution.

Early Retirement Age means the age defined in Item Z(4).

Early Retirement Date means any day (the first day of any month if Item Z(2)(a) is selected or the specified day of the month if Item Z(2)(b) is selected) which a Participant selects for beginning his early retirement benefit after he reaches Early Retirement Age and has had a Severance from Employment. If a Participant has a Severance from Employment before satisfying any age requirement for Early Retirement Age, but after satisfying any other requirements, the Participant shall be entitled to elect a distribution of his Vested Account as an early retirement benefit upon satisfying such age requirement. (See Item Z(4).)

Earned Income means, for a Self-employed Individual, net earnings from self-employment in the trade or business for which this Plan is established if such Self-employed Individual's personal services are a material income producing factor for that trade or business. Net earnings shall be determined without regard to items not included in gross income and the deductions properly allocable to or chargeable against such items. Net earnings shall be reduced for the employer contributions to the employer's qualified retirement plan(s) to the extent deductible under Code Section 404.

Net earnings shall be determined with regard to the deduction allowed to the employer by Code Section 164(f).

Effective Date means the date specified in Item D.

Elective Deferral Agreement means an agreement between an Eligible Employee and the Employer under which an Eligible Employee may make Elective Deferral Contributions. An Elective Deferral Agreement (or change thereto) must be made in such manner (including by means of voice response or other electronic system under circumstances that the Employer permits) and in accordance with such rules as the Employer may prescribe in a nondiscriminatory manner.

Elective Deferral Agreements cannot relate to Compensation that is payable prior to the effective date of the Elective Deferral Agreement or to Compensation that is payable prior to the later of the adoption or effective date of the cash or deferred arrangement (CODA).

Elective Deferral Agreements shall be made, changed, or terminated according to the provisions of Item N. (See Item N and Section 3.01.) An Elective Deferral Agreement may also be terminated according to the terms of an automatic contribution arrangement. (See Items N(6), N(7), and O(2).)

Elective Deferral Contributions means Employer Contributions made in accordance with either an Elective Deferral Agreement or the terms of an automatic contribution arrangement. (See Items N(6), N(7), and O(2).)

Elective Deferral Contributions means Pre-tax Elective Deferral Contributions and Roth Elective Deferral Contributions, unless the context clearly indicates only one is meant.

Elective Deferral Contributions shall be 100% vested and subject to the distribution restrictions of Code Section 401(k) and the regulations thereunder when made. (See Section 5.04.)

Eligible Employee means an Employee who meets the requirements specified in Item J.

However, to the extent an Employee becomes an Employee as a result of a Code Section 410(b)(6)(C) transaction, that Employee shall not be an Eligible Employee during the period beginning on the date of the transaction and ending on the last day of the first Plan Year beginning after the date of the transaction. This period is called the transition period. The transition period may end earlier if there is a significant change in the coverage under the Plan or if the Employer chooses to cover all similarly situated Employees as of an earlier date. A Code Section 410(b)(6)(C) transaction is an asset or stock acquisition, merger, or similar transaction involving a change in the employer of the employees of a trade or business.

Eligible Retirement Plan means an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan, a traditional IRA, a Roth IRA, an annuity plan described in Code Section 403(a), an annuity contract described in Code Section 403(b), or a qualified plan described in Code

Section 401(a), that accepts the Distributee's Eligible Rollover Distribution. The definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the Alternate Payee under a qualified domestic relations order, as defined in Code Section 414(p).

If any portion of an Eligible Rollover Distribution is attributable to payments or distributions from a Designated Roth Account, an Eligible Retirement Plan with respect to such portion shall include only
(i) another designated Roth account of the individual from whose Account the payments or distributions were made or (ii) a Roth IRA of such individual.

Eligible Rollover Distribution means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's Designated Beneficiary, or for a specified period of ten years or more; (ii) any distribution to the extent such distribution is required under Code Section 401(a)(9);
(iii) any hardship distribution; (iv) any Permissible Withdrawal; and (v) any other distribution(s) that is reasonably expected to total less than $200 during a year. For purposes of the $200 rule, a distribution from a Designated Roth Account and a distribution from other accounts under the Plan shall be treated as made under separate plans.

Any portion of a distribution that consists of after-tax employee contributions that are not includible in gross income may be transferred only to (i) a traditional individual retirement account or annuity described in Code Section 408(a) or (b) (a “traditional IRA”); (ii) a Roth individual retirement account or annuity described in Code Section 408A (a “Roth IRA”); or (iii) a qualified plan or an annuity contract described in Code Section 401(a) and 403(b), respectively, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

Employee means an individual who is employed by the Employer or any other employer required to be aggregated with the Employer under Code Sections 414(b), (c), (m), or (o). A Controlled Group member is required to be aggregated with the Employer.

The term Employee shall include any individual receiving Differential Wage Payments.

The term Employee shall include any Self-employed Individual treated as an employee of any employer described in the preceding paragraphs as provided in Code Section 401(c)(1). The term Employee shall also include any Leased Employee deemed to be an employee of any employer described in the preceding paragraphs as provided in Code Section 414(n) or (o).

Employer means, except for purposes of Section 3.07, the employer named in Item B and any successor corporation, trade or business which will, by written agreement, assume the obligations of this Plan or any Predecessor Employer that maintained this Plan.

Employer Contributions means Elective Deferral Contributions, Matching Contributions, Qualified Nonelective Contributions, QACA Nonelective Contributions, Additional Contributions, Wage Rate Contributions, and Discretionary Contributions as set out in the Adoption Agreement and contributions made by the Employer in accordance with the provisions of Section 11.04, unless the context clearly indicates only specific contributions are meant. (See Items N, O, P, and Q and Sections 3.01, 3.11, and 11.04.)

Employer Group means each separate group of entities which consists of the Employer and all Adopting Employers that are members of the same Controlled Group as the Employer or consist of an Adopting Employer that is not a member of the same Controlled Group as the Employer and all other Adopting Employers who are members of the same Controlled Group as such Adopting Employer. If more than one Employer Group adopts this Plan, the Plan shall be a multiple employer plan as described in Code Section 413(c).

Entry Date means the date an Employee first enters the Plan as an Active Participant for purposes of the Contributions specified in Item K. (See Item K and Section 2.01.)

Entry Service means an Employee's service defined in Item K(3). Entry Service shall include service with a Controlled Group member, while the Employer and such Controlled Group member are both members of the Controlled Group.

If Item I(1)(a)(i) is selected, Entry Service shall include service with a Predecessor Employer which did not maintain this Plan. If Item I(2)(b)(i) is selected, Entry Service shall include service with a Prior Employer. If Entry Service includes service with a Predecessor Employer or Prior Employer, the crediting of such service shall be determined on a reasonably uniform basis to all similarly situated Employees based on all relevant facts and circumstances so as not to discriminate in favor of Highly Compensated Employees.

Entry Service shall include a Period of Military Duty. If the elapsed time method is used, the entire Period of Military Duty shall be included to the extent it has not already been counted as Entry Service. If the hours method is used, an Hour of Service shall be credited (without regard to the 501 Hours of Service limitation) for each hour the Employee would normally have been scheduled to work for the Employer during such Period of Military Duty to the extent such hour has not already been counted for purposes of Entry Service.

If the elapsed time method is used, Entry Service shall be measured from his Hire Date to his most recent Severance Date. This Period of Service shall be reduced by any Period of Severance that occurred prior to his most recent Severance Date, unless such Period of Severance is included under the service spanning rule below. This period of Entry Service shall be expressed as years (on the basis that 365 days equal one year), months (on the basis that 30 days equals one month for purposes of the aggregation of fractional months) or days.

If the elapsed time method is used, Entry Service shall include a Period of Severance (service spanning rule) if:

a) the Period of Severance immediately follows a period during which an Employee is not absent from work and ends within 12 months, or

b) the Period of Severance immediately follows a period during which an Employee is absent from work for any reason other than quitting, being discharged, or retiring (such as a leave of absence or layoff) and ends within 12 months of the date he was first absent.

If the hours method is used and the Entry Service Period shifts to the Plan Year, an Employee will be credited with two years of Entry Service if he has the Hours of Service required for a year of Entry Service in both his first and second Entry Service Periods.

If the method of crediting Entry Service changes, the provisions of Section 10.13 shall apply.

Entry Service Period means the period defined in Item K(3)(b)(iii).

ERISA means the Employee Retirement Income Security Act of 1974, as amended.

401(k) Safe Harbor Plan means a plan that satisfies the ADP Test Safe Harbor and to which the 401(k) safe harbor provisions of Section 3.09 apply as elected in Item O(1).

Fiscal Year means the Employer's taxable year. (See Item F.)

Forfeiture means the part, if any, of a Participant's Account that is forfeited. (See Section 3.05.)

Forfeiture Date means the date the Participant incurs five consecutive Vesting Breaks.

Highly Compensated Employee means any Employee who:

a) was a 5-percent owner at any time during the year or the preceding year, or

b) for the preceding year had compensation from the Employer in excess of $120,000 and, if the Employer so elects in Item L, was in the top-paid group for the preceding year. The $120,000 amount is adjusted at the same time and in the same manner as under Code Section 415(d).

For this purpose the applicable year of the plan for which a determination is being made is called a determination year and the preceding 12-month period is called a look-back year. If the Employer has made a calendar year data election in Item L(1)(b), the look-back year shall be the calendar year beginning with or within the look-back year. The Plan may not use such election to determine whether Employees are Highly Compensated Employees on account of being a 5-percent owner.

Calendar year data elections and top-paid group elections, once made, apply for all subsequent years unless changed by the Employer. If the Employer makes one election, the Employer is not required to make the other. If both elections are made, the look-back year in determining the top- paid group must be the calendar year beginning with or within the look-back year. Each Employer Group may choose to make a calendar year data election or a top-paid group election. Any such election(s) must be in writing and by the date prescribed in Code Section 414(q). These elections must apply consistently to the determination years of all plans maintained by the Employer which reference the highly compensated employee definition in Code Section 414(q), except as provided in Internal Revenue Service Notice 97-45 (or superseding guidance).

The determination of who is a highly compensated former Employee is based on the rules applicable to determining Highly Compensated Employee status as in effect for that determination year.

The determination of who is a Highly Compensated Employee, including the determinations of the number and identity of Employees in the top-paid group, the compensation that is considered, and the identity of the 5-percent owners, shall be made in accordance with Code Section 414(q) and the regulations thereunder.

For purposes of this definition, the above references to compensation shall mean Compensation as defined in Section 3.07.

Hire Date means the date an Employee first performs an Hour of Service.

Hour of Service means, for the elapsed time method of crediting service in this Plan, each hour for which an Employee is paid, or entitled to payment, for performing duties for the Employer.

Hour of Service means, for the hours method of crediting service in this Plan, the following:

a) Each hour for which an Employee is paid, or entitled to payment, for performing duties for the Employer during the applicable service period.

b) Each hour for which an Employee is paid, or entitled to payment, by the Employer on account of a period of time in which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty, or leave of absence. Notwithstanding the preceding provisions of this subparagraph (b), no credit shall be given to the Employee:

1) for more than 501 Hours of Service under this subparagraph (b) on account of any single continuous period in which the Employee performs no duties (whether or not such period occurs in a single service period); or

2) for an Hour of Service for which the Employee is directly or indirectly paid, or entitled to payment, on account of a period in which no duties are performed if such payment is made or due under a plan maintained solely for the purpose of complying with applicable worker's or workmen's compensation, or unemployment compensation, or disability insurance laws; or

3) for an Hour of Service for a payment which solely reimburses the Employee for medical or medically related expenses incurred by him.

For purposes of this subparagraph (b), a payment shall be deemed to be made by, or due from the Employer, regardless of whether such payment is made by, or due from the Employer, directly or indirectly through, among others, a trust fund or insurer, to which the Employer contributes or pays premiums and regardless of whether contributions made or due to the trust fund, insurer, or other entity are for the benefit of particular employees or are on behalf of a group of employees in the aggregate.

c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same Hours of Service shall not be credited both under subparagraph
(a) or subparagraph (b) above (as the case may be) and under this subparagraph (c). Crediting of Hours of Service for back pay awarded or agreed to with respect to periods described in subparagraph (b) above shall be subject to the limitations set forth in that subparagraph.

Hours of Service shall be determined on the basis of actual Hours of Service that an Employee is paid or entitled to payment if the Employer maintains hourly records for such Employee. If the Employer (i) does not maintain hourly records for an Employee or (ii) elected in Item X(4) to use an equivalency for all Employees, Hours of Service shall be determined using an equivalency based on periods of employment in lieu of actual Hours of Service. The equivalencies shall be on the basis of months, days, weeks, or semi-monthly payroll periods as defined in Item X.

The crediting of Hours of Service above shall be applied under the rules of paragraphs (b) and (c) of the Department of Labor Regulation 2530.200b-2 (including any interpretations or opinions implementing such rules); which rules, by this reference, are specifically incorporated in full within this Plan. The reference to paragraph (b) applies to the special rule for determining Hours of Service for reasons other than the performance of duties such as payments calculated (or not calculated) on the basis of units of time and the rule against double credit. The reference to paragraph (c) applies to the crediting of Hours of Service to service periods.

Hours of Service shall be credited for employment with any other employer required to be aggregated with the Employer under Code Section 414(b), (c), (m), or (o) and the regulations thereunder for purposes of entry and vesting. Hours of Service shall also be credited for any individual who is considered an employee for purposes of this Plan pursuant to Code Section 414(n) or (o) and the regulations thereunder.

Solely for purposes of determining whether a one-year break in service has occurred for vesting purposes, during a Parental Absence an Employee shall be credited with the Hours of Service which would otherwise have been credited to the Employee but for such absence, or in any case in which such hours cannot be determined, eight Hours of Service per day of such absence. The Hours of Service credited under this paragraph shall be credited in the service period in which the absence begins if the crediting is necessary to prevent a break in service in that period; or in all other cases, in the following service period.

Inactive Participant means a former Active Participant who has an Account. (See Section 2.02.)

In-plan Roth Rollover means the irrevocable rollover of all or any portion of a Participant's Vested Account (other than a Designated Roth Account) to a Designated Roth Account under the Plan. The rollover shall be subject to the provisions of Section 3.04, and made in accordance with Code Section 402A(c)(4) and any subsequent guidance.

Insurance Policy means the life insurance policy or policies issued to the Trustee by the Insurer as provided in Section 4.04.

Insurer means Principal Life Insurance Company or the insurance company or companies named by the Trustee in its discretion or as directed under the Trust Agreement to issue Annuity Contracts.

In addition, if this Plan is a restatement of a Prior Plan, Insurer shall also mean any life insurance company which has issued a group annuity contract to either the Employer or the Trustee and such contract remains in effect.

Integration Level means the Integration Level defined in Item Q(3)(b).

Investment Fund means the total of Plan assets, excluding the guaranteed benefit policy portion of any Annuity Contract. All or a portion of these assets may be held under, or invested pursuant to, the terms of a Trust Agreement if Item U(1)(a) is selected.

The Investment Fund shall be valued at current fair market value as of the Valuation Date. The valuation shall take into consideration investment earnings credited, expenses charged, payments made, and changes in the values of the assets held in the Investment Fund.

The Investment Fund shall be allocated at all times to Participants, except as otherwise expressly provided in the Plan. The Account of a Participant shall be credited with its share of the gains and losses of the Investment Fund. The part of a Participant's Account invested in a funding arrangement that establishes one or more accounts or investment vehicles for such Participant thereunder shall be credited with the gain or loss from such accounts or investment vehicles. The part of a Participant's Account invested in other funding arrangements shall be credited with a proportionate share of the gain or loss of such investments. The share shall be determined by multiplying the gain or loss of the investment by the ratio of the part of the Participant's Account invested in such funding arrangement to the total of the Investment Fund invested in such funding arrangement.

Investment Manager means any fiduciary (other than a Trustee or Named Fiduciary):

a) who has the power to manage, acquire, or dispose of any assets of the Plan;

b) who (i) is registered as an investment adviser under the Investment Advisers Act of 1940; (ii) is not registered as an investment adviser under such Act by reason of paragraph (1) of section 203A(a) of such Act, is registered as an investment adviser under the laws of the state (referred to in such paragraph (1)) in which it maintains its principal office and place of business, and, at the time it last filed the registration form most recently filed by it with such state in order to maintain its registration under the laws of such state, also filed a copy of such form with the Secretary of Labor; (iii) is a bank, as defined in that Act; or (iv) is an insurance company qualified to perform services described in subparagraph (a) above under the laws of more than one state; and

c) who has acknowledged in writing being a fiduciary with respect to the Plan.

Item means the specified item in the Adoption Agreement the Employer signed.

Late Retirement Date means any day (the first day of any month if Item Z(2)(a) is selected or the specified day of the month if Item Z(2)(b) is selected) that is after a Participant's Normal Retirement

Date and on which retirement benefits begin. If a Participant continues to work for the Employer after his Normal Retirement Date, his Late Retirement Date shall be the day (the earliest first day of the month on or after the date if Item Z(2)(a) is selected or the earliest specified day of the month on or after the date if Item Z(2)(b) is selected) he has a Severance from Employment. If Item Z(3)(a) is not selected, an earlier Retirement Date may apply if the Participant so elects. A later Retirement Date may apply if the Participant so elects. (See Section 5.04.)

Leased Employee means any person (other than an employee of the recipient) who, pursuant to an agreement between the recipient and any other person ("leasing organization"), has performed services for the recipient (or for the recipient and related persons determined in accordance with Code Section 414(n)(6)) on a substantially full time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient. Contributions or benefits provided by the leasing organization to a Leased Employee, which are attributable to service performed for the recipient employer, shall be treated as provided by the recipient employer.

A Leased Employee shall not be considered an employee of the recipient if:

a) such employee is covered by a money purchase pension plan providing (i) a nonintegrated employer contribution rate of at least 10 percent of compensation, as defined in Code Section 415(c)(3), (ii) immediate participation, and (iii) full and immediate vesting, and

b) Leased Employees do not constitute more than 20 percent of the recipient's nonhighly compensated work force.

Loan Administrator means the person(s) or position(s) named in Item U(3)(a)(i).

Mandatory Distribution means a distribution to a Participant that is made without the Participant’s consent and is made to the Participant before he attains the older of age 62 or his Normal Retirement Age. If Item Z(7)(d) is selected, Mandatory Distribution means a distribution to a Participant that is made without the Participant’s consent, without regard to the Participant’s age at the time of such distribution.

Matching Contributions means Employer Contributions that are contingent on a Participant’s Elective Deferral Contributions or Voluntary Contributions. (See Items O(1), O(2), and P and Sections 3.01, 3.05, 3.09, and 3.11.)

Maximum Integration Rate means the Maximum Integration Rate defined in Item Q(3)(b).

Monthly Date means each Yearly Date and the same day of each following month during the Plan Year beginning on such Yearly Date.

Named Fiduciary means the person or persons who have authority to control and manage the operation and administration of the Plan. (See Item G.)

Named Fiduciary for Contributions means the Named Fiduciary responsible for collecting Contributions pursuant to Section 9.01.

Net Profits means the Employer’s current or accumulated net earnings, determined according to generally accepted accounting practices, before any Contributions made by the Employer under this Plan and before any deduction for Federal or state income tax, dividends on the Employer’s stock, and capital gains or losses. If the Employer is a nonprofit organization under Code Section 501(c)(3), Net Profits means excess revenues (excess of receipts over expenditures).

Nonhighly Compensated Employee means an Employee of the Employer who is not a Highly Compensated Employee.

Non-bargaining Employee means an Employee who is not represented for collective bargaining purposes by any collective bargaining agreement between the Employer and employee representatives, if retirement benefits were the subject of good faith bargaining and if two percent or less of the Employees who are covered pursuant to that agreement are professionals as defined in section 1.410(b)-9 of the regulations. For this purpose, the term “employee representatives” does not include any organization more than half of whose members are Employees who are owners, officers, or executives of the Employer.

Nonresident Alien means a nonresident alien, within the meaning of Code Section 7701(b)(1)(B), who receives no earned income, within the meaning of Code Section 911(d)(2), from the Employer that constitutes income from sources within the United States, within the meaning of Code Section 861(a)(3), or who receives such earned income but it is all exempt from income tax in the United States under the terms of an income tax convention.

Nonvested Account means the excess, if any, of a Participant’s Account over his Vested Account.

Normal Form means a single life annuity with installment refund.

Normal Retirement Age means the age defined in Item Z(1).

Normal Retirement Date means the date defined in Item Z(2). Retirement benefits shall begin on a Participant’s Normal Retirement Date if he has had a Severance from Employment, has a Vested Account, and has not elected to have retirement benefits begin later. However, retirement benefits shall not begin before the older of age 62 or his Normal Retirement Age, unless the qualified election procedures of Article VI or VIA, whichever applies, are met. If permitted in Item Z(3), a Participant may choose to have retirement benefits begin on his Normal Retirement Date, even if he is an Employee on such date.

Owner-employee means a Self-employed Individual who, in the case of a sole proprietorship, owns the entire interest in the unincorporated trade or business for which this Plan is established. If this Plan is established for a partnership, an Owner-employee means a Self-employed Individual who owns more than 10 percent of either the capital interest or profits interest in such partnership.

Parental Absence means an Employee's absence from work:

a) by reason of pregnancy of the Employee,

b) by reason of birth of a child of the Employee,

c) by reason of the placement of a child with the Employee in connection with adoption of such child by such Employee, or

d) for purposes of caring for such child for a period beginning immediately following such birth or placement.

Participant means either an Active Participant or an Inactive Participant.

Participant Contributions means Voluntary Contributions and Required Contributions, unless the context clearly indicates only one is meant.

Part-time, Temporary, or Seasonal Employee means an Employee who is regularly scheduled to work less than 1,000 Hours of Service in an Entry Service Period. In the event such an Employee (i) works at least 1,000 Hours of Service during an Entry Service Period based on the Hours of Service credited at the end of the Entry Service Period or (ii) his employment status changes to full-time, he shall no longer be considered a Part-time, Temporary, or Seasonal Employee.

Period of Military Duty means, for an Employee

a) who served as a member of the armed forces of the United States, and

b) who was reemployed by the Employer at a time when the Employee had a right to reemployment in accordance with seniority rights as protected under Chapter 43 of Title 38 of the U.S. Code,

the period of time from the date the Employee was first absent from active work for the Employer because of such military duty to the date the Employee was reemployed.

Period of Service means a period of time beginning on an Employee's Hire Date and ending on his Severance Date.

Period of Severance means a period of time beginning on an Employee's Severance Date and ending on the date he again performs an Hour of Service.

A one-year Period of Severance means a Period of Severance of 12 consecutive months.

Solely for purposes of determining whether a one-year Period of Severance has occurred for entry or vesting purposes, the consecutive 12-month period beginning on the first anniversary of the first date of a Parental Absence shall not be a one-year Period of Severance.

Permissible Withdrawal means a withdrawal that meets the requirements in subparagraph (d) of the Eligible Automatic Contribution Arrangement (EACA) Provisions section or subparagraph (e) of the Qualified Automatic Contribution Arrangement (QACA) Safe Harbor Provisions section. (See Sections 3.10 and 3.11.)

Plan means the Employer's retirement plan set forth in the attached Adoption Agreement and this document, including any later amendments to them. If the Adoption Agreement indicates that a Trust Agreement has been set up, the term Plan shall include the Trust Agreement, unless the context clearly indicates otherwise.

Plan Administrator means the person or persons who administer the Plan. (See Item H.)

Plan Fund means the total of the Investment Fund and the guaranteed benefit policy portion of any Annuity Contract. The Investment Fund shall be valued as stated in its definition. The guaranteed benefit policy portion of any Annuity Contract shall be determined in accordance with the terms of the Annuity Contract and, to the extent that such Annuity Contract allocates contract values to Participants, allocated to Participants in accordance with its terms. The total of all amounts held under the Plan Fund shall equal the value of the aggregate Participants' Accounts under the Plan.

Plan Year means a consecutive 12-month period beginning on a Yearly Date and ending on the day before the next Yearly Date. If the Yearly Date changes, the change will result in a short Plan Year. If a service period is based on the Plan Year, corresponding years before the Effective Date shall be included.

Plan-year Quarter means a period beginning on a Quarterly Date and ending on the day before the next Quarterly Date.

Predecessor Employer means, except for purposes of Section 3.07, a predecessor employer defined in Item I(1).

Pre-tax Elective Deferral Contributions means a Participant's Elective Deferral Contributions that are not includible in the Participant's gross income at the time deferred.

Prevailing Rate Schedule means a schedule that is published by the United States Department of Labor or any State Department of Labor, indicating the minimum hourly rate for wages and fringe benefits (including, but not limited to, pension benefits) which must be paid to the employees of an employer working on particular jobs financed or contracted by the United States of America or any State, County, Municipality, or other governmental entity.

Primary Beneficiary means an individual who is named as a Beneficiary under the Plan and has an unconditional right to all or a portion of the Participant's Account balance under the Plan upon the death of the Participant.

Prior Employer means a prior employer defined in Item I(2).

Prior Plan means a retirement plan of the Employer or of a Predecessor Employer that was qualifiable under Code Section 401(a), and of which this Plan is a restatement. If, because of a merger, consolidation, or transfer of assets or liabilities, this Plan is a continuation of a plan that was qualifiable under Code Section 401(a), that plan shall be a Prior Plan. If, with the approval of any governmental agency to which it is subject, the assets of a terminated plan of the Employer which was qualified under Code Section 401(a) are transferred to this Plan, that terminated plan shall be deemed to be the Prior Plan.

Prior Plan Assets means the assets accumulated under the Prior Plan which have not been distributed and which are held under this Plan.

QACA Matching Contributions means Matching Contributions made under a qualified automatic contribution arrangement and that are distributable only in accordance with the distribution provisions (other than for hardships or deemed severance from employment as described in Section 5.03) applicable to Elective Deferral Contributions. (See Item O(2) and Sections 5.03 and 5.04.)

QACA Nonelective Contributions means Employer Contributions made under a qualified automatic contribution arrangement and that are distributable only in accordance with the distribution provisions (other than for hardships or deemed severance from employment as described in Section 5.03) applicable to Elective Deferral Contributions. (See Item O(2) and Sections 5.03 and 5.04.)

QACA Safe Harbor Plan means a plan that satisfies the ADP Test Safe Harbor and to which the QACA safe harbor provisions of Section 3.11 apply as elected in Item O(2).

Qualified Joint and Survivor Annuity means, for a Participant who has a spouse, an immediate survivorship life annuity with installment refund, where the Contingent Annuitant is the Participant's spouse and the survivorship percentage is 50%, unless otherwise specified in Item AA(1)(a)(i). A former spouse will be treated as the spouse to the extent provided under a qualified domestic relations order as described in Code Section 414(p).

The amount of benefit payable under the Qualified Joint and Survivor Annuity shall be the amount of benefit that may be provided by the Participant's Vested Account.

Qualified Matching Contributions means Matching Contributions that are nonforfeitable when allocated to Participants' Accounts and that are distributable only in accordance with the distribution provisions (other than for hardships or deemed severance from employment as described in Section 5.03) applicable to Elective Deferral Contributions. (See Sections 5.03 and 5.04.)

Matching Contributions shall be Qualified Matching Contributions if elected in Item O(1)(b)(i) or P(14). If Item O(1)(b)(i)D is selected, additional Matching Contributions shall be Qualified Matching Contributions, unless otherwise specified in Item O(1)(b)(i)D(1).

Qualified Military Service means any service in the uniformed services (as defined in Chapter 43 of Title 38 of the U.S. Code) by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service.

Qualified Nonelective Contributions means Employer Contributions (other than Elective Deferral Contributions and Qualified Matching Contributions) that are nonforfeitable when allocated to Participants' Accounts and that are distributable only in accordance with the distribution provisions (other than for hardships or deemed severance from employment as described in Section 5.03) applicable to Elective Deferral Contributions. (See Items O(1)(b)(ii), O(1)(d), Q(1), Q(4)(a), and Sections 3.01, 3.09, 5.03, and 5.04.)

Qualified Preretirement Survivor Annuity means a single life annuity with installment refund payable to the surviving spouse of a Participant who dies before his Annuity Starting Date. A former spouse will be treated as the surviving spouse to the extent provided under a qualified domestic relations order as described in Code Section 414(p).

Qualified Reservist Distribution means any distribution to an individual if: (i) such distribution is from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in Code Section 402(g)(3)(A) or (C) or Code Section 501(c)(18)(D)(iii); (ii) such individual was (by reason of being a member of a reserve component (as defined in Section 101 of Title 37 of the U.S. Code)) ordered or called to active duty after September 11, 2001, for a period in excess of 179 days or for an indefinite period; and (iii) such distribution is made during the period beginning on the date of such order or call and ending at the close of the active duty period.

Qualifying Employer Securities means any security which is issued by the Employer or any Controlled Group member and which meets the requirements of Code Section 409(l) and ERISA Section 407(d)(5). This shall also include any securities that satisfied the requirements of the definition when these securities were assigned to the Plan. (See Item U(5) and Section 4.02)

Qualifying Employer Securities Fund means that part of the assets of the Trust Fund that are designated to be held primarily or exclusively in Qualifying Employer Securities for the purpose of providing benefits for Participants.

Quarterly Date means each Yearly Date and the third, sixth, and ninth Monthly Date after each Yearly Date that is within the same Plan Year.

Reclassified Employee means, for purposes of Item J(1), an individual considered by the Employer to be an independent contractor who is later determined by the Internal Revenue Service (or another agency or court) to be an Employee. If selected in Item J(1), such individual will continue to be excluded following the reclassification date.

Reentry Date means the date a former Active Participant reenters the Plan. (See Section 2.01.)

Required Contributions means nondeductible employee contributions required from an active participant in order to participate in the Prior Plan. Required Contributions, and earnings thereon, shall be 100% vested and nonforfeitable at all times.

Restatement Date means the date the Plan was last restated. (See Item A(2).)

Retirement Date means the date a retirement benefit will begin and is a Participant's Early, Normal, or Late Retirement Date, as the case may be.

Rollover Contributions means the rollover contributions that are made by an Eligible Employee or an Inactive Participant. (See Section 3.03.)

Roth Elective Deferral Contributions means a Participant's Elective Deferral Contributions that are not excludible from the Participant's gross income at the time deferred and have been irrevocably designated as Roth Elective Deferral Contributions by the Participant in his Elective Deferral Agreement. Whether an Elective Deferral Contribution is not excludible from a Participant's gross income will be determined in accordance with section 1.401(k)-1(f)(2) of the regulations. In the case of a Self-employed Individual, an Elective Deferral Contribution is not excludible from gross income only if the individual does not claim a deduction for such amount.

Safe Harbor Contributions means, for purposes of determining Eligible Employees, entry requirements and the Entry Date, the Employer Contributions made to satisfy the ADP Test Safe Harbor. (See Items J, K, and AB.)

Self-Directed Brokerage Account means that portion of a Participant's Account that is invested at the Participant's direction in a Self-Directed Brokerage Account.

Self-employed Individual means, with respect to any taxable year, an individual who has Earned Income for the taxable year (or who would have Earned Income but for the fact the trade or business for which this Plan is established did not have net profits for such taxable year).

Semi-yearly Date means each Yearly Date and the sixth Monthly Date after each Yearly Date that is within the same Plan Year.

Severance Date means the earlier of:

a) the date on which an Employee quits, retires, dies, or is discharged, or

b) the first anniversary of the date an Employee begins a one-year absence from service (with or without pay). This absence may be the result of any combination of vacation, holiday, sickness, disability, leave of absence, or layoff.

Solely to determine whether a one-year Period of Severance has occurred for entry or vesting purposes for an Employee who is absent from service beyond the first anniversary of the first day of a Parental Absence, Severance Date is the second anniversary of the first day of the Parental Absence. The period between the first and second anniversaries of the first day of the Parental Absence is not a Period of Service and is not a Period of Severance.

Severance from Employment means, except for purposes of Section 3.07, an Employee has ceased to be an employee of the employer maintaining the Plan. An Employee does not have a severance from employment if, in connection with a change of employment, the Employee's new employer maintains such Plan with respect to the Employee.

Significant Corporate Event means any corporate merger or consolidation, recapitalization, reclassification, liquidation, dissolution, sale of substantially all assets of a trade or business, or such similar transaction as may be prescribed in regulations under Code Section 409(e)(3).

Taxable Wage Base means the contribution and benefit base under section 230 of the Social Security Act.

Totally Disabled means if Items Z(5)(a), (b), (c), (d), and (e) are not selected, that a Participant is disabled, as a result of sickness or injury, to the extent that he is prevented from engaging in any substantial gainful activity, and is eligible for and receives a disability benefit under Title II of the Federal Social Security Act.

If Item Z(5)(a) is selected, Totally Disabled means that a Participant meets the definition of disabled under the Employer's long-term disability plan.

If Item Z(5)(b) is selected, Totally Disabled means that a Participant is unable to engage in any substantial gainful activity by reason of a medically determined physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of at least 12 months. Such disability shall be determined by a licensed physician chosen by the Plan Administrator.

If Item Z(5)(c) is selected, Totally Disabled means that a Participant is disabled as a result of sickness or injury, to the extent that he is completely prevented from performing any work or engaging in any occupation for wage or profit, and has been continuously disabled for five months. Initial written proof that the disability exists and has continued uninterruptedly for at least five months must be furnished to the Plan Administrator by the Participant within one year after the date the disability begins. The Plan Administrator, upon receipt of any notice of proof of a Participant's total disability, shall have the right and opportunity to have a physician it designates examine the Participant when and as often as it may reasonably require, but not more than once each year after the disability has continued uninterruptedly for at least two years beyond the date of furnishing the first proof.

If Item Z(5)(d) is selected, Totally Disabled means that a Participant is disabled, as a result of sickness or injury, to the extent that he is completely prevented from performing any work or engaging in any occupation for wage or profit, and has been continuously disabled for the number of months specified.

Initial written proof that the disability exists and has continued uninterruptedly for at least the number of months specified must be furnished to the Plan Administrator by the Participant within one year after the date the disability begins. The Plan Administrator, upon receipt of any notice of proof of a Participant's total and permanent disability, shall have the right and opportunity to have a physician it designates examine the Participant when and as often as it may reasonably require, but not more than once each year after the disability has continued uninterruptedly for at least two years beyond the date of furnishing the first proof.

If Item Z(5)(e) is selected, Totally Disabled means the alternative definition provided by the Employer in that Item.

The determination of disability shall be applied uniformly to all Participants and may not discriminate in favor of Highly Compensated Employees.

Trust Agreement means an agreement of trust between the Employer and Trustee established for the purpose of holding and distributing the Trust Fund under the provisions of the Plan. The Trust Agreement may provide for the investment of all or any portion of the Trust Fund in the Annuity Contract or any other investment arrangement. (See Item U(1)(a).)

Trust Fund means the total funds held under an applicable Trust Agreement. The term Trust Fund when used within a Trust Agreement shall mean only the funds held under that Trust Agreement.

Trustee means, for trusteed plans, the party or parties named in the Trust Agreement(s).

Valuation Date means the date on which the value of the assets of the Investment Fund is determined. The value of each Account that is maintained under this Plan shall be determined on the Valuation Date. In each Plan Year, the Valuation Date shall be the last day of the Plan Year. At the discretion of the Plan Administrator, Trustee, or Insurer (whichever applies) and in a nondiscriminatory manner, assets of the Investment Fund may be valued more frequently. These dates shall also be Valuation Dates.

Vested Account means the vested part of a Participant's Account. If all Employer Contributions are 100% vested, the Participant's Vested Account is equal to his Account. If not all Employer

Contributions are 100% vested, and the Participant's Vesting Percentage for all Employer Contributions is 100%, the Vested Account equals his Account. If not all Employer Contributions are 100% vested and the Participant's Vesting Percentage for all Employer Contributions is not 100%, the Vested Account equals the sum of (a) and (b) below:

a) The part of the Participant's Account resulting from Employer Contributions made before a prior Forfeiture Date and all other Contributions that were 100% vested when made.

b) The balance of the Participant's Account in excess of the amount in (a) above multiplied by his Vesting Percentage. If his Vesting Percentages that apply to such Employer Contributions are not equal, the balance of his Account resulting from all types of Employer Contributions subject to the same Vesting Percentage shall be multiplied by the applicable Vesting Percentage and each product added together to determine this amount.

   If the Participant has withdrawn any part of his Account resulting from Employer Contributions, other than the vested Employer Contributions included in (a) above, and his Vesting Percentage with respect to such Contributions is less than 100%, the amount determined under this subparagraph (b) shall be equal to P(AB + D) - D as defined below:

   P The Participant's Vesting Percentage.

   AB The balance of the Participant's Account in excess of the amount in (a) above.

   D The amount of the withdrawal resulting from Employer Contributions, other than the vested Employer Contributions included in (a) above.

If the amount determined in this (b) is determined using different Vesting Percentages, this formula shall apply separately to the calculation done for the balance of his Account resulting from all types of Employer Contributions subject to the same Vesting Percentage, including only the balance of his Account in excess of the amount in (a) above resulting from Employer Contributions subject to the same Vesting Percentage and the amount of the withdrawal resulting from such Employer Contributions. This calculation is not required if the Vesting Percentage is 100%.

Vesting Break means, when the elapsed time method is used, a one-year Period of Severance. An Employee incurs a Vesting Break on the last day of a one-year Period of Severance.

When the hours method is used, Vesting Break is defined in Item W(1)(c). An Employee incurs a Vesting Break on the last day of the Vesting Service Period in which he has a Vesting Break.

Vesting Percentage means the Participant's Vesting Percentage determined under Item V. If the schedule used to determine a Participant's Vesting Percentage is changed, the new schedule shall not apply to a Participant unless he is credited with an Hour of Service on or after the date of the change and the Participant's Vesting Percentage on the day before the date of the change is not reduced under this Plan. The provisions of Section 10.01 regarding changes in the computation of Vesting Percentage shall apply.

Vesting Service means an Employee's service determined under Item W. Vesting Service is subject to the modifications selected under that item. Vesting Service shall include service with a Controlled Group member while the Employer and such Controlled Group member are both members of the Controlled Group.

If Item I(1)(a)(ii) is selected, Vesting Service shall include service with a Predecessor Employer which did not maintain this Plan. If Item I(2)(b)(ii) is selected, Vesting Service shall include service with a Prior Employer. If Vesting Service includes service with a Predecessor Employer or Prior Employer, the crediting of such service shall be determined on a reasonably uniform basis to all similarly situated Employees based on all relevant facts and circumstances so as not to discriminate in favor of Highly Compensated Employees.

Vesting Service shall include a Period of Military Duty. If the elapsed time method is used, the entire Period of Military Duty shall be included to the extent it has not already been counted as Vesting Service. If the hours method is used, an Hour of Service shall be credited (without regard to the 501 Hours of Service limitation) for each hour the Employee would normally have been scheduled to work for the Employer during such Period of Military Duty, to the extent such hour has not already been credited as Vesting Service.

If the elapsed time method is used, Vesting Service shall be measured from his Hire Date to his most recent Severance Date. Vesting Service shall be reduced by all or any part of a Period of Service that is not counted. Vesting Service shall also be reduced by any Period of Severance that occurred prior to his most recent Severance Date, unless such Period of Severance is included under the service spanning rule below. This period of Vesting Service shall be expressed as years and fractional parts of a year (to four decimal places) on the basis that 365 days equal one year.

If the elapsed time method is used, Vesting Service shall include a Period of Severance (service spanning rule) if:

a) the Period of Severance immediately follows a period during which an Employee is not absent from work and ends within 12 months, or

b) the Period of Severance immediately follows a period during which an Employee is absent from work for any reason other than quitting, being discharged, or retiring (such as a leave of absence or layoff) and ends within 12 months of the date he was first absent.

If the method of crediting Vesting Service changes, the provisions of Sections 10.01 and 10.13 shall apply.

Vesting Service Period means the period defined in Item W(1)(b).

Voluntary Contributions means the Contributions by a Participant that are 100% vested and are not required as a condition of employment or participation, or for obtaining additional Employer Contributions. Voluntary Contributions, and earnings thereon, shall be 100% vested and nonforfeitable at all times. (See Item T(1) and Section 3.02.)

Wage Rate Contributions means Employer Contributions based on the applicable Prevailing Rate Schedule. (See Item Q(4) and Section 3.01.)

Yearly Date means the Yearly Date defined in Item E.

Years of Service means an Employee's Vesting Service defined in Item W, disregarding any modifications that exclude service.

ARTICLE II PARTICIPATION

SECTION 2.01 – ACTIVE PARTICIPANT.

For purposes of the Contributions as specified in Item K, an Employee shall first become an Active Participant (begin active participation in the Plan) on the earliest date specified in Item K on which he is an Eligible Employee and has met all of the entry requirements selected in Item K. This date is his Entry Date for such Contributions. Notwithstanding the foregoing, at the discretion of the Plan Administrator, in accordance with their established nondiscriminatory procedures, an Employee may make a one-time irrevocable election not to participate in this Plan. Such election must be made no later than the date the Employee first becomes eligible to participate in any plan of the

Employer and shall remain in effect for the duration of the Employee's employment with the Employer.

If the Plan's entry requirements are changed, an Employee who was an Active Participant immediately prior to the effective date of the change is deemed to satisfy the new requirements and his Entry Date shall not change.

Each Employee who was an active participant under the Prior Plan on the day before the Restatement Date shall continue to be an Active Participant under this Plan on the Restatement Date if he is still an Eligible Employee on such Restatement Date and his Entry Date shall not change.

If service with a Predecessor Employer or a Prior Employer is counted for purposes of Entry Service in Item I, an Employee shall be credited with such service on the date he becomes an Employee and shall become an Active Participant on the earliest date specified in Item K for purposes of the Contributions specified in Item K on which he is an Eligible Employee and has met all of the entry requirements selected in Item K. This date is his Entry Date for such Contributions.

If a person has been an Eligible Employee who has met all of the entry requirements for purposes of the Contributions specified in Item K but is not an Eligible Employee on the date that would have been his Entry Date for such Contributions, he shall become an Active Participant for purposes of such Contributions on the date he again becomes an Eligible Employee. This date is his Entry Date for such Contributions.

In the event an Employee who is not an Eligible Employee becomes an Eligible Employee, he shall become an Active Participant immediately if he has satisfied the entry requirements for purposes of the Contributions specified in Item K and would have otherwise previously become an Active Participant had he met the definition of Eligible Employee. This date is his Entry Date for such Contributions.

An Inactive Participant shall again become an Active Participant (resume active participation in the Plan) for purposes of the Contributions for which he previously had an Entry Date on the date he again performs an Hour of Service as an Eligible Employee. This date is his Reentry Date for such Contributions. Upon again becoming an Active Participant, he shall cease to be an Inactive Participant.

A former Participant shall again become an Active Participant (resume active participation in the Plan) for purposes of the Contributions for which he previously had an Entry Date on the date he again performs an Hour of Service as an Eligible Employee. This date is his Reentry Date for such Contributions.

A Participant shall be treated as benefiting under the Plan for any Plan Year during which the Participant received or is deemed to receive an allocation in accordance with section 1.410(b)-3(a) of the regulations.

SECTION 2.02 – INACTIVE PARTICIPANT.

An Active Participant shall become an Inactive Participant on the earlier of the following:

a) the date the Participant ceases to be an Eligible Employee, or

b) the effective date of complete termination of the Plan under Article VIII.

An Employee or former Employee who was an inactive participant under the Prior Plan on the day before the Restatement Date shall continue to be an Inactive Participant under this Plan on the Restatement Date. Eligibility for any benefits payable to the Participant or on his behalf and the amount of the benefits shall be determined according to the provisions of the Prior Plan, unless otherwise stated in this Plan.

SECTION 2.03 – CESSATION OF PARTICIPATION.

A Participant shall cease to be a Participant on the date he is no longer an Eligible Employee and his Account is zero.

SECTION 2.04 – ADOPTING EMPLOYERS – SINGLE PLAN.

Each Adopting Employer identified as a single plan in Item AB of the Adoption Agreement or if Item AB(1)(b) is selected, the attached participation agreements, is a Controlled Group member and participates with the Employer in this Plan. An Adopting Employer's agreement to participate in this Plan shall be in writing.

The Employer has the right to amend the Plan. An Adopting Employer does not have the right to amend the Plan.

If the Adopting Employer did not maintain a Prior Plan, the date of participation specified in Item AB (the day following the end of its transition period described in Code Section 410(b)(6)(C)(ii) for an Adopting Employer not listed in Item AB) shall be the Entry Date for any of its Employees who have met the requirements in Section 2.01 as of that date. Service with and Compensation from an Adopting Employer shall be included as service with and Compensation from the Employer. If Item AB(3)(a) is selected, such service and Compensation shall only be included beginning on the date the Adopting Employer became a Controlled Group member. Transfer of employment, without interruption, between an Adopting Employer and another Adopting Employer or the Employer shall not be considered an interruption of service. The Employer's Fiscal Year in Item F shall be the Fiscal Year used in interpreting this Plan for Adopting Employers.

Contributions made by an Adopting Employer shall be treated as Contributions made by the Employer. Forfeitures arising from those Contributions shall be used for the benefit of all Participants.

An employer shall not be an Adopting Employer if it ceases to be a Controlled Group member. Such an employer may continue a retirement plan for its Employees in the form of a separate document. This Plan shall be amended to delete a former Adopting Employer from Item AB or, if Item AB(1)(b) is selected, remove the participation agreement for such Adopting Employer.

If (i) an employer ceases to be an Adopting Employer or the Plan or participation agreement is amended to remove an Adopting Employer and (ii) the Adopting Employer does not continue a retirement plan for the benefit of its Employees, partial termination may result and the provisions of Article VIII shall apply.

SECTION 2.05 – ADOPTING EMPLOYERS – MULTIPLE EMPLOYER PLAN.

Each Adopting Employer identified as a multiple employer plan in Item AB of the Adoption Agreement or if Item AB(1)(b) is selected, the attached participation agreements, participates with the Employer in this Plan. This Plan is a multiple employer plan as described in Code Section 413(c). An Adopting Employer's agreement to participate in this Plan shall be in writing.

The Employer has the right to amend the Plan. An Adopting Employer does not have the right to amend the Plan.

If the Adopting Employer did not maintain its plan before its date of adoption specified in Item AB(4) or the attached participation agreement, its date of adoption shall be the Entry Date for any of its Employees who have met the requirements in Section 2.01 as of that date. Service with and Compensation from an Adopting Employer shall be included as service with and Compensation from the Employer. Transfer of employment, without interruption, between an Adopting Employer and another Adopting Employer or the Employer shall not be considered an interruption of service.

The Employer’s Fiscal Year in Item F shall be the Fiscal Year used in interpreting this Plan for Adopting Employers.

If the amount of an Employer Contribution or a limit on an Employer Contribution is determined by the Employer, such determination shall be made by the Employer. Forfeitures arising from those Contributions shall be used for the benefit of all Participants.

The provisions of Section 3.07 shall be applied to each Participant taking into account all Contributions and all Compensation for the Limitation Year from all Employers and Employer Groups covered by the Plan.

The requirements of Code Section 410(b) and 401(a)(4) shall be applied separately to each Employer Group.

For purposes of the ACP Test and ADP Test, each Employer Group shall be treated as maintaining a separate plan.

The provisions of Article XI shall be applied separately to each Employer Group. If the Plan is top- heavy with respect to an Employer Group, the minimum contribution requirements shall apply with respect to the Employees of such Employer Group. If the Plan is not top-heavy with respect to an Employer Group, the minimum contribution requirements shall not apply with respect to the Employees of such Employer Group.

If the Plan or, if Item AB(1)(b) is selected, the participation agreement is amended to remove an Adopting Employer and the Adopting Employer does not continue a retirement plan for the benefit of its Employees, partial termination may result and the provisions of Article VIII shall apply.

SECTION 2.06 – ADOPTING EMPLOYERS – SEPARATE PLANS.

Each Adopting Employer identified as a separate plan in Item AB of the Adoption Agreement or if Item AB(1)(b) is selected, the attached participation agreements, is a Controlled Group member and maintains this Plan as a separate and distinct plan for the exclusive benefit of its Employees. An Adopting Employer’s adoption of the Plan shall be in writing. If the Adopting Employer did not maintain a Prior Plan, the date of adoption specified in Item AB is the Effective Date of its Plan. This date is the first Yearly Date for the Adopting Employer's Plan and shall be the Entry Date for any of its Employees who have met the requirements in Section 2.01 as of that date. If the Adopting Employer did maintain a Prior Plan, the date of adoption is the Restatement Date of its Plan.

An Adopting Employer shall be deemed to be the Employer but only with respect to its Plan and for those Employees who are on its payroll. In interpreting the Adoption Agreement and this document as to an Adopting Employer, the term Employer shall be deemed to refer to the Adopting Employer and the Adopting Employer's fiscal year is deemed to be the Fiscal Year. The Employer named in Item B is deemed to be an Adopting Employer for purposes of the following two paragraphs.

The Contributions made by an Adopting Employer, and Forfeitures arising from such Contributions, shall not be used for the benefit of Employees of any other Adopting Employer. Service with an Adopting Employer shall be included as service with all other Adopting Employers. If Item AB(3)(a) is selected, such service and Compensation shall only be included beginning on the date the Adopting Employer became a Controlled Group member. Transfer of employment, without interruption, between Adopting Employers shall not be an interruption of service. If an Active Participant ceases to be an Eligible Employee of an Adopting Employer and immediately becomes an Eligible Employee of another Adopting Employer, he will be an Active Participant in the second Adopting Employer’s Plan. For purposes of Employer Contributions only, he shall be an Active Participant under the first Adopting Employer's Plan until the earlier of the end of the Plan Year or the date on which he is no longer an Eligible Employee under any Adopting Employer’s Plan. In determining his eligibility for, or the amount or allocation of, any Employer Contributions under each

Plan, his service from all Adopting Employers shall be taken into account, but only his Compensation from the Adopting Employer maintaining such Plan shall be taken into account for purposes of that Plan. If Employer Contributions are made under a formula that gives a uniform dollar amount per period, there shall be no duplication of contributions on account of active participation in more than one Plan and the Contribution for any period shall be prorated based on service with each Adopting Employer that maintained such Plans.

Any amendment to the Plan by the Employer named in Item B shall be deemed to be an amendment to each Adopting Employer's Plan. An Adopting Employer may not amend the Plan other than to restate its Plan in the form of a separate document and, in that event, it shall cease to be an Adopting Employer. An employer shall not be an Adopting Employer if it ceases to be a Controlled Group member. Such an employer may continue its Plan by restating it in the form of a separate document. This Plan shall be amended to delete a former Adopting Employer from Item AB or, if Item AB(1)(b) is selected, remove the participation agreement for such Adopting Employer.

If the Plan of the Adopting Employer terminates, the provisions of Article VIII shall apply to its Plan.

ARTICLE III CONTRIBUTIONS

SECTION 3.01 – EMPLOYER CONTRIBUTIONS.

Employer Contributions are conditioned on initial qualification of the Plan. If the Plan is denied initial qualification, the provisions of Section 10.15 shall apply.

The amount of Employer Contributions is specified in the Adoption Agreement.

Employer Contributions are made without regard to current or accumulated Net Profits, unless otherwise specified in Item R(1)(a). If Employer Contributions are made from Net Profits in excess of Elective Deferral Contributions and Wage Rate Contributions (Item R(1)(a) is selected), and such excess is not sufficient to provide the Matching Contributions, Qualified Nonelective Contributions under Item Q(1)(a) or (b) and Additional Contributions, if any, such Contributions shall be proportionately reduced. Elective Deferral Contributions and Wage Rate Contributions shall in all events be made without regard to Net Profits. Notwithstanding the foregoing, the Plan shall continue to be designed to qualify as a profit sharing plan for purposes of Code Sections 401(a), 402, 412, and 417.

a) Elective Deferral Contributions. Elective Deferral Contributions made pursuant to either an Elective Deferral Agreement or the terms of an automatic contribution arrangement shall not be made earlier than the date (i) the Participant performs the services that relate to such Elective Deferral Contribution or (ii) the Compensation used to calculate such Elective Deferral Contribution would be payable to the Participant if not contributed to the Plan.

   No Participant shall be permitted to have Elective Deferral Contributions, as defined in Section 3.08, made under this Plan, or any other plan, contract, or arrangement maintained by the Employer, during any calendar year, in excess of the dollar limitation contained in Code Section 402(g) in effect for the Participant’s taxable year beginning in such calendar year. If Catch-up Contributions are permitted in Item N(4), the dollar limitation in the preceding sentence shall be increased by the dollar limit on Catch-up Contributions under Code Section 414(v)(2)(B)(i) for the taxable year for any Participant who will be age 50 or older by the end of the taxable year. Elective Deferral Contributions returned as a Permissible Withdrawal shall not be taken into account for purposes of the dollar limitation contained in Code Section 402(g).

The dollar limitation contained in Code Section 402(g) was $18,500 for taxable years beginning in 2018. This limit is adjusted by the Secretary of the Treasury, in multiples of $500, for cost-of- living increases under Code Section 402(g)(4).

Catch-up Contributions for a Participant for a taxable year may not exceed the dollar limit on Catch-up Contributions under Code Section 414(v)(2)(B)(i) for the taxable year. The dollar limit on Catch-up Contributions under Code Section 414(v)(2)(B)(i) was $6,000 for taxable years beginning in 2018. This limit is adjusted by the Secretary of the Treasury, in multiples of $500, for cost-of-living increases under Code Section 414(v)(2)(C).

If Catch-up Contributions are permitted in Item N(4), such Catch-up Contributions may be made to this Plan as provided in that Item. If Item N(3) or N(3)(a) is selected and the percent of Compensation maximum Elective Deferral Contribution limit is equal to or greater than 75% of Compensation, a Participant who is eligible to make Catch-up Contributions shall have his Elective Deferral Contributions, including Catch-up Contributions, limited to the percentage specified in Item N(3) or if Item N(3)(a) is selected, the percentage specified in Item D of the Additional Selections and Minor Modifications Addendum. If Item N(3) or N(3)(a) is selected and the percent of Compensation maximum Elective Deferral Contribution limit is less than 75%, a Participant who is eligible to make Catch-up Contributions shall not be so limited unless his Elective Deferral Contributions, including Catch-up Contributions, exceed the limit in Item N(3) or if Item N(3)(a) is selected, the limit in Item D of the Additional Selections and Minor Modifications Addendum, plus the dollar amount of Catch-up Contributions permitted.

1) Automatic Contribution Arrangement (ACA). If Item N(6) is selected, the Plan provides for an automatic election to have Elective Deferral Contributions made. The automatic Elective Deferral Contribution shall be Pre-tax Elective Deferral Contributions or Roth Elective Deferral Contributions as specified in Item N(6)(a). Such automatic election shall apply when a Participant first becomes eligible to make Elective Deferral Contributions (or again becomes eligible after a period during which he was not an Active Participant). The automatic election shall also apply to certain Active Participants as provided in Items N(6)(b), (c), and (d) and Item E of the Additional Selections and Minor Modifications Addendum.

   If Item N(6)(c)(v) is selected, each Active Participant who has affirmatively elected to defer an amount of Compensation that is less than the maximum automatic increase percentage in Item N(6)(b), shall have the amount of Elective Deferral Contributions stated in his Elective Deferral Agreement increased as specified in Item N(6)(c)(v). As of the date this increase is applied, the Participant's Elective Deferral Agreement shall expire. The automatic Elective Deferral Contribution applicable to a Participant shall be determined as specified in Item N(6)(c)(v). If an Active Participant is subject to more than one Plan provision that would increase his Elective Deferral Contributions on the same date, only one such increase shall apply on that date. If a one-time sweep is selected in Item N(6)(c)(ii) or (iv) or the annual expiration of Elective Deferral Agreements (reenrollment) is selected in Item N(6)(c)(iii), such sweep or reenrollment shall be applied in lieu of the automatic increase of affirmative elections in Item N(6)(c)(v). If any of the corresponding selections are made in Item E of the Additional Selections and Minor Modifications Addendum, this paragraph shall be applied in the same manner, substituting Item E(3)(c)(v) in place of N(6)(c)(v), Item E(3)(b) in place of N(6)(b), Item E(3)(a)(i) or E(3)(a)(ii) in place of N(6)(a)(i) or N(6)(a)(ii), Item E(3)(c)(ii) or (iv) in place of Item N(6)(c)(ii) or (iv), and Item E(3)(c)(iii) in place of Item N(6)(c)(iii).

   If Item N(6)(d)(i) applies to both an increase in the default automatic Elective Deferral Contribution under Item N(6)(a) and an increase in the automatic increase of Elective Deferral Contributions under N(6)(b) on the same date, the default automatic Elective Deferral Contribution shall be applied in lieu of the automatic increase. If any of the corresponding selections are made in Item E of the Additional Selections and Minor Modifications Addendum, this paragraph shall be applied in the same manner, substituting Item E(3)(d)(i) in place of Item N(6)(d)(i), Item E(3)(a) in place of Item N(6)(a), and Item E(3)(b) in place of Item N(6)(b).

If Item N(6)(e) is selected, the automatic contribution arrangement may be applied differently to different groups of Employees as specified in Item E of the Additional Selections and Minor Modifications Addendum.

The Participant shall be provided a notice that explains the automatic election and his right to elect a different rate of Elective Deferral Contributions, to elect not to make Elective Deferral Contributions, and if Roth Elective Deferral Contributions are permitted in Item N(5), to designate all or any portion of his Elective Deferral Contributions as Roth Elective Deferral Contributions. The notice shall include the procedure for exercising those rights and the timing for implementing any such elections. The Participant shall be given a reasonable period thereafter to elect a different rate of Elective Deferral Contributions, to elect not to make Elective Deferral Contributions, and if Roth Elective Deferral Contributions are permitted in Item N(5), to designate all or any portion of his Elective Deferral Contributions as Roth Elective Deferral Contributions.

Each Active Participant affected by the automatic election and automatic increase, if applicable, shall be provided an annual notice that explains the automatic election and his right to elect a different rate of Elective Deferral Contributions, to elect not to make Elective Deferral Contributions, and if Roth Elective Deferral Contributions are permitted in Item N(5), to designate all or any portion of his Elective Deferral Contributions as Roth Elective Deferral Contributions. The notice shall include the procedure for exercising those rights and the timing for implementing any such elections.

The notice(s) shall be written in a manner sufficiently accurate and comprehensive to apprise an Employee of his rights and obligations and calculated to be understood by the average Active Participant.

2) <u>Eligible Automatic Contribution Arrangement (EACA)</u>. If Item N(7) is selected, the Plan provides for an automatic election to have Pre-tax Elective Deferral Contributions made under an Eligible Automatic Contribution Arrangement. (See Item N(7) and Section 3.10.)

3) <u>Qualified Automatic Contribution Arrangement (QACA)</u>. If Item O(2) is selected, the Plan provides for an automatic election to have Pre-tax Elective Deferral Contributions made under a Qualified Automatic Contribution Arrangement. (See Item O(2) and Section 3.11.)

Employer Contributions are allocated according to the provisions of Section 3.06.

If Item U(5)(a)(iv) is selected, the Employer may make all or any portion of the Employer Contributions (excluding Elective Deferral Contributions and Wage Rate Contributions) which are to be invested in Qualifying Employer Securities, to the Trustee in the form of Qualifying Employer Securities.

The Employer may make all or a part of an annual Employer Contribution (Contributions that are calculated based on Annual Compensation or Compensation for the Plan Year) before the end of the Plan Year. If the annual Contribution is made for or allocated to each person who was an Active Participant at any time during the Plan Year, such Contributions made before the end of the Plan Year may be allocated when made in a manner that approximates the allocation that would otherwise have been made for the Plan Year. Succeeding allocations shall take into account amounts previously allocated for the Plan Year. The percentage of the Employer Contribution allocated to the Participant for the Plan Year shall be the same percentage that would have been allocated to him if the entire allocation had been made for the Plan Year. Excess allocations shall be forfeited and reallocated as necessary to provide the percentage applicable to each Participant.

Any other annual Contributions made before the end of the Plan Year shall be held unallocated until the advance Contributions (and earnings) are allocated according to the provisions of Section 3.06.

A portion of the Plan assets resulting from Employer Contributions (but not more than the original amount of those Contributions) may be returned if the Employer Contributions are made because of a mistake of fact or are more than the amount deductible under Code Section 404 (excluding any amount which is not deductible because the Plan is disqualified). The amount involved must be returned to the Employer within one year after the date the Employer Contributions are made by mistake of fact or the date the deduction is disallowed, whichever applies. Except as provided under this paragraph and in Articles VIII and X, the assets of the Plan, including the corpus or income of the Trust, shall never be diverted to or used for the benefit of the Employer and are held for the exclusive purpose of providing benefits to Participants and their Beneficiaries and for defraying reasonable expenses of administering the Plan.

Prior Plan Assets which result from contributions made by the Employer shall be treated in the same manner as Employer Contributions made under this Plan. If the Prior Plan Assets are transferred from a terminated plan, they shall be treated in the same manner as Employer Contributions made under this Plan before a Forfeiture Date.

SECTION 3.02 – VOLUNTARY CONTRIBUTIONS BY PARTICIPANTS.

If permitted under Item T(1), an Active Participant may make Voluntary Contributions in accordance with nondiscriminatory procedures set up by the Plan Administrator and subject to such limits as the Employer has prescribed in Item T(1). Such Contributions shall be credited to the Participant's Account when made.

The Plan will not accept deductible Voluntary Contributions that are made for a taxable year beginning after December 31, 1986. Such Contributions made prior to that date shall be maintained in a separate account which will be nonforfeitable at all times.

A Participant's participation in the Plan is not affected by stopping or changing Voluntary Contributions. An Active Participant's request to start, change, or stop Voluntary Contributions must be made in such manner and in accordance with such rules as the Employer may prescribe (including by means of voice response or other electronic system under circumstances the Employer permits).

The part of the Participant's Account resulting from Voluntary Contributions is 100% vested and nonforfeitable at all times.

Prior Plan Assets which result from voluntary contributions made by the Participant shall be treated in the same manner as Voluntary Contributions made under this Plan. These Prior Plan Assets may include deductible voluntary contributions that were made according to the provisions of the Prior Plan.

SECTION 3.03 – ROLLOVER CONTRIBUTIONS.

If permitted under Item T(2), a Rollover Contribution may be made by an Eligible Employee or an Inactive Participant (if Item T(2)(b) is selected, Rollover Contributions may only be made by a Participant) if the following conditions are met:

a) The Contribution is a Participant Rollover Contribution or a direct rollover of an Eligible Rollover Distribution from the types of plans and types of contributions specified in Item T(2) and identified below.

   <u>Direct Rollovers</u>. If selected by the Employer in Item T(2), the Plan will accept a direct rollover of an Eligible Rollover Distribution from (i) a qualified plan described in Code Section 401(a) or 403(a), including after-tax employee contributions; (ii) an annuity contract described in Code

Section 403(b), including after-tax employee contributions; and (iii) an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. If Roth Elective Deferral Contributions are permitted in Item N(5), a direct rollover from the sources described above shall include any portion of a designated Roth account.

Participant Rollover Contributions from Other Plans. If selected by the Employer in Item T(2), the Plan will accept a Participant contribution of an Eligible Rollover Distribution from (i) a qualified plan described in Code Section 401(a) or 403(a), excluding after-tax employee contributions; (ii) an annuity contract described in Code Section 403(b), excluding after-tax employee contributions; and (iii) an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. If Roth Elective Deferral Contributions are permitted in Item N(5), a Participant contribution of an Eligible Rollover Distribution from the sources described above shall include distributions of a designated Roth account only to the extent such amount would otherwise be includible in a Participant's gross income.

Participant Rollover Contributions from IRAs. If selected by the Employer in Item T(2), the Plan will accept a Participant Rollover Contribution of the portion of a distribution from an individual retirement account or individual retirement annuity described in Code Section 408(a) or (b) that is eligible to be rolled over and would otherwise be includible in the Participant's gross income.

b) The Contribution is of amounts that the Code permits to be transferred to a plan that meets the requirements of Code Section 401(a).

c) The Contribution is made in the form of a direct rollover under Code Section 401(a)(31) or is a rollover made under Code Section 402(c) or 408(d)(3)(A) within 60 days after the Eligible Employee or Inactive Participant receives the distribution.

d) The Eligible Employee furnishes evidence satisfactory to the Plan Administrator that the proposed rollover meets conditions (a), (b), and (c) above. Such evidence must be reasonable and cannot effectively eliminate or substantially impair the Eligible Employee's right to elect a direct rollover.

e) In the case of an Inactive Participant, the Contribution must be of an amount distributed from another plan of the Employer, or a plan of a Controlled Group member.

Except as provided in the following sentence, a Rollover Contribution shall be allowed in cash only. If the Plan allows investment in a Self-Directed Brokerage Account or Qualifying Employer Securities, an in-kind distribution may be rolled into the Plan if the in-kind distribution is of an allowable security under the Self-Directed Brokerage Account or Qualifying Employer Securities. Rollover Contributions must be made according to the procedures set up by the Plan Administrator.

If the Plan allows loans in Item U(3)(a), a Rollover Contribution may include a direct rollover of an outstanding loan balance that is not in default for a Participant impacted by a business event in accordance with nondiscriminatory procedures set up by the Loan Administrator. For this purpose, a business event means an acquisition, merger, or similar transaction involving a change in the employer of the employees of a trade or business. If Item T(2)(c) is selected, a Rollover Contribution may include a direct rollover of an outstanding loan balance that is not in default in accordance with nondiscriminatory procedures set up by the Loan Administrator. If Item T(2)(d) is selected, Rollover Contributions shall not include an outstanding loan balance.

If the Eligible Employee is not an Active Participant when the Rollover Contribution is made, he shall be deemed to be an Active Participant only for the purpose of investment and distribution of the Rollover Contribution. Employer Contributions shall not be made for or allocated to the Eligible

Employee and he may not make Voluntary Contributions until the time he meets all of the requirements to become an Active Participant.

Rollover Contributions made by an Eligible Employee or an Inactive Participant shall be credited to his Account. The part of the Participant's Account resulting from Rollover Contributions is 100% vested and nonforfeitable at all times. Separate accounting records shall be maintained for those parts of his Rollover Contributions consisting of (i) voluntary contributions which were deducted from the Participant's gross income for Federal income tax purposes; (ii) after-tax employee contributions, including the portion that would not have been includible in the Participant's gross income if the contributions were not rolled over into this Plan; and (iii) any portion of a designated Roth account, including the portion that would not have been includible in the Participant's gross income if the contributions were not rolled over into this Plan.

Prior Plan Assets which result from the Participant's rollover contributions shall be treated in the same manner as Rollover Contributions made under this Plan.

SECTION 3.04 – IN-PLAN ROTH ROLLOVERS.

If permitted under Item T(3), all or any portion of an Eligible Rollover Distribution (an "otherwise distributable amount"), may be rolled over as an In-plan Roth Rollover to a Designated Roth Account under the Plan if the following conditions are met:

a) The In-plan Roth Rollover is made by a Participant, a Beneficiary who is a surviving spouse, or a spouse or former spouse who is the Alternate Payee under a qualified domestic relations order, as defined in Code Section 414(p).

b) Such person shall be provided a written explanation describing the features of the In-plan Roth Rollover.

c) The In-plan Roth Rollover is a direct rollover or a 60-day rollover.

d) The Plan maintains such records as are necessary for the proper reporting of In-plan Roth Rollovers.

e) The In-plan Roth Rollover does not include any outstanding loan balance.

f) The Designated Roth Account resulting from an In-plan Roth Rollover shall continue to be included in the account balances for the calculation of the Top-heavy Ratio described in Section 11.02.

If permitted under Item T(3)(b), In-plan Roth Rollovers are allowed from all or any portion of a Participant's Vested Account (other than a Designated Roth Account) that is not otherwise eligible for distribution ("an otherwise nondistributable amount") in accordance with Code Section 402A(c)(4)(E). The conditions above apply to an In-plan Roth Rollover of otherwise nondistributable amounts, except that a 60-day rollover is not permitted. Any distribution restrictions that applied to the otherwise nondistributable amounts shall continue to apply after the rollover.

SECTION 3.05 – FORFEITURES.

The Nonvested Account of a Participant shall be forfeited as of the earlier of the following:

a) the date the record keeper is notified that the Participant died (if prior to such date he has had a Severance from Employment), or

b) the Participant's Forfeiture Date.

A Participant's Nonvested Account shall be forfeited before the earlier of (a) or (b) above if, after he has a Severance from Employment, he receives, or is deemed to receive, a distribution of his entire Vested Account under Section 5.01, 5.03, or 10.11. If Item Q(5)(a) is not selected, the forfeiture shall occur as of the date the Participant receives, or is deemed to receive, the distribution. If Item Q(5)(a) is selected, the forfeiture shall occur as of the first day of the Plan Year following the Plan Year in which the Participant receives, or is deemed to receive, the distribution.

A Forfeiture of Matching Contributions that relate to excess amounts and Matching Contributions that relate to automatic Elective Deferral Contributions distributed as Permissible Withdrawals shall also occur as provided in Sections 3.08, 3.10, and 3.11.

Forfeitures shall be determined at least once during each Plan Year. Forfeitures may first be used to pay administrative expenses. Remaining Forfeitures, if any, may then be used to reduce Employer Contributions (other than Elective Deferral Contributions) made after the Forfeitures are determined. Forfeitures of Matching Contributions that relate to excess amounts as provided in Section 3.08, that have not been used to pay administrative expenses, shall be used to reduce Employer Contributions (other than Elective Deferral Contributions) made after the Forfeitures are determined. Forfeitures that have not been used to pay administrative expenses or used to reduce Employer Contributions shall be allocated as soon as administratively feasible but in no event later than the end of the Plan Year following the Plan Year in which such Forfeitures are determined as provided in Section 3.06. Upon their allocation to Accounts, or application to reduce Employer Contributions, Forfeitures shall be deemed to be Employer Contributions.

If a Participant again becomes an Eligible Employee after receiving a distribution which caused all of his Nonvested Account to be forfeited, he shall have the right to repay to the Plan the entire amount of the distribution he received (excluding any amount of such distribution resulting from Participant Contributions and Rollover Contributions). The repayment must be made in a single sum (repayment in installments is not permitted) before the earlier of the date five years after the date he again becomes an Eligible Employee or the end of the first period of five consecutive Vesting Breaks which begin after the date of the distribution.

If the Participant makes the repayment above, the Plan Administrator shall restore to his Account an amount equal to his Nonvested Account that was forfeited on the date of distribution, unadjusted for any investment gains or losses. If no amount is to be repaid because the Participant was deemed to have received a distribution or only received a distribution of Participant Contributions or Rollover Contributions, and he again performs an Hour of Service as an Eligible Employee within the repayment period, the Plan Administrator shall restore the Participant's Account as if he had made a required repayment on the date he performed such Hour of Service. Restoration of the Participant's Account shall include restoration of all Code Section 411(d)(6) protected benefits with respect to the restored Account, according to applicable Treasury regulations. Provided, however, the Plan Administrator shall not restore the Nonvested Account if (i) a Forfeiture Date has occurred after the date of the distribution and on or before the date of repayment and (ii) that Forfeiture Date would result in a complete forfeiture of the amount the Plan Administrator would otherwise restore.

The Plan Administrator shall restore the Participant's Account by the close of the Plan Year following the Plan Year in which repayment is made. The permissible sources for restoration of the Participant's Account are Forfeitures or special Employer Contributions. Such special Employer Contributions shall be made without regard to profits. The repaid and restored amounts are not included in the Participant's Annual Additions, as defined in Section 3.07.

SECTION 3.06 – ALLOCATION.

Employer Contributions that are not subject to the requirements in Item R shall be allocated to the Participants for whom such Contributions are made and credited to the Participant's Account. Employer Contributions that are subject to the requirements in Item R (plus any Forfeitures for the

Plan Year) shall be allocated among all persons meeting the requirements in Item R. The amount allocated to such a person shall be determined under the allocation formula selected in the Adoption Agreement and Article XI.

Forfeitures that have not been used to pay administrative expenses or used to reduce Employer Contributions shall be allocated as soon administratively feasible but in no event later than the end of the Plan Year following the Plan Year in which such Forfeitures are determined.

Discretionary Contributions in Item Q(3) (and Forfeitures) shall be allocated for the Plan Year to each person eligible to share in the allocation under Item Q. The amount allocated to such person shall be determined under the allocation formula selected in Item Q. This amount shall be credited to the person’s Account.

If Item Q(3)(d) is selected by the Employer, if the Employer allocates a Discretionary Contribution for any Plan Year and nondiscrimination testing for such Discretionary Contribution is done according to section 1.401(a)(4)-8 of the regulations, the Employer shall make an additional Employer Contribution for such Plan Year for each person who is a Nonhighly Compensated Employee and who had Employer Contributions made for or allocated to him for such Plan Year if the sum of all Employer Contributions for such Nonhighly Compensated Employee is less than a minimum. The additional Employer Contribution shall be equal to the amount needed, if any, to bring the sum of all Employer Contributions up to the minimum. The amount of the minimum shall be equal to either (i) 5% of his Compensation or (ii) 1/3 of the “highest percentage” of his Compensation. The same minimum shall apply to all such persons and the minimum that applies shall be the minimum resulting in the smallest total additional Employer Contributions.

For purposes of determining the 5% minimum, Compensation means Compensation, as defined in Section 3.07, for the Plan Year. For purposes of determining the 1/3 of the highest percentage minimum, the highest percentage shall be the highest percentage of Compensation at which Employer Contributions are made for or allocated to any Highly Compensated Employee. The highest percentage shall be determined by dividing the Employer Contributions made for or allocated to each Highly Compensated Employee during the Plan Year by the amount of his Compensation and selecting the greatest quotient (expressed as a percentage). For purposes of determining the 1/3 of the highest percentage minimum, including the determination of the highest percentage, Compensation means Annual Compensation for purposes of allocating Discretionary Contributions for the Plan Year.

For purposes of determining the minimum allocation gateway, Employer Contributions shall not include Elective Deferral Contributions and Matching Contributions.

This additional Employer Contribution shall be credited to the person’s Account and shall be deemed to be a Discretionary Contribution.

If Item Q(3)(f) is selected by the Employer, the Discretionary Contribution selected in Q(3)(a), (b), (c), or (e) shall not be allocated to provide the top-heavy minimum contribution under Plan Section
11.04. The Discretionary Contribution shall be allocated as follows:

a) If Item Q(3)(a) is selected by the Employer, Discretionary Contributions shall be allocated using Annual Compensation for the Plan Year to each person meeting the requirements in Item R. The amount allocated shall be equal to the Discretionary Contributions multiplied by the ratio of such person’s Annual Compensation to the total Annual Compensation for all such persons.

b) If Item Q(3)(b) is selected by the Employer, subject to the overall permitted disparity limits, Discretionary Contributions shall be allocated using Annual Compensation for the Plan Year to each person meeting the requirements in Item R. Each such person’s allocation shall be determined as follows:

STEP ONE: An amount equal to the Discretionary Contributions multiplied by the ratio of the sum of such person's total Annual Compensation and his Annual Compensation over the Integration Level to the total of such sums for all such persons. Such amount shall not exceed an amount equal to a percentage (equal to the Maximum Integration Rate) of the sum of such person's total Annual Compensation and his Annual Compensation over the Integration Level.

For purposes of this step one, in the case of any person who has exceeded the cumulative permitted disparity limit described below, two times such person's total Annual Compensation shall be taken into account and the applicable allocation limit for such person shall be a percentage (equal to the Maximum Integration Rate) of two times such person's total Annual Compensation.

STEP TWO: Any amount remaining after the allocation in step one multiplied by the ratio of such person's Annual Compensation to the total Annual Compensation of all such persons.

c) If Item Q(3)(c) is selected by the Employer, Discretionary Contributions shall be allocated using Benefit Factors for the Plan Year to each person meeting the requirements in Item R. Each such person's allocation shall be an amount equal to Discretionary Contributions multiplied by the ratio of such person's Benefit Factor to the total Benefit Factors for all such persons.

d) If Item Q(3)(e) is selected by the Employer, Discretionary Contributions shall be allocated as a same dollar amount for the Plan Year to each person meeting the requirements in Item R.

If Discretionary Contributions are not selected in Item Q(3), Forfeitures shall be allocated for the Plan Year to each person meeting the requirements in Item R using the compensation formula allocation in Item Q(3)(a) and shall be deemed to be Additional Contributions. This amount shall be credited to the person's Account.

If Leased Employees are Eligible Employees, in determining the amount of Employer Contributions allocated to a person who is a Leased Employee, contributions provided by the leasing organization that are attributable to services such Leased Employee performs for the Employer shall be treated as provided by the Employer. Those contributions shall not be duplicated under this Plan.

SECTION 3.07 – CONTRIBUTION LIMITATION.

a) Definitions. For the purpose of determining the contribution limitation set forth in this section, the following terms are defined:

Annual Additions means the sum of the following amounts credited to a Participant's account for the Limitation Year:

1) employer contributions;

2) employee contributions; and

3) forfeitures.

Annual Additions to a defined contribution plan, as defined in section 1.415(c)-1(a)(2)(i) of the regulations, shall also include the following:

4) mandatory employee contributions, as defined in Code Section 411(c)(2)(C) and section 1.411(c)-1(c)(4) of the regulations, to a defined benefit plan;

5) contributions allocated to any individual medical benefit account, as defined in Code Section 415(l)(2), which is part of a pension or annuity plan maintained by the Employer;

6) amounts attributable to post-retirement medical benefits, allocated to the separate account of a key employee, as defined in Code Section 419A(d)(3), under a welfare benefit fund, as defined in Code Section 419(e), maintained by the Employer;

7) annual additions under an annuity contract described in Code Section 403(b); and

8) allocations under a simplified employee pension.

Compensation means one of the following as specified in Item M(1):

1) Information Required to be Reported Under Code Sections 6041, 6051, and 6052 ("Wages, Tips and Other Compensation" box on Form W-2). Compensation is defined as wages, within the meaning of Code Section 3401(a), and all other payments of compensation to an employee by the Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the employee a written statement under Code Sections 6041(d), 6051(a)(3), and 6052. Compensation shall be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).

2) Code Section 3401(a) Wages. Compensation is defined as wages within the meaning of Code Section 3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).

3) Simplified 415 Compensation. Compensation is defined as wages, salaries, Differential Wage Payments, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining the plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid to salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan (as described in section 1.62-2(c) of the regulations)), and excluding the following:

    i) employer contributions (other than elective contributions described in Code Section 402(e)(3), 408(k)(6), 408(p)(2)(A)(i), or 457(b)) to a plan of deferred compensation (including a simplified employee pension described in Code Section 408(k) or a simple retirement account described in Code Section 408(p), and whether or not qualified) to the extent such contributions are not includible in the employee's gross income for the taxable year in which contributed, and any distributions (whether or not includible in gross income when distributed) from a plan of deferred compensation (whether or not qualified), unless Item M(1)(b)(i) allows amounts received from a nonqualified unfunded deferred compensation plan to be included, to the extent includible in gross income;

    ii) amounts realized from the exercise of a nonstatutory stock option (that is, an option other than a statutory stock option as defined in section 1.421-1(b) of the regulations), or when restricted stock (or property) held by the employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

    iii) amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option;

iv) other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the gross income of the employee and are not salary reduction amounts that are described in Code Section 125); and

v) other items of remuneration that are similar to any of the items listed in (i) through (iv) above.

For any Self-employed Individual, Compensation means Earned Income.

Except as provided herein, Compensation for a Limitation Year is the Compensation actually paid or made available (or if earlier, includible in gross income) during such Limitation Year, unless otherwise specified in Item M(4).

Compensation for a Limitation Year shall also include Compensation paid by the later of 2 1/2 months after an employee's Severance from Employment with the Employer maintaining the plan or the end of the Limitation Year that includes the date of the employee's Severance from Employment with the Employer maintaining the plan, if (i) the payment is regular Compensation for services during the employee's regular working hours, or Compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and, absent a Severance from Employment, the payments would have been paid to the employee while the employee continued in employment with the Employer. If Item M(2)(a)(i) is selected, Compensation shall include payments for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued. If Item M(2)(a)(ii) is selected, Compensation shall include payments received by the employee pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income.

Any payments not described above shall not be considered Compensation if paid after Severance from Employment, even if they are paid by the later of 2 1/2 months after the date of Severance from Employment or the end of the Limitation Year that includes the date of Severance from Employment, except if Item M(2)(a)(iii) is selected, Compensation paid to a Participant who is permanently and totally disabled, as defined in Code Section 22(e)(3). If Item M(2)(a)(iii)B is selected, such Compensation shall only be included for Participants who were Nonhighly Compensated Employees immediately before becoming disabled.

Back pay, within the meaning of section 1.415(c)-2(g)(8) of the regulations, shall be treated as Compensation for the Limitation Year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included in this definition.

Compensation paid or made available during such Limitation Year shall include amounts that would otherwise be included in Compensation but for an election under Code Section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b).

If deemed Code Section 125 Compensation is not excluded in Item M(3), Compensation shall also include deemed Code Section 125 Compensation. Deemed Code Section 125 Compensation is an amount that is excludible under Code Section 106 that is not available to a Participant in cash in lieu of group health coverage under a Code Section 125 arrangement solely because the Participant is unable to certify that he has other health coverage. Amounts are deemed Code Section 125 Compensation only if the Employer does not request or otherwise collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

Compensation shall not include amounts paid as Compensation to a nonresident alien, as defined in Code Section 7701(b)(1)(B), who is not a Participant in the Plan to the extent the

Compensation is excludible from gross income and is not effectively connected with the conduct of a trade or business within the United States.

Defined Contribution Dollar Limitation means $55,000, automatically adjusted under Code Section 415(d) effective January 1 of each year, as published in the Internal Revenue Bulletin. The new limitation shall apply to Limitation Years ending with or within the calendar year of the date of the adjustment, but a Participant's Annual Additions for a Limitation Year cannot exceed the currently applicable dollar limitation (as in effect before the January 1 adjustment) prior to January 1. However, after a January 1 adjustment is made, Annual Additions for the entire Limitation Year are permitted to reflect the dollar limitation as adjusted on January 1.

Employer means the employer that adopts this Plan, and all members of a controlled group of corporations (as defined in Code Section 414(b) as modified by Code Section 415(h)), all commonly controlled trades or businesses (as defined in Code Section 414(c), as modified, except in the case of a brother-sister group of trades or businesses under common control, by Code Section 415(h)), or affiliated service groups (as defined in Code Section 414(m)) of which the adopting employer is a part, and any other entity required to be aggregated with the employer pursuant to Code Section 414(o).

Limitation Year means a calendar year or the consecutive 12-month period elected by the Employer in Item S(1). If the Limitation Year ends on the last day of the Fiscal Year and the Fiscal Year is a 52-53 week period, then the Limitation Year shall be such period. All qualified plans maintained by the Employer must use the same Limitation Year. If the Limitation Year is amended to a different consecutive 12-month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made.

Maximum Annual Addition means, except for catch-up contributions described in Code Section 414(v), the Annual Addition that may be contributed or allocated to a Participant's Account under the Plan for any Limitation Year. This amount shall not exceed the lesser of:

1) The Defined Contribution Dollar Limitation, or

2) 100 percent of the Participant's Compensation for the Limitation Year.

A Participant's Compensation for a Limitation Year shall not include Compensation in excess of the limitation under Code Section 401(a)(17) that is in effect for the calendar year in which the Limitation Year begins.

The compensation limitation referred to in (2) shall not apply to an individual medical benefit account (as defined in Code Section 415(l); or a post-retirement medical benefits account for a key employee (as defined in Code Section 419A(d)(1)).

If a short Limitation Year is created because of an amendment changing the Limitation Year to a different consecutive 12-month period, the Maximum Annual Addition will not exceed the Defined Contribution Dollar Limitation multiplied by the following fraction:

$$\frac{\text{Number of months (including any fractional parts of a month) in the short Limitation Year}}{12}$$

If the Plan is terminated as of a date other than the last day of the Limitation Year, the Plan is treated as if the Plan was amended to change the Limitation Year and create a short Limitation Year ending on the date the Plan is terminated.

If a short Limitation Year is created, the limitation under Code Section 401(a)(17) shall be prorated in the same manner as the Defined Contribution Dollar Limitation.

Pre-approved Plan means a plan the form of which is the subject of a favorable opinion letter from the Internal Revenue Service.

Predecessor Employer means, with respect to a Participant, a former employer if the Employer maintains a plan that provides a benefit which the Participant accrued while performing services for the former employer. Predecessor Employer also means, with respect to a Participant, a former entity that antedates the Employer if, under the facts and circumstances, the Employer constitutes a continuation of all or a portion of the trade or business of the former entity.

Severance from Employment means an employee has ceased to be an employee of the Employer maintaining the plan. An employee does not have a Severance from Employment if, in connection with a change of employment, the employee's new employer maintains the plan with respect to the employee.

b) This (b) applies if, the Participant is not covered under another defined contribution plan, as defined in section 1.415(c)-1(a)(2)(i) of the regulations, (without regard to whether the plan(s) have been terminated) maintained by the Employer. The amount of Annual Additions that may be credited to the Participant's Account for any Limitation Year shall not exceed the lesser of the Maximum Annual Addition or any other limitation contained in this Plan. If the Employer Contribution that would otherwise be contributed or allocated to the Participant's Account would cause the Annual Additions for the Limitation Year to exceed the Maximum Annual Addition, the amount contributed or allocated shall be reduced so that the Annual Additions for the Limitation Year will equal the Maximum Annual Addition.

c) This (c) applies if, in addition to this Plan, the Participant is covered under another defined contribution plan, as defined in section 1.415(c)-1(a)(2)(i) of the regulations, (without regard to whether the plan(s) have been terminated) maintained by the Employer that provides an Annual Addition during any Limitation Year, and no such plan is an individually designed plan. The Annual Additions that may be credited to a Participant's Account under this Plan for any such Limitation Year will not exceed the Maximum Annual Addition, reduced by the Annual Additions credited to a Participant's account under the other defined contribution plan(s) for the same Limitation Year. If the Annual Additions with respect to the Participant under the other defined contribution plan(s) maintained by the Employer are less than the Maximum Annual Addition, and the Employer Contribution that would otherwise be contributed or allocated to the Participant's Account under this Plan would cause the Annual Additions for the Limitation Year to exceed this limitation, the amount contributed or allocated will be reduced so that the Annual Additions under all such plans and funds for the Limitation Year will equal the Maximum Annual Addition. If the Annual Additions with respect to the Participant under the other defined contribution plan(s) in the aggregate are equal to or greater than the Maximum Annual Addition, no amount will be contributed or allocated to the Participant's Account under this Plan for the Limitation Year.

d) This (d) applies if, in addition to this Plan, the Participant is covered under another defined contribution plan, as defined in section 1.415(c)-1(a)(2)(i) of the regulations, (without regard to whether the plan(s) have been terminated) maintained by the Employer that provides an Annual Addition during any Limitation Year, and such other plan is an individually designed plan. The Annual Additions that may be credited to the Participant's Account under this Plan for any Limitation Year will be limited in accordance with (c) above as though the other plan were a Pre- approved Plan, unless the Employer provides other limitations in Item S(2)(a).

e) The limitation of this section shall be determined and applied taking into account the rules in subparagraph (f) below.

f) <u>Other Rules</u>

1) Aggregating Plans. For purposes of applying the limitations of this section for a Limitation Year, all defined contribution plans (as defined in section 1.415(c)-1(a)(2)(i) of the regulations and without regard to whether the plan(s) have been terminated) ever maintained by the Employer and all defined contribution plans of a Predecessor Employer (in the Limitation Year in which such Predecessor Employer is created) under which a Participant receives Annual Additions are treated as one defined contribution plan.

2) Break-up of Affiliated Employers. The Annual Additions under a formerly affiliated plan (as defined in section 1.415(f)-1(b)(2)(ii) of the regulations) of the Employer are taken into account for purposes of applying the limitations of this section for the Limitation Year in which the cessation of affiliation took place.

3) Previously Unaggregated Plans. The limitations of this section are not exceeded for the first Limitation Year in which two or more existing plans, which previously were not required to be aggregated pursuant to section 1.415(f) of the regulations, are aggregated, provided that no Annual Additions are credited to a Participant after the date on which the plans are required to be aggregated if the Annual Additions already credited to the Participant in the existing plans equal or exceed the Maximum Annual Addition.

4) Aggregation with Multiemployer Plan. If the Employer maintains a multiemployer plan, as defined in Code Section 414(f), and the multiemployer plan so provides, only the Annual Additions under the multiemployer plan that are provided by the Employer shall be treated as Annual Additions provided under a plan maintained by the Employer for purposes of this section.

SECTION 3.08 – EXCESS AMOUNTS.

a) Definitions. For purposes of this section, the following terms are defined:

ACP means, for a specified group of Participants (either Highly Compensated Employees or Nonhighly Compensated Employees) for a Plan Year, the average (expressed as a percentage) of the Contribution Percentages of the Eligible Participants in the group.

ADP means, for a specified group of Participants (either Highly Compensated Employees or Nonhighly Compensated Employees) for a Plan Year, the average (expressed as a percentage) of the Deferral Percentages of the Eligible Participants in the group.

Contribution Percentage means the ratio (expressed as a percentage) of the Eligible Participant's Contribution Percentage Amounts to the Eligible Participant's Compensation (excluding Differential Wage Payments) for the Plan Year. For an Eligible Participant for whom such Contribution Percentage Amounts for the Plan Year are zero, the percentage is zero.

Contribution Percentage Amounts means the sum of the Participant Contributions and Matching Contributions (that are not Qualified Matching Contributions taken into account for purposes of the ADP Test) made under the plan on behalf of the Eligible Participant for the plan year. Contribution Percentage Amounts shall not include Participant Contributions withheld from Differential Wage Payments and Matching Contributions based on Elective Deferral Contributions and Participant Contributions withheld from such Differential Wage Payments. Matching Contributions cannot be taken into account for a plan year for a Nonhighly Compensated Employee to the extent they are disproportionate matching contributions as defined in section 1.401(m)-2(a)(5)(ii) of the regulations. Such Contribution Percentage Amounts shall not include Matching Contributions that are forfeited (i) to correct Excess Aggregate Contributions; (ii) because the contributions to which they relate are Excess Elective Deferrals, Excess Contributions, or Excess Aggregate Contributions; or (iii) because the contributions to which they relate were returned to the Participant as a Permissible Withdrawal. Under such rules as the Secretary of the Treasury shall prescribe, in determining the Contribution Percentage the Employer may elect to include Qualified Nonelective Contributions under this Plan that were not used in computing the Deferral Percentage. Qualified Nonelective Contributions cannot be taken into account for a plan year for a Nonhighly Compensated Employee to the extent they are disproportionate contributions as defined in section 1.401(m)-2(a)(6)(v) of the regulations. The Employer may also elect to use Elective Deferral Contributions in computing the Contribution Percentage so long as the ADP Test is met before the Elective Deferral Contributions are used in the ACP Test and continues to be met following the exclusion of those Elective Deferral Contributions that are used to meet the ACP Test.

Deferral Percentage means the ratio (expressed as a percentage) of Elective Deferral Contributions (other than Catch-up Contributions, Elective Deferral Contributions returned to the Participant as a Permissible Withdrawal, and Elective Deferral Contributions withheld from Differential Wage Payments) under this Plan on behalf of the Eligible Participant for the Plan Year to the Eligible Participant's Compensation (excluding Differential Wage Payments) for the Plan Year. The Elective Deferral Contributions used to determine the Deferral Percentage shall include Excess Elective Deferrals (other than Excess Elective Deferrals of Nonhighly Compensated Employees that arise solely from Elective Deferral Contributions made under this Plan or any other plans of the Employer or a Controlled Group member), but shall exclude Elective Deferral Contributions that are used in computing the Contribution Percentage (provided the ADP Test is satisfied both with and without exclusion of these Elective Deferral Contributions). Under such rules as the Secretary of the Treasury shall prescribe, the Employer may elect to include Qualified Nonelective Contributions and Qualified Matching Contributions under this Plan in computing the Deferral Percentage. Qualified Matching Contributions cannot be taken into account for a Plan Year for a Nonhighly Compensated Employee to the extent they are disproportionate matching contributions as defined in section 1.401(m)-2(a)(5)(ii) of the regulations. Qualified Nonelective Contributions cannot be taken into account for a Plan Year for a Nonhighly Compensated Employee to the extent they are disproportionate contributions as defined in section 1.401(k)-2(a)(6)(iv) of the regulations. For an Eligible Participant for whom such contributions on his behalf for the Plan Year are zero, the percentage is zero.

Elective Deferral Contributions means any employer contributions made to a plan at the election of a participant in lieu of cash compensation. With respect to any taxable year, a participant's Elective Deferral Contributions are the sum of all employer contributions made on behalf of such participant pursuant to an election to defer under any qualified cash or deferred arrangement (CODA) described in Code Section 401(k), any salary reduction simplified employee pension plan described in Code Section 408(k)(6), any SIMPLE IRA plan described in Code Section 408(p), any plan described under Code Section 501(c)(18), and any employer contributions made on behalf of a participant for the purchase of an annuity contract under Code Section 403(b) pursuant to a salary reduction agreement. Elective Deferral Contributions include Pre-tax Elective Deferral Contributions and Roth Elective Deferral Contributions. Elective Deferral Contributions shall not include any deferrals properly distributed as excess annual additions.

Eligible Participant means, for purposes of determining the Deferral Percentage, any Employee who is otherwise entitled to make Elective Deferral Contributions under the terms of the plan for the plan year. Eligible Participant means, for purposes of determining the Contribution Percentage, any Employee who is eligible (i) to make a Participant Contribution or an Elective Deferral Contribution (if the Employer takes such contributions into account in the calculation of the Contribution Percentage), or (ii) to receive a Matching Contribution (including forfeitures) or a Qualified Matching Contribution. If a Participant Contribution is required as a condition of participation in the plan, any Employee who would be a participant in the plan if such Employee made such a contribution shall be treated as an Eligible Participant on behalf of whom no Participant Contributions are made.

Excess Aggregate Contributions means, with respect to any Plan Year, the excess of:

1) The aggregate Contribution Percentage Amounts taken into account in computing the numerator of the Contribution Percentage actually made on behalf of Highly Compensated Employees for such Plan Year, over

2) The maximum Contribution Percentage Amounts permitted by the ACP Test (determined by hypothetically reducing contributions made on behalf of Highly Compensated Employees in order of their Contribution Percentages beginning with the highest of such percentages).

Such determination shall be made after first determining Excess Elective Deferrals and then determining Excess Contributions.

Excess Contributions means, with respect to any Plan Year, the excess of:

1) The aggregate amount of employer contributions actually taken into account in computing the Deferral Percentage of Highly Compensated Employees for such Plan Year, over

2) The maximum amount of such contributions permitted by the ADP Test (determined by hypothetically reducing contributions made on behalf of Highly Compensated Employees in the order of the Deferral Percentages, beginning with the highest of such percentages).

Excess Elective Deferrals means those Elective Deferral Contributions of a Participant that either (i) are made during the Participant's taxable year and exceed the dollar limitation under Code Section 402(g) or (ii) are made during a calendar year and exceed the dollar limitation under Code Section 402(g) for the Participant's taxable year beginning in such calendar year, counting only Elective Deferral Contributions made under this Plan and any other plan, contract, or arrangement maintained by the Employer. If the Plan provides for Catch-up Contributions in such taxable year, the dollar limitation shall be increased by the dollar limit on Catch-up Contributions under Code Section 414(v).

Excess Elective Deferrals shall be treated as Annual Additions, as defined in Section 3.07, under the Plan, unless such amounts are distributed no later than the first April 15 following the close of the Participant's taxable year.

Matching Contributions means employer contributions made to this or any other defined contribution plan, or to a contract described in Code Section 403(b), on behalf of a participant on account of a Participant Contribution made by such participant, or on account of a participant's Elective Deferral Contributions, under a plan maintained by the Employer or a Controlled Group member.

Participant Contributions means contributions (other than Roth Elective Deferral Contributions) made to the plan by or on behalf of a participant that are included in the participant's gross income in the year in which made and that are maintained under a separate account to which the earnings and losses are allocated.

Pre-tax Elective Deferral Contributions means a participant's Elective Deferral Contributions that are not includible in the participant's gross income at the time deferred.

Qualified Matching Contributions means Matching Contributions that are nonforfeitable when allocated to participants' accounts and that are distributable only in accordance with the distribution provisions (other than for hardships or deemed severance from employment as described in Section 5.03) applicable to Elective Deferral Contributions.

Qualified Nonelective Contributions means any employer contributions (other than Matching Contributions) that an Employee may not elect to have paid to him in cash instead of being contributed to the plan and that are nonforfeitable when allocated to participants' accounts and that are distributable only in accordance with the distribution provisions (other than for hardships or deemed severance from employment as described in Section 5.03) applicable to Elective Deferral Contributions.

Roth Elective Deferral Contributions means a participant's Elective Deferral Contributions that are not excludible from the participant's gross income at the time deferred and have been irrevocably designated as Roth Elective Deferral Contributions by the participant in his elective deferral agreement. Whether an Elective Deferral Contribution is not excludible from a participant's gross income will be determined in accordance with section 1.401(k)-1(f)(2) of the regulations. In the case of a self-employed individual, an Elective Deferral Contribution is not excludible from gross income only if the individual does not claim a deduction for such amount.

b) Excess Elective Deferrals. A Participant may assign to this Plan any Excess Elective Deferrals made during a taxable year of the Participant by notifying the Plan Administrator in writing on or before the first following March 1 of the amount of the Excess Elective Deferrals to be assigned to the Plan. A Participant is deemed to notify the Plan Administrator of any Excess Elective Deferrals that arise by taking into account only those Elective Deferral Contributions made to this Plan and any other plan, contract, or arrangement of the Employer or a Controlled Group member. The Participant's claim for Excess Elective Deferrals shall be accompanied by the Participant's written statement that if such amounts are not distributed, such Excess Elective Deferrals will exceed the limit imposed on the Participant by Code Section 402(g) (including, if applicable, the dollar limitation on Catch-up Contributions under Code Section 414(v)) for the year in which the deferral occurred. The Excess Elective Deferrals assigned to this Plan cannot exceed the Elective Deferral Contributions allocated under this Plan for such taxable year.

Notwithstanding any other provisions of the Plan, Elective Deferral Contributions in an amount equal to the Excess Elective Deferrals assigned to this Plan, plus any income and minus any loss allocable thereto, shall be distributed no later than April 15 to any Participant to whose Account Excess Elective Deferrals were assigned for the preceding year and who claims Excess Elective Deferrals for such taxable year or calendar year.

If Item N(5)(b) is not selected, distribution of Excess Elective Deferrals shall be made on a pro rata basis from the Participant's Account resulting from Pre-tax Elective Deferral Contributions and Roth Elective Deferral Contributions in the same proportion that such Contributions were made for the applicable year. If Item N(5)(b) is selected, distribution of Excess Elective Deferrals shall be made first from the Participant's Account resulting from Pre-tax Elective Deferral Contributions. If Item N(5)(c) was selected and applied as of the last day of the applicable year, the Participant may elect a different order of distribution.

The Excess Elective Deferrals shall be adjusted for any income or loss. The income or loss allocable to such Excess Elective Deferrals shall be equal to the income or loss allocable to the Participant's Elective Deferral Contributions for the taxable year in which the excess occurred multiplied by a fraction. The numerator of the fraction is the Excess Elective Deferrals. The denominator of the fraction is the closing balance without regard to any income or loss occurring during such taxable year (as of the end of such taxable year) of the Participant's Account resulting from Elective Deferral Contributions.

For purposes of determining income or loss on Excess Elective Deferrals, no adjustment shall be made for income or loss for the gap period.

Any Matching Contributions that were based on the Elective Deferral Contributions distributed as Excess Elective Deferrals, plus any income and minus any loss allocable thereto, shall be forfeited. If Catch-up Contributions are not matched (Item P(8)(a) was selected and applied as of the first day of the Plan Year in which such taxable year ends), any Matching Contributions that were based on the Elective Deferral Contributions distributed as Excess Elective Deferrals or redesignated as Catch-up Contributions, plus any income and minus any loss allocable thereto, shall be forfeited.

c) ADP Test. As of the end of each Plan Year after Excess Elective Deferrals have been determined, the Plan must satisfy the ADP Test. The ADP Test shall be satisfied using the current year testing method, unless the Employer elected in Item L(2)(a) to use the prior year testing method. An Employer Group may make a separate election under this section. Any elections must be made in writing and in accordance with the regulations under Code Section 401(k) and shall be included as a permanent part of the Plan.

1) Prior Year Testing Method. The ADP for a Plan Year for Eligible Participants who are Highly Compensated Employees for each Plan Year and the prior year's ADP for Eligible Participants who were Nonhighly Compensated Employees for the prior Plan Year must satisfy one of the following tests:

i) The ADP for a Plan Year for Eligible Participants who are Highly Compensated Employees for the Plan Year shall not exceed the prior year's ADP for Eligible Participants who were Nonhighly Compensated Employees for the prior Plan Year multiplied by 1.25; or

ii) The ADP for a Plan Year for Eligible Participants who are Highly Compensated Employees for the Plan Year:

A. shall not exceed the prior year's ADP for Eligible Participants who were Nonhighly Compensated Employees for the prior Plan Year multiplied by 2, and

B. the difference between such ADPs is not more than 2.

If this is not a successor plan, for the first Plan Year the Plan permits any Participant to make Elective Deferral Contributions, for purposes of the foregoing tests, the prior year's Nonhighly Compensated Employees' ADP shall be 3 percent, unless the Employer elected in Item L(2)(b)(i) to use the Plan Year's ADP for these Eligible Participants. An Employer Group may make a separate election under this section. Any elections must be made in writing and in accordance with the regulations under Code Section 401(k) and shall be included as a permanent part of the Plan.

2) Current Year Testing Method. The ADP for a Plan Year for Eligible Participants who are Highly Compensated Employees for each Plan Year and the ADP for Eligible Participants who are Nonhighly Compensated Employees for the Plan Year must satisfy one of the following tests:

i) The ADP for a Plan Year for Eligible Participants who are Highly Compensated Employees for the Plan Year shall not exceed the ADP for Eligible Participants who are Nonhighly Compensated Employees for the Plan Year multiplied by 1.25; or

ii) The ADP for a Plan Year for Eligible Participants who are Highly Compensated Employees for the Plan Year:

A. shall not exceed the ADP for Eligible Participants who are Nonhighly Compensated Employees for the Plan Year multiplied by 2, and

B. the difference between such ADPs is not more than 2.

If the Employer elected in Item L(2) or an Employer Group elected to use the current year testing method, that election cannot be changed unless (i) the Plan has been using the current year testing method for the preceding five Plan Years, or if less, the number of Plan Years the Plan has been in existence; or (ii) if as a result of a merger or acquisition described in Code Section 410(b)(6)(C)(i), the Employer maintains both a plan using the prior year testing method and a plan using the current year testing method and the change is made within the transition period described in Code Section 410(b)(6)(C)(ii).

A Participant is a Highly Compensated Employee for a particular Plan Year if he meets the definition of a Highly Compensated Employee in effect for that Plan Year. Similarly, a Participant is a Nonhighly Compensated Employee for a particular Plan Year if he does not meet the definition of a Highly Compensated Employee in effect for that Plan Year.

The Deferral Percentage for any Eligible Participant who is a Highly Compensated Employee for the Plan Year and who is eligible to have Elective Deferral Contributions (and Qualified Nonelective Contributions or Qualified Matching Contributions, or both, if treated as Elective Deferral Contributions for purposes of the ADP Test) allocated to his account under two or more arrangements described in Code Section 401(k) that are maintained by the Employer or a Controlled Group member shall be determined as if such Elective Deferral Contributions (and, if applicable, such Qualified Nonelective Contributions or Qualified Matching Contributions, or both) were made under a single arrangement. If a Highly Compensated Employee participates in two or more cash or deferred arrangements of the Employer or of a Controlled Group member that have different plan years, all Elective Deferral Contributions made during the Plan Year shall be aggregated. The foregoing notwithstanding, certain plans shall be treated as separate if mandatorily disaggregated under the regulations of Code Section 401(k).

In the event this Plan satisfies the requirements of Code Section 401(k), 401(a)(4), or 410(b) only if aggregated with one or more other plans, or if one or more other plans satisfy the requirements of such Code sections only if aggregated with this Plan, then this section shall be applied by determining the Deferral Percentage of Employees as if all such plans were a single plan. If more than 10 percent of the Nonhighly Compensated Employees are involved in a plan coverage change as defined in section 1.401(k)-2(c)(4) of the regulations, then any adjustments to the Nonhighly Compensated Employee ADP for the prior year shall be made in accordance with such regulations, unless the Employer elected in Item L(2) to use the current year testing method. Plans may be aggregated in order to satisfy Code Section 401(k) only if they have the same plan year and use the same testing method for the ADP Test.

For purposes of the ADP Test, Elective Deferral Contributions, Qualified Nonelective Contributions, and Qualified Matching Contributions must be made before the end of the 12- month period immediately following the Plan Year to which the contributions relate.

If the Plan Administrator should determine during the Plan Year that the ADP Test is not being met, the Plan Administrator may limit the amount of future Elective Deferral Contributions of the Highly Compensated Employees.

Notwithstanding any other provisions of this Plan, Excess Contributions, plus any income and minus any loss allocable thereto, shall be distributed no later than 12 months after the last day of a Plan Year to Participants to whose Accounts such Excess Contributions were allocated for such Plan Year, except to the extent such Excess Contributions are classified as Catch-up Contributions. Excess Contributions are allocated to the Highly Compensated Employees with the largest amounts of employer contributions taken into account in calculating the ADP Test for the year in which the excess arose, beginning with the Highly Compensated Employee with the largest amount of such employer contributions and continuing in descending order until all of the Excess Contributions have been allocated. If a Highly Compensated Employee participates in two or more cash or deferred arrangements of the Employer or of a Controlled Group member, the amount distributed shall not exceed the amount of the employer contributions taken into account in calculating the ADP Test and made to this Plan for the year in which the excess arose. If Catch-up Contributions are allowed for the Plan Year being tested, to the extent a Highly Compensated Employee has not reached his Catch-up Contribution limit under the Plan for such year, Excess Contributions allocated to such Highly Compensated Employee are Catch-up Contributions and will not be treated as Excess Contributions. If such excess amounts (other than Catch-up Contributions) are distributed more than 2 1/2 months after the last day of the Plan Year in which such excess amounts arose, a 10 percent excise tax shall be imposed on the employer maintaining the plan with respect to such amounts.

Excess Contributions shall be treated as Annual Additions, as defined in Section 3.07, even if distributed.

The Excess Contributions shall be adjusted for any income or loss. The income or loss allocable to such Excess Contributions allocated to each Participant shall be equal to the income or loss allocable to the Participant's Elective Deferral Contributions (and, if applicable, Qualified Nonelective Contributions or Qualified Matching Contributions, or both) for the Plan Year in which the excess occurred multiplied by a fraction. The numerator of the fraction is the Excess Contributions. The denominator of the fraction is the closing balance without regard to any income or loss occurring during such Plan Year (as of the end of such Plan Year) of the Participant's Account resulting from Elective Deferral Contributions (and Qualified Nonelective Contributions or Qualified Matching Contributions, or both, if such contributions are included in the ADP Test).

For purposes of determining income or loss on Excess Contributions, no adjustment shall be made for income or loss for the gap period.

Excess Contributions allocated to a Participant shall be distributed from the Participant's Account resulting from Elective Deferral Contributions. If such Excess Contributions exceed the amount of Excess Contributions in the Participant's Account resulting from Elective Deferral Contributions, the balance shall be distributed from the Participant's Account resulting from Qualified Matching Contributions (if applicable) and Qualified Nonelective Contributions, respectively. The amount of Excess Contributions to be distributed from the Participant's Account shall be reduced by any Excess Elective Deferrals previously distributed for the taxable year ending in the same Plan Year.

If Item N(5)(b) is not selected, distribution of Excess Contributions shall be made on a pro rata basis from the Participant's Account resulting from Pre-tax Elective Deferral Contributions and Roth Elective Deferral Contributions in the same proportion that such Contributions were made for the applicable year. If Item N(5)(b) is selected, distribution of Excess Contributions shall be made first from the Participant's Account resulting from Pre-tax Elective Deferral Contributions. If Item N(5)(c) applied as of the last day of the applicable year, the Participant may elect a different order of distribution.

Any Matching Contributions that were based on the Elective Deferral Contributions distributed as Excess Contributions, plus any income and minus any loss allocable thereto, shall be forfeited. If Catch-up Contributions are not matched (Item P(8)(a) was selected and applied as of the first day of the applicable year), any Matching Contributions that were based on the Elective Deferral Contributions distributed as Excess Contributions or redesignated as Catch-up Contributions, plus any income and minus any loss allocable thereto, shall be forfeited.

d) ACP Test. As of the end of each Plan Year, the Plan must satisfy the ACP Test. The ACP Test shall be satisfied using the current year testing method, unless the Employer elected in Item L(2)(a) to use the prior year testing method. An Employer Group may make a separate election under this section. Any elections must be made in writing and in accordance with the regulations under Code Section 401(m) and shall be included as a permanent part of the Plan.

1) Prior Year Testing Method. The ACP for a Plan Year for Eligible Participants who are Highly Compensated Employees for each Plan Year and the prior year's ACP for Eligible Participants who were Nonhighly Compensated Employees for the prior Plan Year must satisfy one of the following tests:

i) The ACP for a Plan Year for Eligible Participants who are Highly Compensated Employees for the Plan Year shall not exceed the prior year's ACP for Eligible Participants who were Nonhighly Compensated Employees for the prior Plan Year multiplied by 1.25; or

ii) The ACP for a Plan Year for Eligible Participants who are Highly Compensated Employees for the Plan Year:

A. shall not exceed the prior year's ACP for Eligible Participants who were Nonhighly Compensated Employees for the prior Plan Year multiplied by 2, and

B. the difference between such ACPs is not more than 2.

If this is not a successor plan, for the first Plan Year the Plan permits any Participant to make Participant Contributions, provides for Matching Contributions, or both, for purposes of the foregoing tests, the prior year's Nonhighly Compensated Employees' ACP shall be 3 percent, unless the Employer elected in Item L(2)(c)(i) to use the Plan Year's ACP for these Eligible Participants. An Employer Group may make a separate election under this section. Any elections must be made in writing and in accordance with the regulations under Code Section 401(m) and shall be included as a permanent part of the Plan.

2) Current Year Testing Method. The ACP for a Plan Year for Eligible Participants who are Highly Compensated Employees for each Plan Year and the ACP for Eligible Participants who are Nonhighly Compensated Employees for the Plan Year must satisfy one of the following tests:

i) The ACP for a Plan Year for Eligible Participants who are Highly Compensated Employees for the Plan Year shall not exceed the ACP for Eligible Participants who are Nonhighly Compensated Employees for the Plan Year multiplied by 1.25; or

ii) The ACP for a Plan Year for Eligible Participants who are Highly Compensated Employees for the Plan Year:

A. shall not exceed the ACP for Eligible Participants who are Nonhighly Compensated Employees for the Plan Year multiplied by 2, and

B. the difference between such ACPs is not more than 2.

If the Employer elected in Item L(2) or an Employer Group elected to use the current year testing method, that election cannot be changed unless (i) the Plan has been using the current year testing method for the preceding five Plan Years, or if less, the number of Plan Years the Plan has been in existence; or (ii) if as a result of a merger or acquisition described in Code Section 410(b)(6)(C)(i), the Employer maintains both a plan using the prior year testing method and a plan using the current year testing method and the change is made within the transition period described in Code Section 410(b)(6)(C)(ii).

A Participant is a Highly Compensated Employee for a particular Plan Year if he meets the definition of a Highly Compensated Employee in effect for that Plan Year. Similarly, a Participant is a Nonhighly Compensated Employee for a particular Plan Year if he does not meet the definition of a Highly Compensated Employee in effect for that Plan Year.

The Contribution Percentage for any Eligible Participant who is a Highly Compensated Employee for the Plan Year and who is eligible to have Contribution Percentage Amounts allocated to his account under two or more plans described in Code Section 401(a) or arrangements described in Code Section 401(k) that are maintained by the Employer or a Controlled Group member shall be determined as if the total of such Contribution Percentage

Amounts was made under each plan and arrangement. If a Highly Compensated Employee participates in two or more such plans or arrangements that have different plan years, all Contribution Percentage Amounts made during the Plan Year shall be aggregated. The foregoing notwithstanding, certain plans shall be treated as separate if mandatorily disaggregated under the regulations of Code Section 401(m).

In the event this Plan satisfies the requirements of Code Section 401(m), 401(a)(4), or 410(b) only if aggregated with one or more other plans, or if one or more other plans satisfy the requirements of such Code sections only if aggregated with this Plan, then this section shall be applied by determining the Contribution Percentage of Employees as if all such plans were a single plan. If more than 10 percent of the Nonhighly Compensated Employees are involved in a plan coverage change as defined in section 1.401(m)-2(c)(4) of the regulations, then any adjustments to the Nonhighly Compensated Employee ACP for the prior year shall be made in accordance with such regulations, unless the Employer elected in Item L(2) to use the current year testing method. Plans may be aggregated in order to satisfy Code Section 401(m) only if they have the same plan year and use the same testing method for the ACP Test.

For purposes of the ACP Test, Participant Contributions are considered to have been made in the Plan Year in which contributed to the Plan. Matching Contributions and Qualified Nonelective Contributions will be considered to have been made for a Plan Year if made no later than the end of the 12-month period beginning on the day after the close of the Plan Year.

Notwithstanding any other provisions of this Plan, Excess Aggregate Contributions, plus any income and minus any loss allocable thereto, shall be forfeited, if not vested, or distributed, if vested, no later than 12 months after the last day of a Plan Year to Participants to whose Accounts such Excess Aggregate Contributions were allocated for such Plan Year. Excess Aggregate Contributions are allocated to the Highly Compensated Employees with the largest Contribution Percentage Amounts taken into account in calculating the ACP Test for the year in which the excess arose, beginning with the Highly Compensated Employee with the largest amount of such Contribution Percentage Amounts and continuing in descending order until all of the Excess Aggregate Contributions have been allocated. If a Highly Compensated Employee participates in two or more plans or arrangements of the Employer or of a Controlled Group member that include Contribution Percentage Amounts, the amount distributed shall not exceed the Contribution Percentage Amounts taken into account in calculating the ACP Test and made to this Plan for the year in which the excess arose. If such Excess Aggregate Contributions are distributed more than 2 1/2 months after the last day of the Plan Year in which such excess amounts arose, a 10 percent excise tax shall be imposed on the employer maintaining the plan with respect to such amounts.

Excess Aggregate Contributions shall be treated as Annual Additions, as defined in Section 3.07, even if distributed.

The Excess Aggregate Contributions shall be adjusted for any income or loss. The income or loss allocable to such Excess Aggregate Contributions allocated to each Participant shall be equal to the income or loss allocable to the Participant’s Contribution Percentage Amounts for the Plan Year in which the excess occurred multiplied by a fraction. The numerator of the fraction is the Excess Aggregate Contributions. The denominator of the fraction is the closing balance without regard to any income or loss occurring during such Plan Year (as of the end of such Plan Year) of the Participant’s Account resulting from Contribution Percentage Amounts.

For purposes of determining income or loss on Excess Aggregate Contributions, no adjustment shall be made for income or loss for the gap period.

Excess Aggregate Contributions allocated to a Participant shall be distributed from the Participant's Account resulting from Participant Contributions that are not required as a condition of employment or participation or for obtaining additional benefits from Employer Contributions. If such Excess Aggregate Contributions exceed the balance in the Participant's Account resulting from such Participant Contributions, the balance shall be forfeited, if not vested, or distributed, if vested, on a pro rata basis from the Participant's Account resulting from Contribution Percentage Amounts.

SECTION 3.09 – 401(k) SAFE HARBOR PROVISIONS.

The provisions of this section apply if the Employer elected in Item O(1) to be a 401(k) Safe Harbor Plan. In accordance with sections 1.401(k)-1(e)(7) and 1.401(m)-1(c)(2) of the regulations, the Employer cannot use ADP (and ACP testing, if applicable) for a Plan Year in which it is intended for the Plan through its written terms to be an ADP Test Safe Harbor (and ACP Test Safe Harbor, if applicable) and the Employer fails to satisfy the requirements of such safe harbors for the Plan Year, unless the 401(k) safe harbor election is revoked as provided in (e) below.

a) Rules of Application.

1) To satisfy the requirements to be a 401(k) Safe Harbor Plan, a Plan must: (i) satisfy the notice requirements and contribution requirements of this section; and (ii) apply the 401(k) safe harbor provisions for the entire 12-month Plan Year, unless a short Plan Year exception in (2) below applies.

If the Employer elected in Item O(1)(b) to make the 401(k) safe harbor Contributions for all Plan Years, any provisions relating to the ADP Test in Section 3.08 do not apply. If the Employer elected in Item O(1)(d) to make a Qualified Nonelective Contribution for the Plan Year, any provisions relating to the ADP Test in Section 3.08 do not apply for the Plan Year specified in Item O(1)(d).

If the Employer elected to satisfy the ADP Test Safe Harbor and ACP Test Safe Harbor in Item O(1)(a)(i) and the Employer elected in Item O(1)(b) to make the 401(k) safe harbor Contributions for all Plan Years, any provisions relating to the ACP Test in Section 3.08 with respect to Matching Contributions do not apply. If the Employer elected to satisfy the ADP Test Safe Harbor and ACP Test Safe Harbor in Item O(1)(a)(i) and the Employer elected in Item O(1)(d) to make a Qualified Nonelective Contribution for the Plan Year, any provisions relating to the ACP Test in Section 3.08 with respect to Matching Contributions do not apply for the Plan Year specified in Item O(1)(d).

In modification of the foregoing, if the entry requirements for Elective Deferral Contributions and the 401(k) safe harbor Contributions are different, any provisions relating to the ADP Test shall apply in any Plan Year in which a Highly Compensated Employee is part of the group of otherwise excludable employees as defined in section 1.410(b)-6(b)(3) of the regulations for purposes of testing the group of otherwise excludable employees.

2) Short Plan Year Exceptions. The provisions of this section shall not apply unless the Plan Year is 12 months long except as provided below:

i) In the case of the first Plan Year of a newly established plan (other than a successor plan), the Plan Year is at least 3 months long (or any shorter period if the Employer is a newly established employer that establishes the Plan as soon as administratively feasible after the Employer came into existence).

ii) In the case of a cash or deferred arrangement that is added to an existing profit sharing, stock bonus, or pre-ERISA money purchase pension plan for the first time during a plan year, provided the Plan is not a successor plan and the cash or deferred arrangement is made effective no later than 3 months prior to the end of the Plan Year. The Plan may not be an ACP Test Safe Harbor for such Plan Year unless the existing Plan did not provide for Matching Contributions and the amendment providing for Matching Contributions is made effective at the same time as the adoption of the cash or deferred arrangement.

iii) If the Plan has a short Plan Year as a result of changing its Plan Year, provided that the Plan satisfied the ADP Test Safe Harbor requirements and ACP Test Safe Harbor requirements, if applicable, for the immediately preceding Plan Year and the Plan satisfies the ADP Test Safe Harbor requirements and ACP Test Safe Harbor requirements, if applicable, (determined without regard to the revocation of 401(k) safe harbor election described in (e) below) for the immediately following Plan Year (or for the immediately following 12 months if the immediately following Plan Year is less than 12 months).

iv) If the Plan has a short Plan Year due to Plan termination, provided that the Plan satisfies the ADP Test Safe Harbor requirements and ACP Test Safe Harbor requirements, if applicable, through the date of termination and either:

A. the Plan would satisfy the requirements of the revocation of 401(k) safe harbor election described in (e) below, treating the termination of the Plan as a reduction or suspension of Qualified Matching Contributions or Qualified Nonelective Contributions, other than the requirement that Active Participants have a reasonable opportunity to change the amount of their Elective Deferral Contributions; or

B. the Plan termination is in connection with a transaction described in Code Section 410(b)(6)(C) or the Employer incurs a substantial business hardship comparable to a substantial business hardship described in Code Section 412(c).

3) To the extent that any other provision of the Plan is inconsistent with the provisions of this section, the provisions of this section shall govern.

b) <u>ADP Test Safe Harbor</u>.

1) <u>Contributions</u>. If Item O(1)(b)(i) is selected, the Plan is satisfying the ADP Test Safe Harbor using Qualified Matching Contributions as required in Item O(1)(b)(i). If Item O(1)(b)(ii) is selected, the Plan is satisfying the ADP Test Safe Harbor using Qualified Nonelective Contributions as required in Item O(1)(b)(ii). If Item O(1)(d) is selected, the Plan is satisfying the ADP Test Safe Harbor using Qualified Nonelective Contributions as required in Item O(1)(d) for the Plan Year specified.

The Employer shall pay to the Insurer or Trustee, as applicable, the Qualified Matching Contributions and Qualified Nonelective Contributions for each Plan Year not later than the end of the 12-month period immediately following the Plan Year for which they are deemed to be paid. Notwithstanding the foregoing, if Item O(1)(b)(i)(H) is selected, the Contributions selected in Item O(1)(b)(i) shall be made to the plan specified in Item O(1)(b)(i)(H). If Item O(1)(b)(ii)(D) is selected, the Qualified Nonelective Contributions used to satisfy the ADP Test Safe Harbor shall be made to the plan specified in that Item.

2) <u>Notice Requirement</u>.

i) If the Employer elected in Item O(1)(b) to make the 401(k) safe harbor Contributions for all Plan Years, at least 30 days, but not more than 90 days, before the beginning of the Plan Year, the Employer shall provide each Active Participant a comprehensive notice of his rights and obligations under the Plan.

ii) If the Employer elected in Item O(1)(c) to make the 401(k) safe harbor Contributions for Plan Years in which the Plan is amended, at least 30 days, but not more than 90 days, before the beginning of the Plan Year, the Employer shall provide each Active Participant a comprehensive notice of his rights and obligations under the Plan, including a statement that the Employer may amend the Plan during the Plan Year to elect to make a Qualified Nonelective Contribution of at least 3% of a Participant's Compensation. If the Employer elected in Item O(1)(d) to make a Qualified Nonelective Contribution for the Plan Year and the Plan is so amended, a supplemental notice will be provided no later than 30 days before the end of the Plan Year specified in Item O(1)(d) informing the Participant of such amendment.

The notice shall be written in a manner sufficiently accurate and comprehensive to apprise the Active Participant of his rights and obligations and calculated to be understood by the average Active Participant.

If an Employee becomes an Active Participant after the 90th day before the beginning of the Plan Year and does not receive the notices described above for that reason, the applicable notice must be provided no more than 90 days before he becomes an Active Participant but not later than the date he becomes an Active Participant.

3) Supplemental Notice. If the Employer elected in Item O(1)(d) to make a Qualified Nonelective Contribution for the Plan Year, the Employer shall provide each Active Participant a supplemental notice no later than 30 days before the end of the Plan Year specified in Item O(1)(d). The supplemental notice shall state that a Qualified Nonelective Contribution will be made for such Plan Year and disclose the amount of such Qualified Nonelective Contribution. Such notice may be provided separately or as a part of the notice in (2) above for the following Plan Year.

4) Election Periods. In addition to any other election periods provided under the Plan, each Active Participant may make or modify a deferral election during the 30-day period immediately following receipt of the notice described in (2)(i) or (ii) above.

c) ACP Test Safe Harbor.

1) Matching Contributions.

i) If the Plan is satisfying the ADP Test Safe Harbor and the ACP Test Safe Harbor, Matching Contributions shall be limited as provided in Items O(1)(b)(i) and P.

ii) If the Plan is satisfying the ADP Test Safe Harbor using Qualified Matching Contributions, all Matching Contributions shall be Qualified Matching Contributions, unless otherwise specified in Item O(1)(b)(i)(D)(1). If the Plan is satisfying the ADP Test Safe Harbor using Qualified Nonelective Contributions, Matching Contributions shall not be Qualified Matching Contributions unless Item P(14) is selected.

d) ACP Test.

1) Continued Application. If the Plan is satisfying the ADP Test Safe Harbor and the ACP Test Safe Harbor, the Plan must still satisfy the ACP Test in the manner specified in (2) below with respect to Participant Contributions. If the Plan is satisfying the ADP Test Safe Harbor but not the ACP Test Safe Harbor, the Plan must satisfy the ACP Test in the manner specified in (2) below with respect to Participant Contributions and Matching Contributions.

2) Special Rules. If the Plan is satisfying the ADP Test Safe Harbor and the ACP Test Safe Harbor, the Employer may elect to disregard with respect to all Eligible Participants, as

defined in Section 3.08, (i) all Matching Contributions or (ii) Matching Contributions that do not exceed 4% of each Eligible Participant's Compensation for purposes of the ACP Test. Alternatively, the Employer may elect to include all Matching Contributions for purposes of the ACP test. If the Employer makes no election, they will be deemed to have made an election to disregard all Matching Contributions for purposes of the ACP Test. If the Plan is satisfying the ADP Test Safe Harbor using Qualified Nonelective Contributions, but is not satisfying the ACP Test Safe Harbor, the Employer may elect to disregard only such Qualified Nonelective Contributions that do not exceed 3% of each Eligible Participant's Compensation for purposes of the ACP Test. If the Employer makes no election, all such Qualified Nonelective Contributions shall be disregarded for purposes of the ACP Test. Qualified Matching Contributions shall not be treated as being taken into account for purposes of the ADP Test. Elective Deferral Contributions may not be taken into account for purposes of the ACP Test.

e) Revocation of 401(k) Safe Harbor Election. The Employer may amend the Plan to revoke the 401(k) safe harbor election and the corresponding Qualified Matching Contributions or Qualified Nonelective Contributions during any Plan Year, if the following conditions are met:

1) All Active Participants shall be provided a supplemental notice that explains the consequences of the amendment, informs them of the effective date of the elimination of the Qualified Matching Contributions or Qualified Nonelective Contributions, and explains the procedures to change their Elective Deferral Agreement.

2) The effective date of the revocation cannot be earlier than the later of (i) 30 days after the Active Participants are given such notice, and (ii) the date the amendment revoking such provisions is adopted.

3) Active Participants are given a reasonable opportunity (including a reasonable period after receipt of the supplemental notice) to change their Elective Deferral Agreement prior to the revocation of the 401(k) safe harbor election.

4) The elimination of the Qualified Nonelective Contributions or Qualified Matching Contributions (for Plan Years beginning on or after January 1, 2015) during a Plan Year is permitted if the Employer either (i) is operating at an economic loss as described in Code Section 412(c)(2)(A) for the Plan Year, or (ii) includes in the notice described in (b)(2) above a statement that the Plan may be amended during the Plan Year to revoke the Qualified Nonelective Contributions or Qualified Matching Contributions and that the revocation will not apply until at least 30 days after all Active Participants are provided notice of the revocation.

If elected in Item O(1)(b)(i)I or O(1)(b)(ii)E the Employer shall revoke the 401(k) safe harbor election for the Plan Year and (i) perform the ADP Test and ACP Test, if applicable, for the entire Plan Year using the current year testing method described in Section 3.08, and (ii) satisfy the Top-heavy Plan requirements of Article XI.

If Item O(1)(b)(i)I is selected, the Employer shall make the Qualified Matching Contributions with respect to Elective Deferral Contributions and Compensation for the portion of the Plan Year prior to the effective date of the revocation. If Item O(1)(b)(ii)E is selected, the Employer shall make the Qualified Nonelective Contributions with respect to Compensation paid for the portion of the Plan Year through the effective date of the revocation. The annual compensation limit applied to Compensation for purposes of the Qualified Matching Contributions and Qualified Nonelective Contributions shall be adjusted for the short determination period as described in the definition of Compensation in Section 1.02.

f) Top-heavy Rules. The Plan is deemed to not be a Top-heavy Plan, as defined in Section 11.02, for a Plan Year if the exception under Code Section 416(g)(4)(H) applies for such year.

SECTION 3.10 – ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENT (EACA) PROVISIONS.

a) Rules of Application.

1) If the Employer elected in Item N(7) to have the EACA provisions apply and such provisions apply for the entire Plan Year, then the provisions of this section shall apply for the Plan Year.

2) To satisfy the requirements to be an EACA a Plan must satisfy the automatic Elective Deferral Contribution requirements described in (b) below; the additional notice requirements in (c) below; and if applicable, the Permissible Withdrawal provisions described in (d) below.

3) The EACA applies to all Eligible Employees.

4) For purposes of Section 3.08, the period for distributing Excess Contributions and Excess Aggregate Contributions, if applicable, without incurring the 10 percent excise tax is extended to six months after the last day of the Plan Year in which such excess arose. The period for making such corrective distributions shall only apply if all eligible Nonhighly Compensated Employees and Highly Compensated Employees are covered under the EACA for the entire Plan Year (or for the portion of the Plan Year such Employees were Eligible Employees).

5) To the extent that any other provision of the Plan is inconsistent with the provisions of this section, the provisions of this section shall govern.

b) Automatic Elective Deferral Contributions. The Plan provides for an automatic election under an EACA to have Pre-tax Elective Deferral Contributions made in the amounts specified in Item N(7).

The automatic Elective Deferral Contribution shall be a uniform percentage of Compensation as specified in Item N(7)(a). A Plan does not fail to satisfy the uniform percentage requirement merely because:

1) the percentage varies based on the number of years (or portions of years) an Eligible Employee has participated in the Plan;

2) the automatic Elective Deferral Contribution does not reduce an Elective Deferral Agreement that is in effect for a Participant immediately prior to the effective date of the automatic Elective Deferral Contribution;

3) the rate of Elective Deferral Contributions is limited so as not to exceed the limits of Code Sections 401(a)(17), 402(g) (determined with or without Catch-up Contributions), and 415; or

4) the automatic Elective Deferral Contribution is not applied during the period a Participant's Elective Deferral Contributions are suspended after receipt of a distribution that requires Elective Deferral Contributions to be suspended.

The automatic election shall apply when a Participant first becomes eligible to make Elective Deferral Contributions (or again becomes eligible after a period during which he was not an Active Participant). The automatic election shall also apply to certain Active Participants as provided in Items N(7)(c) and (d).

c) Notice Requirements. At least 30 days, but not more than 90 days, before the beginning of the Plan Year, the Employer shall provide each Eligible Employee a comprehensive notice of his rights and obligations under the Plan. The notice shall explain the automatic election and the Eligible Employee's right to elect a different rate of Elective Deferral Contributions, to elect not to make Elective Deferral Contributions, and if Roth Elective Deferral Contributions are permitted in Item N(5), to designate all or any portion of his Elective Deferral Contributions as Roth Elective Deferral Contributions. The notice shall include: (i) the procedure for exercising those rights and the timing for implementing any such elections; (ii) a description of how the automatic Elective Deferral Contributions will be invested in the absence of an investment election by the Eligible Employee; and (iii) if Permissible Withdrawals are permitted in Item N(7)(e), the Eligible Employee's right to make a Permissible Withdrawal as described in (d) below and the procedures to request such a withdrawal. After receipt of the notice, the Eligible Employee shall be given a reasonable period thereafter to elect a different rate of Elective Deferral Contributions, to elect not to make Elective Deferral Contributions, and if Roth Elective Deferral Contributions are permitted in Item N(5), to designate all or any portion of his Elective Deferral Contributions as Roth Elective Deferral Contributions.

If an Employee becomes an Active Participant after the 90th day before the beginning of the Plan Year and does not receive the notices described above for that reason, the notice must be provided no more than 90 days before he becomes an Active Participant but not later than the date he becomes an Active Participant. If it is not practicable for the notice to be provided on or before such date, the notice shall be treated as provided timely if it is provided as soon as practicable after the date the Eligible Employee becomes an Active Participant and prior to the pay date for the payroll period that includes the date the Employee becomes eligible.

The notice shall be written in a manner sufficiently accurate and comprehensive to apprise the Active Participant of his rights and obligations and calculated to be understood by the average Active Participant.

d) Permissible Withdrawals. If the Plan allows Permissible Withdrawals in Item N(7)(e), a Participant may withdraw the part of his Vested Account resulting from his automatic Elective Deferral Contributions (and earnings attributable thereto) made under the EACA, subject to the requirements below. The Plan will not fail to satisfy the prohibition on in-service withdrawals of Elective Deferral Contributions described in Section 5.04 merely because it permits such withdrawals. A Permissible Withdrawal may be made without regard to any notice or consent requirements otherwise required under Code Sections 401(a)(11) or 417. In addition, the amount of the withdrawal: (i) is not taken into account in determining the dollar limitation on elective deferrals under Code Section 402(g); (ii) is not included in the ADP Test, or ACP Test, if applicable; and (iii) is not an Eligible Rollover Distribution.

A Participant's request for a withdrawal must be made no later than 90 days after the date the first automatic Elective Deferral Contribution is withheld from the Participant's Compensation and that would have been included in gross income had it not been withheld. For purposes of determining the date of the first automatic Elective Deferral Contribution under the EACA, an employee who for an entire Plan Year did not have automatic Elective Deferral Contributions made under the EACA is treated as if the employee did not have such Contributions for any prior Plan Year.

The request for withdrawal must be effective no later than the earlier of: (i) the pay date for the second payroll period that begins after the date the election is made; and (ii) the first pay date that occurs at least 30 days after the request is made. Unless the Participant elects otherwise, any request for withdrawal shall be treated as an affirmative election to stop having Elective Deferral Contributions made on his behalf as of the effective date of the request for withdrawal.

The amount of the withdrawal shall be equal to the amount of the automatic Elective Deferral Contributions made under the EACA through the effective date of the request for withdrawal described above. Such automatic Elective Deferral Contributions shall be adjusted for any income or loss through the date of distribution. The income or loss allocable to such Permissible Withdrawal shall be determined under rules similar to those provided under section 1.401(k)- 2(b)(2)(iv) of the regulations for the distribution of excess contributions. Any fee charged to the Participant for the withdrawal may not be greater than any other fee charged for a cash distribution.

Any Matching Contributions that were based on the automatic Elective Deferral Contributions distributed as a Permissible Withdrawal, plus any income and minus any loss allocable thereto, that have been allocated to the Participant's Account shall be forfeited. Matching Contributions are not required to be contributed to the Plan if the Permissible Withdrawal has been made prior to the date as of which the Matching Contribution would otherwise be allocated to the Participant's Account.

SECTION 3.11 – QUALIFIED AUTOMATIC CONTRIBUTION ARRANGEMENT (QACA) SAFE HARBOR PROVISIONS.

The provisions of this section apply if the Employer elected in Item O(2) to be a QACA Safe Harbor Plan. In accordance with sections 1.401(k)-1(e)(7) and 1.401(m)-1(c)(2) of the regulations, the Employer cannot use ADP (and ACP testing, if applicable) for a Plan Year in which it is intended for the Plan through its written terms to be an ADP Test Safe Harbor (and ACP Test Safe Harbor, if applicable) and the Employer fails to satisfy the requirements of such safe harbors for the Plan Year, unless the QACA safe harbor election is revoked as provided in (f) below.

a) Rules of Application.

1) To satisfy the requirements to be a QACA Safe Harbor Plan, a Plan must apply the QACA safe harbor provisions for the entire 12-month Plan Year, unless a short Plan Year exception in (8) below applies.

2) To satisfy the requirements to be a QACA safe harbor a Plan must satisfy the automatic Elective Deferral Contribution requirements described in (b) below; the QACA Contribution requirements described in (c) below; the additional notice requirements in (d) below; and if applicable, the Permissible Withdrawal provisions described in (e) below.

3) The QACA applies to all Eligible Employees.

4) The QACA is structured such that it also meets the requirements of an EACA as described in Section 3.10 in order to allow Permissible Withdrawals and the extended period for distributing Excess Aggregate Contributions described in 11 below.

5) If the Employer elected in Item O(2)(g) to make the QACA safe harbor Contributions for all Plan Years, any provisions relating to the ADP Test in Section 3.08 do not apply. If the Employer elected in Item O(2)(i) to make a QACA Nonelective Contribution for the Plan Year, any provisions relating to the ADP Test in Section 3.08 do not apply for the Plan Year specified in Item O(2)(i).

6) If the Employer elected to satisfy the ADP Test Safe Harbor and ACP Test Safe Harbor in Item O(2)(f)(i) and the Employer elected in Item O(2)(g) to make the QACA safe harbor Contributions for all Plan Years, any provisions relating to the ACP Test in Section 3.08 with respect to Matching Contributions do not apply. If the Employer elected to satisfy the ADP Test Safe Harbor and ACP Test Safe Harbor in Item O(2)(f)(i) and the Employer elected in Item O(2)(i) to make a QACA Nonelective Contribution for the Plan Year, any provisions relating to the ACP Test in Section 3.08 with respect to Matching Contributions do not apply for the Plan Year specified in Item O(2)(i).

7) In modification of (5) and (6) above, if the entry requirements for Elective Deferral Contributions and the QACA safe harbor Contributions are different, any provisions relating

to the ADP Test shall apply in any Plan Year in which a Highly Compensated Employee is part of the group of otherwise excludable employees as defined in section 1.410(b)-6(b)(3) of the regulations for purposes of testing the group of otherwise excludable employees.

8) The provisions of this section shall not apply unless the Plan Year is 12 months long except as provided below:

   i) In the case of the first Plan Year of a newly established plan (other than a successor plan), the Plan Year is at least 3 months long (or any shorter period if the Employer is a newly established employer that establishes the Plan as soon as administratively feasible after the Employer came into existence).

   ii) In the case of a cash or deferred arrangement that is added to an existing profit sharing, stock bonus, or pre-ERISA money purchase pension plan for the first time during a plan year, provided the Plan is not a successor plan and the cash or deferred arrangement is made effective no later than 3 months prior to the end of the Plan Year. The Plan may not be an ACP Test Safe Harbor for such Plan Year unless the existing Plan did not provide for Matching Contributions and the amendment providing for Matching Contributions is made effective at the same time as the adoption of the cash or deferred arrangement.

   iii) If the Plan has a short Plan Year as a result of changing its Plan Year, provided that the Plan satisfied the ADP Test Safe Harbor requirements and ACP Test Safe Harbor requirements, if applicable, for the immediately preceding Plan Year and the Plan satisfies the ADP Test Safe Harbor requirements and ACP Test Safe Harbor requirements, if applicable, (determined without regard to the revocation of QACA safe harbor election described in (f) below) for the immediately following Plan Year (or for the immediately following 12 months if the immediately following Plan Year is less than 12 months).

   iv) If the Plan has a short Plan Year due to Plan termination, provided that the Plan satisfies the ADP Test Safe Harbor requirements and ACP Test Safe Harbor requirements, if applicable, through the date of termination and either:

      A. the Plan would satisfy the requirements of the revocation of QACA safe harbor election described in (f) below, treating the termination of the Plan as a reduction or suspension of QACA Matching Contributions or QACA Nonelective Contributions, other than the requirement that Active Participants have a reasonable opportunity to change the amount of their Elective Deferral Contributions; or

      B. the Plan termination is in connection with a transaction described in Code Section 410(b)(6)(C) or the Employer incurs a substantial business hardship comparable to a substantial business hardship described in Code Section 412(c).

9) If the Plan is satisfying the ADP Test Safe Harbor and the ACP Test Safe Harbor, Matching Contributions shall be limited as provided in Items O(2)(g)(i) and P.

10) If the Plan is satisfying the ADP Test Safe Harbor and the ACP Test Safe Harbor, the Plan must still satisfy the ACP Test in the manner specified below with respect to Participant Contributions. If the Plan is satisfying the ADP Test Safe Harbor but not the ACP Test Safe Harbor, the Plan must satisfy the ACP Test in the manner specified below with respect to Participant Contributions and Matching Contributions.

   i) If the Plan is satisfying the ADP Test Safe Harbor and the ACP Test Safe Harbor, the Employer may elect to disregard with respect to all Eligible Participants, as defined in Section 3.08, (i) all Matching Contributions or (ii) Matching Contributions that do not exceed 3.5% of each Eligible Participant's Compensation for purposes of the ACP Test.

Alternatively, the Employer may elect to include all Matching Contributions for purposes of the ACP test. If the Employer makes no election, they will be deemed to have made an election to disregard all Matching Contributions for purposes of the ACP Test.

ii) QACA Matching Contributions shall not be treated as being taken into account for purposes of the ADP Test.

iii) Elective Deferral Contributions may not be taken into account for purposes of the ACP Test.

11) For purposes of Section 3.08, the period for distributing Excess Aggregate Contributions, if applicable, without incurring the 10 percent excise tax is extended to six months after the last day of the Plan Year in which such excess arose. The period for making such corrective distributions shall only apply if all eligible Nonhighly Compensated Employees and Highly Compensated Employees are covered under the QACA for the entire Plan Year (or for the portion of the Plan Year such Employees were Eligible Employees).

12) To the extent that any other provision of the Plan is inconsistent with the provisions of this section, the provisions of this section shall govern.

b) <u>Automatic Elective Deferral Contributions</u>. The Plan provides for an automatic election under a QACA to have Pre-tax Elective Deferral Contributions made in the amounts specified in Item O(2).

The automatic Elective Deferral Contribution shall be a uniform percentage of Compensation as specified in Item O(2)(a). A Plan does not fail to satisfy the uniform percentage requirement merely because:

1) the percentage varies based on the number of years (or portions of years) an Eligible Employee has participated in the Plan;

2) the automatic Elective Deferral Contribution does not reduce an Elective Deferral Agreement that is in effect for a Participant immediately prior to the effective date of the automatic Elective Deferral Contribution under the QACA;

3) the rate of Elective Deferral Contributions is limited so as not to exceed the limits of Code Sections 401(a)(17), 402(g) (determined with or without Catch-up Contributions), and 415; or

4) the automatic Elective Deferral Contribution is not applied during the period a Participant's Elective Deferral Contributions are suspended after receipt of a distribution that requires Elective Deferral Contributions to be suspended.

The automatic election shall apply when a Participant first becomes eligible to make Elective Deferral Contributions. The automatic election shall also apply when a Participant again becomes eligible to make Elective Deferral Contributions after a period during which he was not an Active Participant.

The automatic election that applies to a Participant when he again becomes eligible to make Elective Deferral Contributions shall be determined as follows:

5) For Participants who did not have automatic Elective Deferral Contributions made pursuant to an automatic election under the QACA for an entire Plan Year, the automatic Elective Deferral Contribution shall be determined as if all such Participants had not had such Contributions made for any prior Plan Year.

6) All other Participants shall be treated as if the automatic Elective Deferral Contributions, including automatic increases, continue to apply during the period of time they were not Active Participants.

The automatic election shall also apply to certain Active Participants as provided in Items O(2)(c) and (d).

The effective date of the automatic Elective Deferral Contribution must be no later than the earlier of: (i) the pay date for the second payroll period that begins after the date the notice described in (d) below is provided or (ii) the first pay date that occurs at least 30 days after the notice is provided.

c) QACA Contributions. If Item O(2)(g)(i) is selected, the Plan is satisfying the ADP Test Safe Harbor using QACA Matching Contributions as required in Item O(2)(g)(i). If Item O(2)(g)(ii) is selected, the Plan is satisfying the ADP Test Safe Harbor using QACA Nonelective Contributions as required in Item O(2)(g)(ii). If Item O(2)(i) is selected, the Plan is satisfying the ADP Test Safe Harbor using QACA Nonelective Contributions as required in Item O(2)(i) for the Plan Year specified.

The Employer shall pay to the Insurer or Trustee, as applicable, the QACA Matching Contributions and QACA Nonelective Contributions for each Plan Year not later than the end of the 12-month period immediately following the Plan Year for which they are deemed to be paid. Notwithstanding the foregoing, if Item O(2)(g)(i)(H) is selected, the Contributions selected in Item O(2)(g)(i) shall be made to the plan specified in Item O(2)(g)(i)(H). If Item O(2)(g)(ii)(D) is selected, the QACA Nonelective Contributions shall be made to the plan specified in that Item.

d) Notice Requirements. At least 30 days, but not more than 90 days, before the beginning of the Plan Year, the Employer shall provide each Eligible Employee a comprehensive notice of his rights and obligations under the Plan. The notice shall explain the automatic election and the Eligible Employee's right to elect a different rate of Elective Deferral Contributions, to elect not to make Elective Deferral Contributions, and if Roth Elective Deferral Contributions are permitted in Item N(5), to designate all or any portion of his Elective Deferral Contributions as Roth Elective Deferral Contributions. The notice shall include: (i) the procedure for exercising those rights and the timing for implementing any such elections; (ii) a description of how the automatic Elective Deferral Contributions will be invested in the absence of an investment election by the Eligible Employee; and (iii) if Permissible Withdrawals are permitted in Item O(2)(e), the Eligible Employee's right to make a Permissible Withdrawal as described in (e) below and the procedures to request such a withdrawal.

If the Employer elected in Item O(2)(g) to make the QACA safe harbor Contributions for all Plan Years, the notice shall also include a description of the QACA Matching Contributions or QACA Nonelective Contributions that will be made to the Plan to satisfy the ADP Test Safe Harbor.

If the Employer elected in Item O(2)(h) to make the QACA safe harbor Contributions for Plan Years in which the Plan is amended, the notice shall also include a statement that the Employer may amend the Plan during the Plan Year to elect to make QACA Nonelective Contributions of at least 3% of a Participant's Compensation. If the Employer elected in Item O(2)(i) to make a QACA Nonelective Contribution for the Plan Year and the Plan is so amended, a supplemental notice will be provided no later than 30 days before the end of the Plan Year specified in Item O(2)(i) informing the Participant of such amendment. The supplemental notice shall state the amount of such QACA Nonelective Contribution. Such notice may be provided separately or as a part of the annual notice described above.

After receipt of the notice, the Eligible Employee shall be given a reasonable period thereafter to elect a different rate of Elective Deferral Contributions, to elect not to make Elective Deferral

Contributions, and if Roth Elective Deferral Contributions are permitted in Item N(5), to designate all or any portion of his Elective Deferral Contributions as Roth Elective Deferral Contributions.

If an Employee becomes an Active Participant after the 90th day before the beginning of the Plan Year and does not receive the notices described above for that reason, the notice must be provided no more than 90 days before he becomes an Active Participant but not later than the date he becomes an Active Participant. If it is not practicable for the notice to be provided on or before such date, the notice shall be treated as provided timely if it is provided as soon as practicable after the date the Eligible Employee becomes an Active Participant and prior to the pay date for the payroll period that includes the date the Employee becomes eligible.

The notice shall be written in a manner sufficiently accurate and comprehensive to apprise the Active Participant of his rights and obligations and calculated to be understood by the average Active Participant.

e) Permissible Withdrawals. If the Plan allows Permissible Withdrawals in Item O(2)(e), a Participant may withdraw the part of his Vested Account resulting from his automatic Elective Deferral Contributions (and earnings attributable thereto) made under the QACA, subject to the requirements below. The Plan will not fail to satisfy the prohibition on in-service withdrawals of Elective Deferral Contributions described in Section 5.04 merely because it permits such withdrawals. A Permissible Withdrawal may be made without regard to any notice or consent requirements otherwise required under Code Sections 401(a)(11) or 417. In addition, the amount of the withdrawal: (i) is not taken into account in determining the dollar limitation on elective deferrals under Code Section 402(g); (ii) is not included in the ADP Test, or ACP Test, if applicable; and (iii) is not an Eligible Rollover Distribution.

A Participant's request for a withdrawal must be made no later than 90 days after the date the first automatic Elective Deferral Contribution is withheld from the Participant's Compensation and that would have been included in gross income had it not been withheld. For purposes of determining the date of the first automatic Elective Deferral Contribution under the QACA, an employee who for an entire Plan Year did not have automatic Elective Deferral Contributions made under the QACA is treated as if the employee did not have such Contributions for any prior Plan Year.

The request for withdrawal must be effective no later than the earlier of: (i) the pay date for the second payroll period that begins after the date the election is made; and (ii) the first pay date that occurs at least 30 days after the request is made. Unless the Participant elects otherwise, any request for withdrawal shall be treated as an affirmative election to stop having Elective Deferral Contributions made on his behalf as of the effective date of the request for withdrawal.

The amount of the withdrawal shall be equal to the amount of the automatic Elective Deferral Contributions made under the QACA through the effective date of the request for withdrawal described above. Such automatic Elective Deferral Contributions shall be adjusted for any income or loss through the date of distribution. The income or loss allocable to such Permissible Withdrawal shall be determined under rules similar to those provided under section 1.401(k)- 2(b)(2)(iv) of the regulations for the distribution of excess contributions. Any fee charged to the Participant for the withdrawal may not be greater than any other fee charged for a cash distribution.

Any Matching Contributions that were based on the automatic Elective Deferral Contributions distributed as a Permissible Withdrawal, plus any income and minus any loss allocable thereto, that have been allocated to the Participant's Account shall be forfeited. Matching Contributions are not required to be contributed to the Plan if the Permissible Withdrawal has been made prior to the date as of which the Matching Contribution would otherwise be allocated to the Participant's Account.

f) Revocation of QACA Safe Harbor Election. The Employer may amend the Plan to revoke the QACA safe harbor election and the corresponding QACA Matching Contributions or QACA Nonelective Contributions during any Plan Year, if the following conditions are met:

1) All Eligible Employees shall be provided a supplemental notice that explains the consequences of the amendment, informs them of the effective date of the elimination of the QACA Matching Contributions or QACA Nonelective Contributions, and explains the procedures to change their Elective Deferral Agreement.

2) The effective date of the revocation cannot be earlier than the later of (i) 30 days after the Eligible Employees are given such notice, and (ii) the date the amendment revoking such provisions is adopted.

3) Eligible Employees are given a reasonable opportunity (including a reasonable period after receipt of the supplemental notice) to change their Elective Deferral Agreement prior to the revocation of the QACA safe harbor election.

4) The elimination of the QACA Nonelective Contributions or QACA Matching Contributions (for Plan Years beginning on or after January 1, 2015) during a Plan Year is permitted if the Employer either (i) is operating at an economic loss as described in Code Section 412(c)(2)(A) for the Plan Year, or (ii) includes in the notice described in (d) above a statement that the Plan may be amended during the Plan Year to revoke the QACA Nonelective Contributions or QACA Matching Contributions and that the revocation will not apply until at least 30 days after all Active Participants are provided notice of the revocation.

If elected in Item O(2)(g)(i)I or O(2)(g)(ii)E, the Employer shall revoke the QACA safe harbor election for the Plan Year and (i) perform the ADP Test and ACP Test, if applicable, for the entire Plan Year using the current year testing method described in Section 3.08, and (ii) satisfy the Top-heavy Plan requirements of Article XI.

If Item O(2)(g)(i)I is selected, the Employer shall make the QACA Matching Contributions with respect to Elective Deferral Contributions and Compensation for the portion of the Plan Year prior to the effective date of the revocation. If Item O(2)(g)(ii)E is selected, the Employer shall make the QACA Nonelective Contributions with respect to Compensation paid for the portion of the Plan Year through the effective date of the revocation. The annual compensation limit applied to Compensation for purposes of the QACA Matching Contributions and QACA Nonelective Contributions shall be adjusted for the short determination period as described in the definition of Compensation in Section 1.02.

g) Top-heavy Rules. The Plan is deemed to not be a Top-heavy Plan, as defined in Section 11.02, for a Plan Year if the exception under Code Section 416(g)(4)(H) applies for such year.

ARTICLE IV
INVESTMENT OF CONTRIBUTIONS

SECTION 4.01 – INVESTMENT AND TIMING OF CONTRIBUTIONS.

The handling of Contributions and Plan assets is governed by the provisions of the Trust Agreement and any other relevant document, such as an Annuity Contract (for the purposes of this paragraph alone, the Trust Agreement and such other documents will each be referred to as a “document” or collectively as the “documents”), duly entered into by or with regard to the Plan that govern such matters. To the extent permitted by the documents, the parties designated in Item U(2) shall direct the Contributions for investment in any of the investment options available to the Plan under or through the documents, and may request the transfer of amounts resulting from those Contributions between such investment options.

a) Participant Directs Investment of Some or All Contributions. A Participant may not direct the investment of all or any portion of his Account in collectibles. Collectibles mean any work of art, rug or antique, metal or gem, stamp or coin, alcoholic beverage, or other tangible personal property specified by the Secretary of the Treasury. However, certain coins and bullion as provided in Code Section 408(m)(3) shall not be considered collectibles.

   If a Participant has provided investment direction for all or certain specific Contributions made to his Account, such Contributions shall be invested in accordance with such direction to the extent possible. If an investment option selected by the Participant in that investment direction is no longer available and a new investment option is not selected by the Participant (in lieu of the one that is no longer available) by the deadline set by a fiduciary of the Plan (or by the date the investment option is no longer available), all amounts currently held in the investment option that is no longer available and future Contributions directed to such investment option by the Participant (and made after such deadline or date) shall be invested in the appropriate default investment option, unless otherwise directed by a fiduciary of the Plan.

   If an investment option selected by the Participant is no longer available for future Contributions only and a new investment option is not selected by the Participant (in lieu of the one that is no longer available) by the deadline set by a fiduciary of the Plan (or by the date the investment option is no longer available), all future Contributions directed to such investment option that is not available for future Contributions (and made after such deadline or date) shall be invested in the appropriate default investment option, unless otherwise directed by a fiduciary of the Plan.

   To the extent that a Participant who has the ability to provide investment direction (either on an ongoing basis or in response to a notice from a fiduciary of the Plan) fails to give timely investment direction, the amount in the Participant's Account for which no investment direction is received shall be invested in the appropriate default investment option, unless otherwise directed by a fiduciary of the Plan.

b) Employer Directs Investment of Some or All Contributions. If the Employer has investment direction, the Contributions shall be invested in accordance with such direction. The Employer shall have investment direction for amounts that have not been allocated to Participants.

   To the extent an investment option is no longer available, a fiduciary of the Plan may require that amounts currently held in such investment option be reinvested in other investment options. To the extent that the Employer has not given investment direction, and no Plan fiduciary gives direction regarding the reinvestment of such amounts, the amounts held in an investment option that is no longer available or which had been directed to be invested in an investment option that is not available for future Contributions shall be invested in the appropriate default investment option.

Default investment options are defined in documents duly entered into by or with regard to the Plan that govern such matters.

At least annually, the Named Fiduciary shall review all pertinent Employee information and Plan data in order to establish the funding policy of the Plan and to determine appropriate methods of carrying out the Plan's objectives. The Named Fiduciary shall inform the Trustee and any Investment Manager of the Plan's short-term and long-term financial needs so the investment policy can be coordinated with the Plan's financial requirements.

However, the Named Fiduciary may delegate to the Investment Manager investment direction for Contributions and amounts that are not subject to Participant direction.

If a calculation period other than Plan Year is selected in Item O(1)(b)(i)C for a 401(k) Safe Harbor Plan, the Employer shall pay to the Insurer or Trustee, as applicable, the Qualified Matching Contributions calculated based on Elective Deferral Contributions and Compensation for the payroll period specified in Item O(1)(b)(i)C not later than the last day of the following Plan-year Quarter.

If a calculation period other than Plan Year is selected in Item O(2)(g)(i)C for a QACA Safe Harbor Plan, the Employer shall pay to the Insurer or Trustee, as applicable, the QACA Matching Contributions calculated based on Elective Deferral Contributions and Compensation for the payroll period specified in Item O(2)(g)(i)C not later than the last day of the following Plan-year Quarter.

If a calculation period other than Plan Year is selected in Item P(10) and the Employer elected to satisfy the ADP Test Safe Harbor and ACP Test Safe Harbor, the Employer shall pay to the Insurer or Trustee, as applicable, the Matching Contributions calculated based on Elective Deferral Contributions and Compensation for the period specified in Item P(10) not later than the last day of the following Plan-year Quarter.

All Contributions are forwarded by the Employer to (i) the Trustee to be deposited in the Trust Fund or otherwise invested by the Trustee in accordance with the relevant documents; or (ii) the Insurer to be deposited under the Annuity Contract, as applicable.

SECTION 4.02 - INVESTMENT IN QUALIFYING EMPLOYER SECURITIES.

The provisions of this section apply to plans which allow investment in Qualifying Employer Securities. If a plan is amended to remove the selection of Item U(5)(a), the provisions of this section will continue to apply only for purposes of amounts invested in Qualifying Employer Securities prior to the effective date of such amendment.

If permitted under Item U(5)(a) of the Adoption Agreement, all or some portion of the Participant's Account may be invested in the Qualifying Employer Securities Fund. If Item U(5)(a)(i) is elected by the Employer, the Contributions that may be invested in the Qualifying Employer Securities Fund shall be limited to the Contributions specified in that Item. If the Participant has investment control, once an investment in the Qualifying Employer Securities Fund is made available to Participants, it shall continue to be available unless the Adoption Agreement is amended to disallow such available investment. In the absence of an election to invest in Qualifying Employer Securities, Participants shall be deemed to have elected to have their Accounts invested wholly in other investment options of the Investment Fund. Once an election is made, it shall be considered to continue until a new election is made. If the Plan is amended to disallow all or some portion of the Participant's Account to be invested in the Qualifying Employer Securities Fund, the provisions of this section shall continue to apply to amounts invested in Qualifying Employer Securities before such amendment is effective.

For purposes of determining the annual valuation of the Plan, and for reporting to Participants and regulatory authorities, the assets of the Plan shall be valued at least annually on the Valuation Date which corresponds to the last day of the Plan Year. The fair market value of Qualifying Employer Securities shall be determined on such Valuation Date. The prices of Qualifying Employer Securities as of the date of the transaction shall apply for purposes of valuing distributions and other transactions of the Plan to the extent such value is representative of the fair market value of such securities in the opinion of the Plan Administrator. The value of a Participant's Account held in the Qualifying Employer Securities Fund may be expressed in units.

If the Qualifying Employer Securities are not publicly traded, or if an extremely thin market exists for such securities so that reasonable valuation may not be obtained from the market place, then such securities must be valued at least annually by an independent appraiser who is not associated with the Employer, the Plan Administrator, the Trustee, or any person related to any fiduciary under the Plan. The independent appraiser may be associated with a person who is merely a contract administrator with respect to the Plan, but who exercises no discretionary authority and is not a plan fiduciary.

If there is a public market for Qualifying Employer Securities of the type held by the Plan, then the Plan Administrator may use as the value of the securities the price at which such securities traded in such market. If the Qualifying Employer Securities do not trade on the relevant date, or if the market is very thin on such date, then the Plan Administrator may use for the valuation the next preceding trading day on which the trading prices are representative of the fair market value of such securities in the opinion of the Plan Administrator.

Cash dividends payable on the Qualifying Employer Securities shall be reinvested in additional shares of such securities. In the event of any cash or stock dividend or any stock split, such dividend or split shall be credited to the Accounts based upon the number of shares of Qualifying Employer Securities credited to each Account as of the payable date of such dividend or split.

All purchases of Qualifying Employer Securities shall be made at a price, or prices, which, in the judgement of the Plan Administrator, do not exceed the fair market value of such securities.

In the event that the Trustee acquires Qualifying Employer Securities by purchase from a "disqualified person" as defined in Code Section 4975(e)(2) or from a "party-in-interest" as defined in ERISA Section 3(14), the terms of such purchase shall contain the provision that in the event there is a final determination by the Internal Revenue Service, the Department of Labor, or court of competent jurisdiction that the fair market value of such securities as of the date of purchase was less than the purchase price paid by the Trustee, then the seller shall pay or transfer, as the case may be, to the Trustee an amount of cash or shares of Qualifying Employer Securities equal in value to the difference between the purchase price and such fair market value for all such shares. In the event that cash or shares of Qualifying Employer Securities are paid or transferred to the Trustee under this provision, such securities shall be valued at their fair market value as of the date of such purchase, and interest at a reasonable rate from the date of purchase to the date of payment or transfer shall be paid by the seller on the amount of cash paid.

The Plan Administrator may direct the Trustee to sell, resell, or otherwise dispose of Qualifying Employer Securities to any person, including the Employer, provided that any such sales to any disqualified person or a party-in-interest, including the Employer, will be made at not less than the fair market value and no commission will be charged. Any such sale shall be made in conformance with ERISA Section 408(e).

The Employer is responsible for compliance with any applicable Federal or state securities law with respect to all aspects of the Plan. If the Qualifying Employer Securities or interests in this Plan are required to be registered in order to permit investment in the Qualifying Employer Securities Fund as provided in Item U(5)(a) of the Adoption Agreement, then such investment will not be effective until the later of the effective date of the Plan or the date such registration or qualification is effective. The Employer, at its own expense, will take or cause to be taken any and all such actions as may be necessary or appropriate to effect such registration or qualification. Further, if the Trustee is directed to dispose of any Qualifying Employer Securities held under the Plan under circumstances which require registration or qualification of the securities under applicable Federal or state securities laws, then the Employer will, at its expense, take or cause to be taken any and all such action as may be necessary or appropriate to effect such registration or qualification. The Employer is responsible for all compliance requirements under Section 16 of the Securities Act.

Diversification Requirements.

If the Plan holds publicly traded Qualifying Employer Securities, the diversification requirements below apply for Plan Years beginning on or after January 1, 2007.

An applicable individual (as defined in section 1.401(a)(35)-1(b) of the regulations) is permitted to elect to direct any publicly traded qualifying employer securities (as defined in Code Section 401(a)(35)(G)(v)) held in his Account under the Plan to be reinvested in other investment options offered under the Plan with respect to the portion of his Account that is subject to Code Section 401(a)(35)(B) or (C). The Employer may permit diversification of amounts invested in qualifying employer securities earlier than required as long as the earlier time period is applied consistently to all applicable individuals.

The Plan shall offer at least three investment options, other than Qualifying Employer Securities, to which the applicable individual may direct all or any portion of his Account invested in Qualifying Employer Securities, and each investment option must be diversified and have materially different risk and return characteristics that satisfy the requirements of section 2550.404c-1(b)(3) of the Department of Labor regulations. The Plan may limit the time for divestment and reinvestment to periodic, reasonable opportunities occurring no less frequently than quarterly. The Plan may not impose any restrictions or conditions with respect to the investment of Qualifying Employer Securities that are not imposed on the investment options offered under the Plan, except as provided in section 1.401(a)(35)- 1(e) of the regulations.

For Qualifying Employer Securities held under the Plan in a Plan Year beginning before January 1, 2007, the diversification rights described above shall only apply to the applicable percentage of the number of shares of those securities as stated below:

(a) The applicable percentage is 33% for the first Plan Year to which Code Section 401(a)(35) applies.

(b) The applicable percentage is 66% for the second Plan Year to which Code Section 401(a)(35) applies.

(c) The applicable percentage is 100% for all subsequent Plan Years.

If there is more than one class of securities held under the Plan, the transition rule above shall apply separately with respect to each class. The transition rule above does not apply to Participants who are age 55 or older and have completed at least three years of service (as defined in section 1.401(a)(35)- 1(c)(3) of the regulations) prior to the first day of the first Plan Year beginning after December 31, 2005.

A notice must be provided to each applicable individual that describes the divestiture rights and the importance of diversifying the investment of retirement plan assets. The Employer shall provide the notice to all applicable individuals no later than 30 days before the date on which the applicable individuals are eligible to exercise their right to diversify.

Buy/Sell Window.

If the Plan holds Qualifying Employer Securities that are not publicly traded, annually, or at such other intervals as directed by the Plan Administrator, the Plan Administrator, at its discretion, may allow Active Participants the opportunity to buy and/or sell Qualifying Employer Securities, and Inactive Participants the opportunity to sell Qualifying Employer Securities. Notwithstanding any other provision in the Plan to the contrary, the valuation of the Qualifying Employer Securities for the buy/sell window shall be based on the valuation performed as of the most recent Valuation Date provided that, in the opinion of the Plan Administrator, such value is representative of the fair market value of such securities on the date of the transaction. The Plan Administrator shall require a new valuation of Qualifying Employer Securities if, in the opinion of the Plan Administrator, the valuation as of the most recent Valuation Date is not representative of the fair market value of the Qualifying Employer Securities. The Plan Administrator shall set up nondiscriminatory procedures, including any limits, to accommodate the implementation of such transfers among other investment options and the Qualifying Employer Securities.

Voting and Tender Rights.

Voting rights with respect to Qualifying Employer Securities shall be exercised in the manner specified in Item U(5)(a)(ii). Before each meeting of shareholders, the Employer shall cause to be sent to each person with power to control such voting rights a copy of any notice and other information provided to shareholders and, if applicable, a form for instructing the Trustee how to vote at such meeting (or any adjournment thereof) the number of full and fractional shares subject to such person's voting control. The Trustee may establish a deadline in advance of the meeting by which such forms must be received in order to be effective.

If Participants control voting rights, each Participant shall be entitled to one vote for each share credited to his Account.

If Participants control voting rights, and if some or all of the Participants have not directed or have not timely directed the Trustee on how to vote, then the Trustee shall vote such Qualifying Employer Securities in the same proportion as those shares of Qualifying Employer Securities for which the Trustee has received proper direction for such matter.

If Participants control voting rights, the Trustee shall hold the Participant’s individual directions with respect to voting rights in confidence and, except as required by law, shall not divulge or release such individual directions to anyone associated with the Employer. The Employer may require verification of the Trustee’s compliance with the directions received from Participants by any independent auditor selected by the Employer, provided that such auditor agrees to maintain the confidentiality of such individual directions.

The Employer may develop procedures to facilitate the exercise of votes, such as the use of facsimile transmissions for the Participants located in physically remote areas.

The decision whether to tender Qualifying Employer Securities in response to a tender or exchange offer for such Qualifying Employer Securities shall be made in the manner specified in Item U(5)(a)(iii). As soon as practicable after the commencement of a tender or exchange offer for Qualifying Employer Securities, the Employer shall cause each person with power to control the response to such tender or exchange offer to be advised in writing the terms of the offer and, if applicable, to be provided with a form for instructing the Trustee, or for revoking such instruction, to tender or exchange shares of Qualifying Employer Securities, to the extent permitted under the terms of such offer. In advising such persons of the terms of the offer, the Employer may include statements from the board of directors setting forth its position with respect to the offer.

If Participants control tender decisions, and if some or all of the Participants have not directed or have not timely directed the Trustee on how to tender, then the Trustee shall tender such Qualifying Employer Securities in the same proportion as those shares of Qualifying Employer Securities for which the Trustee has received proper direction for such matter.

If the tender or exchange offer is limited so that all of the shares that the Trustee has been directed to tender or exchange cannot be sold or exchanged, the shares that each Participant directed to be tendered or exchanged shall be deemed to have been sold or exchanged in the same ratio that the number of shares actually sold or exchanged bears to the total number of shares that the Trustee was directed to tender or exchange.

If Participants control tender decisions, the Trustee shall hold the Participant’s individual directions with respect to tender decisions in confidence and, except as required by law, shall not divulge or release such individual directions to anyone associated with the Employer. The Employer may require verification of the Trustee’s compliance with the directions received from Participants by any independent auditor selected by the Employer, provided that such auditor agrees to maintain the confidentiality of such individual directions.

The Employer may develop procedures to facilitate the exercise of tender rights, such as the use of facsimile transmissions for the Participants located in physically remote areas.

SECTION 4.03 – VOTING AND TENDER OF SELF-DIRECTED BROKERAGE ACCOUNTS.

Rights of ownership of securities held in the Self-Directed Brokerage Account, including voting rights, tender rights, and rights to exercise exchange offers, shall be passed through to the Participant with respect to whom the Self-Directed Brokerage Account was established. These rights shall be exercised by the Participant through the mechanism (including the course of dealing and practices and procedures) established by the Trustee for the exercise of such rights and in accordance with the Self-Directed Brokerage Account documents.

SECTION 4.04 – LIFE INSURANCE.

The provisions of this section apply to plans which allow investment in life insurance. If a plan is amended to remove life insurance, any Insurance Policy already purchased under the terms of the Plan shall remain in force and the provisions of this section shall continue to apply to amounts invested in an Insurance Policy before such date.

(a) Purchase of Insurance. If permitted under Item U(4)(a), the purchase of life insurance is available under this Plan for the purpose of providing incidental death benefits. An Active Participant may elect to have any part of his Account applied to purchase life insurance coverage on his life, unless otherwise specified in Item U(4)(a)(i). Accumulated deductible employee contributions, as defined in Code Section 72(o)(5)(B), cannot be used to purchase life insurance coverage.

The Trustee shall apply for and will be the owner of any Insurance Policy purchased under the terms of the Plan. The purchase shall be subject to the provisions of this section, the distribution of benefits provisions of Article VI or VIA, whichever applies, and the beneficiary provisions of Section 10.07.

If the Participant has a spouse to whom he has been continuously married for at least one year, such spouse shall be his Beneficiary under the Insurance Policy, unless (i) a qualified election has been made according to the provisions of the Section 6.03 or 6A.03, whichever applies, or
(ii) the Trustee has been named as Beneficiary. If Item AA(3)(f) is selected the one-year marriage requirement in the preceding sentence shall not apply.

If the Trustee is named as Beneficiary, upon the death of the Participant, the Trustee shall be required to pay over all proceeds of the Insurance Policy to the Participant's Beneficiary or spouse, as the case may be, according to the distribution of benefits provisions of Article VI or VIA, whichever applies.

Under no circumstances shall the Trust Fund retain any part of the proceeds. In the event of any conflict between the terms of this Plan and the terms of any Insurance Policy purchased hereunder, the Plan provisions shall control.

The purchase of insurance shall be subject to the limitations that may be imposed by the Insurer under the applicable Insurance Policy. The Insurance Policy may provide for waiver of premium for disability.

The total of all insurance premiums for insurance coverage on the life of a Participant provided by Employer Contributions shall be limited to a percentage of all Employer Contributions made for that Participant. All such ordinary life insurance premiums shall be limited to a percentage that is less than 50 percent. All such term life and universal life insurance premiums shall be limited to a percentage that is not more than 25 percent. If both ordinary life insurance, and term life or universal life insurance are purchased, one-half of all such ordinary life insurance premiums and all such other life insurance premiums shall be limited to a percentage which is not more than 25 percent. Ordinary life insurance policies are policies with both nondecreasing death benefits and nonincreasing premiums.

Any dividends declared upon an amount of insurance in force on the life of a Participant may, within the terms of the Insurance Policy, be applied to reduce the earliest premium due, purchase paid-up insurance coverage, accumulate under the policy to provide additional death benefits, or be credited to the Participant's Account that is included in the Plan Fund. In the absence of any direction, such dividends shall be applied to reduce the earliest premium due for such amount of insurance.

A Participant may elect to have amounts deducted from his Account to pay insurance premiums. The total amount deducted cannot exceed the amount of Contributions credited to his Account that were not used to purchase insurance, but could have been.

If a decrease in the amount of life insurance is necessary, any cash value of the terminated insurance shall be retained in the Participant's Account.

(b) Transfer of Ownership. Any transfer of ownership under this section shall be subject to the distribution of benefits provisions of Article VI or VIA, whichever applies.

Upon the request of a Participant, the Employer may purchase for its cash value a personal life insurance policy issued to, and insuring the life of, the Participant. Such policy shall be immediately transferred from the Employer to the Trustee. The cash value of the purchased policy shall be a part of the Employer Contribution for the Plan Year. Any such purchase shall be accomplished only under an appropriate written agreement between the Participant, the Trustee, and the Employer. In lieu of the Employer's purchase of such policy and at the Employer's direction, the Trustee may purchase the policy directly from the Participant. These provisions shall not be available if the policy is subject to a policy loan or similar lien. The purchase of and future premiums for any such policy shall be subject to the limitations in (a) above.

If the Insurance Policy on a Participant’s life allows transfer of ownership, he may pay the Trustee an amount equal to the cash value of such policy. Such payment shall become a part of his Account. Upon receiving the payment, the Trustee shall transfer ownership of the policy to the Participant. This transfer of ownership is not a distribution from the Plan. This option shall only be available to a Participant if the policy would, but for the sale, be surrendered by the Plan.

If the Insurance Policy on a Participant’s life allows transfer of ownership and a distribution of his Vested Account would include the cash value of such policy, he may have ownership of such policy transferred to himself without paying the cash value to the Trustee. Any Insurance Policy transferred to the Participant for which he has not paid the cash value to the Trustee is a distribution from the Plan.

In applying the provisions of this section, all Participants in similar circumstances shall be treated in a similar manner. Participants who are Highly Compensated Employees shall not be treated in a manner more favorable than that afforded all other Participants.

(c) Termination of Insurance. The termination of insurance under this section shall be subject to the distribution of benefits provisions of Article VI or VIA, whichever applies.

No premium payments shall be made under this Plan for an Inactive Participant. If a Participant becomes an Inactive Participant before his Retirement Date, the Trustee may either use the cash value of the Insurance Policy on his life to provide paid-up insurance or may surrender the Insurance Policy. The cash value of a surrendered Insurance Policy is retained in the Participant's Account and added to the Investment Fund. The purchase of paid-up insurance shall be subject to the provisions of the Insurance Policy. If the Participant has a Severance from Employment before his Retirement Date, he may elect to have the ownership of the Insurance Policy transferred as provided in (b) above.

On a Participant's Retirement Date, any Insurance Policy on his life, the ownership of which has not been transferred to him, shall terminate. The cash value shall be paid to the Participant in cash or applied to provide an income for him according to the provisions of the Insurance Policy. In any event, no portion of the value of any Insurance Policy shall be used to continue life insurance protection under the Plan beyond actual retirement.

ARTICLE V BENEFITS

SECTION 5.01 – RETIREMENT BENEFITS.

On a Participant's Retirement Date, his Vested Account shall be distributed to him according to the distribution of benefits provisions of Article VI or VIA, whichever applies, and the small amounts payment provisions of Section 10.11.

SECTION 5.02 – DEATH BENEFITS.

If a Participant dies before his Annuity Starting Date, his Vested Account shall be distributed according to the distribution of benefits provisions of Article VI or VIA, whichever applies, and the small amounts payment provisions of Section 10.11.

SECTION 5.03 – VESTED BENEFITS.

If an Inactive Participant's Vested Account is not payable under the small amounts payment provisions of Section 10.11, he may elect, but is not required, to receive a distribution of any part of his Vested Account after he has a Severance from Employment. If selections are made in the vested benefit restriction in Item Z(6), distributions from the Participant's Vested Account resulting from the designated Contributions shall not begin before the Participant becomes Totally Disabled or distributions from the Participant's Vested Account resulting from the designated Contributions shall not be made until he has had a Severance from Employment for the period of time specified, whichever is applicable. If the Employer elected in Item AA(1)(a) or AA(2) to include life annuities as the automatic form of retirement benefit or as optional forms of distribution, the Participant's election shall be subject to his spouse's consent as provided in Section 6.03. Notwithstanding the foregoing, if Item AA(5)(b) is selected the Participant's election shall be subject to his spouse's consent. A distribution under this paragraph shall be a retirement benefit and shall be distributed to the Participant according to the distribution of benefits provisions of Article VI or VIA, whichever applies.

A Participant may not elect to receive a distribution under the provisions of this section after he again becomes an Employee until he subsequently has a Severance from Employment and meets the requirements of this section.

If Item AA(3)(d) is not selected, a Participant who has been performing Qualified Military Service for a period of more than 30 days is deemed to have had a severance from employment (as described in Code Section 414(u)(12)(B)(i)) for purposes of requesting a distribution of his Vested Account resulting from Elective Deferral Contributions. The Plan will suspend Elective Deferral Contributions and Participant Contributions for six months after receipt of the distribution. If the Participant is also eligible to receive a Qualified Reservist Distribution and the distribution could be either type of distribution, the distribution will be treated as a Qualified Reservist Distribution and is not subject to the six-month suspension.

If an Inactive Participant does not receive an earlier distribution, upon his Retirement Date or death, his Vested Account shall be distributed according to the provisions of Section 5.01 or 5.02.

The Nonvested Account of an Inactive Participant who has had a Severance from Employment shall remain a part of his Account until it becomes a Forfeiture. However, if he again becomes an Employee so that his Vesting Percentage can increase, the Nonvested Account may become a part of his Vested Account.

SECTION 5.04 – WHEN BENEFITS START.

a) Unless otherwise elected, benefits shall begin no later than the 60th day following the close of the Plan Year in which the latest date below occurs:

   1) The date the Participant attains age 65 (or Normal Retirement Age, if earlier).

   2) The 10th anniversary of the Participant's earliest Entry Date.

   3) The date the Participant terminates service with the Employer.

   Notwithstanding the foregoing, the failure of a Participant and spouse, if applicable, to consent to a distribution while a benefit is immediately distributable, within the meaning of Section 6.03 or 6A.03, whichever applies, shall be deemed to be an election to defer the start of benefits sufficient to satisfy this section.

   The Participant may elect to have benefits begin after the latest date for beginning benefits described above, subject to the following provisions of this section. The Participant shall make the election in writing. Such election must be made before his Normal Retirement Date or the date he has a Severance from Employment, if later. The Participant shall not elect a date for beginning benefits or a form of distribution that would result in a benefit payable when he dies which would be more than incidental within the meaning of governmental regulations.

   Benefits shall begin on an earlier date if otherwise provided in the Plan. For example, the Participant's Retirement Date or Required Beginning Date, as defined in Section 7.02.

b) The Participant's Vested Account resulting from Elective Deferral Contributions, Qualified Nonelective Contributions, Qualified Matching Contributions, QACA Matching Contributions, and QACA Nonelective Contributions may not be distributed earlier than Severance from Employment, death, or disability. Such amount may also be distributed upon:

   1) Termination of the Plan as permitted in Article VIII.

   2) The attainment of age 59 1/2 as permitted in Items Z(3), Y(4), and Section 5.05.

   3) A federally declared disaster, where resulting legislation or guidance authorizes such a distribution.

   The Participant's Vested Account resulting from Elective Deferral Contributions may also be distributed:

   4) As a hardship withdrawal as permitted in Item Y(3) and Section 5.05.

   5) As a Qualified Reservist Distribution as permitted in Item Y(6) and Section 5.05.

   6) If the Participant is deemed to have had a severance from employment as described in Code Section 414(u)(12)(B)(i) and Section 5.03.

All distributions that may be made pursuant to one or more of the foregoing distributable events will be a retirement benefit and shall be distributed to the Participant according to the distribution of benefits provisions of Article VI or VIA, whichever applies. In addition, distributions that are triggered by the termination of the Plan must be made in a lump sum. A lump sum shall include a distribution of an annuity contract.

c) If Item U(5)(a) is selected and the Plan holds Qualifying Employer Securities that are not publicly traded, a Participant will not be eligible to receive a distribution of the portion of a Participant's Vested Account which is invested in Qualifying Employer Securities until the Participant has a Severance from Employment or died, and has received or requested a distribution of the total remaining Vested Account. If a Participant is eligible to receive a distribution under this section and has elected to receive the distribution in accordance with procedures established by the Plan Administrator, the value of Qualifying Employer Securities for purposes of the distribution shall be based on the valuation as of the most recent Valuation Date and the distribution shall be made to the Participant as soon as administratively feasible; provided, however, that the portion of a Participant's Vested Account invested in Qualifying Employer Securities may only be distributed subject to the Plan's available liquidity or pursuant to a nondiscriminatory distribution policy that coordinates the valuation of Qualifying Employer Securities and the Plan's buy/sell window.

SECTION 5.05 – WITHDRAWAL BENEFITS.

a) Financial Hardship Withdrawals. If elected by the Employer in Item Y(3), withdrawals of part of the Participant's Account as provided in Item Y(3) will be permitted in the event of hardship due to an immediate and heavy financial need. If elected by the Employer in Item Y(7), the portion of the Participant's Account held in the Qualifying Employer Securities Fund may not be redeemed for purposes of these withdrawals.

Immediate and heavy financial need shall be limited to: (i) expenses incurred or necessary for medical care that would be deductible under Code Section 213(a) (determined without regard to whether the expenses exceed the stated limit on adjusted gross income); (ii) the purchase (excluding mortgage payments) of a principal residence for the Participant; (iii) payment of tuition, related educational fees, and room and board expenses, for up to the next 12 months of post- secondary education for the Participant, his spouse, children, or dependents (as defined in Code Section 152 without regard to Code Sections 152(b)(1), (b)(2), and (d)(1)(B)); (iv) payments necessary to prevent the eviction of the Participant from, or foreclosure on the mortgage of, the Participant's principal residence; (v) payments for funeral or burial expenses for the Participant's deceased parent, spouse, child, or dependent (as defined in Code Section 152 without regard to Code Section 152(d)(1)(B)); (vi) expenses to repair damage to the Participant's principal residence that would qualify for a casualty loss deduction under Code Section 165 (determined without regard to whether the loss exceeds 10% of adjusted gross income); or (vii) any other distribution which is deemed by the Commissioner of Internal Revenue to be made on account of immediate and heavy financial need as provided in Treasury regulations. If elected by the Employer in Item Y(3)(g), immediate and heavy financial need shall also include expenses described in (i), (iii), and (v) (relating to medical, tuition, and funeral expenses, respectively) of a Primary Beneficiary.

No withdrawal shall be allowed which is not necessary to satisfy such immediate and heavy financial need.

If Item Y(3)(h) is not selected, such withdrawal shall be deemed necessary only if all of the following requirements are met: (i) the distribution is not in excess of the amount of the immediate and heavy financial need (including amounts necessary to pay any Federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution); (ii) the Participant has obtained all distributions, other than hardship distributions, and all nontaxable loans currently available under all plans maintained by the Employer; and (iii) the Plan, and all other plans maintained by the Employer, provide that the Participant’s elective contributions and participant contributions will be suspended for at least six months after receipt of the hardship distribution. The Plan will suspend elective contributions and participant contributions for six months as provided in the preceding sentence.

If Item Y(3)(h) is selected, no withdrawal shall be allowed which is in excess of the amount required to relieve the financial need or if such need can be satisfied from other resources that are reasonably available to the Participant. The amount of an immediate and heavy financial need may include any amount necessary to pay any Federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution. The Participant's request for a withdrawal shall include his written statement that the amount requested does not exceed the amount needed to meet the financial need. The Participant's request for a withdrawal shall include his written statement that the need cannot reasonably be relieved: (i) through reimbursement or compensation by insurance or otherwise; (ii) by reasonable liquidation of the Participant's assets, to the extent such liquidation would not itself cause immediate and heavy financial need; (iii) by cessation of elective contributions or participant contributions under the Plan; or (iv) by other distributions or nontaxable (at the time of the loan) loans currently available from plans maintained by the Employer or any other employer, or by borrowing from commercial sources on reasonable commercial terms.

A Participant shall not cease to be an Eligible Participant, as defined in Section 3.08, merely because his elective contributions or participant contributions are suspended.

b) Other Withdrawals. If permitted under Item Y(1), a Participant may withdraw any part of his Vested Account resulting from Voluntary Contributions subject to the limitations provided in Item Y(1). If permitted under Item Y(2), a Participant may withdraw any part of his Vested Account resulting from Rollover Contributions subject to the limitations provided in Item Y(2). If elected by the Employer in Item Y(4), withdrawals of part of the Participant’s Vested Account as provided in Item Y(4) will be permitted at any time after he attains age 59 1/2 subject to the limitations provided in Item Y(4). If elected by the Employer in Item Y(5), withdrawals of any part of the Participant’s Vested Account as provided in Item Y(5) will be permitted after he has been an Active Participant for at least five years subject to the limitations provided in Item Y(5). If elected by the Employer in Item Y(6), a Participant may withdraw any part of his Vested Account resulting from Elective Deferral Contributions if such distribution meets the requirements to be a Qualified Reservist Distribution. If Item Y(8) is selected, additional withdrawal options are available in the Additional Selections and Minor Modifications Addendum. If permitted under Item H(1) of the Additional Selections and Minor Modifications Addendum, a Participant may withdraw any part of his Vested Account as provided in Item H(1) of the Additional Selections and Minor Modifications Addendum, if the amounts being distributed have been held in the Plan Fund for at least two years subject to the limitations provided in Item H(1) of the Additional Selections and Minor Modifications Addendum. If permitted under Item H(2) of the Additional Selections and Minor Modifications Addendum, a Participant may withdraw any part of his Vested Account as provided in Item H(2) of the Additional Selections and Minor Modifications Addendum, any time after he has become Totally Disabled subject to the limitations provided in Item H(2) of the Additional Selections and Minor Modifications Addendum.

If elected by the Employer in Item Y(7), the portion of the Participant’s Account held in the Qualifying Employer Securities Fund may not be redeemed for purposes of these withdrawals.

A request for withdrawal shall be made in such manner and in accordance with such rules the Employer prescribes for this purpose (including by means of voice response or other electronic means under circumstances the Employer permits). Withdrawals shall be a retirement benefit and shall be distributed to the Participant according to the distribution of benefits provisions of Article VI or VIA, whichever applies. A forfeiture shall not occur solely as a result of a withdrawal.

SECTION 5.06 – LOANS TO PARTICIPANTS.

If permitted under Item U(3)(a), loans shall be made available to all Participants on a reasonably equivalent basis. If Item U(3)(a)(vii) is selected, the source of the loan is limited to the portion of the Participant's Account resulting from the Contributions selected in that Item. If Item U(3)(a)(viii) is selected, loans shall be available only in the event of hardship due to an immediate and heavy financial need, as defined in Section 5.05. The amount of the loan shall be limited to the amount needed to satisfy such need. For purposes of this section, and unless otherwise specified, Participant means any Participant or Beneficiary who is a party-in-interest as defined in ERISA. Loans shall not be made to Highly Compensated Employees in an amount greater than the amount made available to other Participants.

A loan to a Participant shall be a Participant-directed investment of his Account. The loan is a Trust Fund investment but no Account other than the borrowing Participant's Account shall share in the interest paid on the loan or bear any expense or loss incurred because of the loan.

The portion of the Participant's Account, if any, held in the Qualifying Employer Securities Fund may be redeemed as specified in Item U(3)(a)(ix).

The number of outstanding loans shall be limited to one, unless a different number is specified in Item U(3)(a)(iv). No more than one loan shall be approved for any Participant in a rolling 12-month period, unless a different number or 12-month period is specified in Item U(3)(a)(v). If Item U(3)(a)(ii)B is not selected, the minimum amount of any loan shall be $1,000, or the amount specified in Item U(3)(a)(ii)A. If Item U(3)(a)(v)C is selected, after the repayment of an outstanding loan or approval of a loan, no additional loans will be approved for the number of days specified in that Item.

Loans must be adequately secured and bear a reasonable rate of interest.

The amount of the loan shall not exceed the maximum amount that may be treated as a loan under Code Section 72(p) (rather than a distribution) to the Participant and shall be equal to the lesser of
(a) or (b) below:

a) $50,000, reduced by the highest outstanding loan balance of loans during the one-year period ending on the day before the new loan is made.

b) The greater of (1) or (2), reduced by (3) below:

   1) One-half of the Participant's Vested Account (without regard to any accumulated deductible employee contributions, as defined in Code Section 72(o)(5)(B)).

   2) $10,000.

   3) Any outstanding loan balance on the date the new loan is made.

For purposes of this maximum, all qualified employer plans, as defined in Code Section 72(p)(4), of the Employer and any Controlled Group member shall be treated as one plan.

The foregoing notwithstanding, the amount of such loan shall not exceed 50 percent of the amount of the Participant's Vested Account reduced by any outstanding loan balance on the date the new loan is made. In addition, the amount of the loan may be further limited to a specified dollar amount, if Item U(3)(a)(iii) so indicates. If Item U(3)(a)(vii) is selected, the loans can only be made from the portion of the Participant's Vested Account resulting from the Contributions selected in

Item U(3)(a)(vii) and the maximum amount of the loan is further limited to the portion of the Participant's Vested Account resulting from the Contributions selected in Item U(3)(a)(vii) (and further reduced by any outstanding loan balance on the date the new loan is made if more than one outstanding loan is allowed in Item U(3)(a)(iv)A). For purposes of this maximum, a Participant's Vested Account does not include any accumulated deductible employee contributions, as defined in Code Section 72(o)(5)(B). No collateral other than a portion of the Participant's Vested Account (as limited above) shall be accepted.

The Participant's outstanding loan balance shall include any deemed distribution, along with accrued interest, that has not been repaid or offset.

A Participant must obtain the consent of his spouse, if any, to the use of the Vested Account as security for the loan. Spousal consent shall be obtained no earlier than the beginning of the 180-day period that ends on the date on which the loan to be so secured is made. The consent must be in writing, must acknowledge the effect of the loan, and must be witnessed by a plan representative or a notary public. Such consent shall thereafter be binding with respect to the consenting spouse or any subsequent spouse with respect to that loan. A new consent shall be required if the Vested Account is used for collateral upon renegotiation, extension, renewal, or other revision of the loan. If life annuities are not allowed (Item AA(1)(b) is selected and Items AA(2)(a) – (d) are not selected), no spousal consent shall be required. If the Employer elected in Item AA(1)(a) or AA(2) to include life annuities as the automatic form of retirement benefit or as optional forms of distribution and subparagraph (d)(1) of Section 6.03 applies, no consent shall be required. Notwithstanding the foregoing, if Item AA(5)(b) is selected spousal consent shall be required.

If a valid spousal consent has been obtained in accordance with the above, or spousal consent is not required, then, notwithstanding any other provision of this Plan, the portion of the Participant's Vested Account used as a security interest held by the Plan by reason of a loan outstanding to the Participant shall be taken into account for purposes of determining the amount of the Vested Account payable at the time of death or distribution, but only if the reduction is used as repayment of the loan. If spousal consent is required and less than 100 percent of the Participant's Vested Account (determined without regard to the preceding sentence) is payable to the surviving spouse, then the Vested Account shall be adjusted by first reducing the Vested Account by the amount of the security used as repayment of the loan, and then determining the benefit payable to the surviving spouse.

Each loan shall bear a reasonable fixed rate of interest to be determined by the Loan Administrator. In determining the interest rate, the Loan Administrator shall take into consideration fixed interest rates currently being charged by commercial lenders for loans of comparable risk on similar terms and for similar durations, so that the interest will provide for a return commensurate with rates currently charged by commercial lenders for loans made under similar circumstances. The Loan Administrator shall not discriminate among Participants in the matter of interest rates; but loans granted at different times may bear different interest rates in accordance with the current appropriate standards.

The loan shall by its terms require that repayment (principal and interest) be amortized in level payments, not less frequently than quarterly, over a period not extending beyond five years from the date of the loan. If the Employer elected in Item U(3)(a)(vi)A to allow the term of the loan to be longer than five years and the loan is used to acquire a dwelling unit, which within a reasonable time (determined at the time the loan is made) will be used as the principal residence of the Participant, the repayment period may extend beyond five years from the date of the loan, but the extended repayment period shall be consistent with commercial home loan practices. If Item U(3)(a)(vi)A(1) is selected, the repayment period is the number of years specified in Item U(3)(a)(vi)A(1).

The Participant shall make an application for a loan in such manner and in accordance with such rules the Employer prescribes for this purpose (including by means of voice response or other electronic means under circumstances the Employer permits). The application must specify the amount and duration requested.

Information contained in the application for the loan concerning the income, liabilities, and assets of the Participant will be evaluated to determine whether there is a reasonable expectation that the Participant will be able to satisfy payments on the loan as due.

Each loan shall be fully documented in the form of a promissory note signed by the Participant for the face amount of the loan, together with interest determined as specified above.

There will be an assignment of collateral to the Plan executed at the time the loan is made.

In those cases where repayment through payroll deduction is available, installments are so payable, and a payroll deduction agreement shall be executed by the Participant at the time the loan is made. If the Participant has previously been treated as having received a deemed distribution and the subsequent loan is being made before the deemed distribution, along with accrued interest, has been repaid or offset, a payroll deduction agreement shall be required. If a payroll deduction agreement is required because of a previous deemed distribution and the Participant later revokes such agreement, the outstanding loan balance at the time of the revocation shall be treated as a deemed distribution.

Where payroll deduction is not available, payments in cash are to be timely made. Any payment that is not by payroll deduction shall be made payable to the Employer, Insurer or the Trustee, as specified in the promissory note, and delivered to the Plan to be credited to the Account of the Participant. Such payment may include prepayments, service fees and penalties, if any, and other amounts due under the note.

The promissory note may provide for reasonable late payment penalties and service fees. Any penalties or service fees shall be applied to all Participants in a nondiscriminatory manner. If the promissory note so provides, such amounts may be assessed and collected from the Account of the Participant as part of the loan balance.

Each loan may be paid prior to maturity, in part or in full, without penalty or service fee, except as may be set out in the promissory note.

The Plan may suspend loan payments for a period not exceeding one year during which an approved unpaid leave of absence occurs other than a military leave of absence. The Loan Administrator shall provide the Participant a written explanation of the effect of the suspension of payments upon his loan.

If a Participant separates from service (or takes a leave of absence) from the Employer because of service in the military and does not receive a distribution of his Vested Account, the Plan may suspend loan payments until the Participant’s completion of military service or until the Participant’s fifth anniversary of commencement of military service, if earlier, as permitted under Code Section 414(u). The Loan Administrator shall provide the Participant a written explanation of the effect of his military service upon his loan.

A loan shall be in default if any payment of principal and interest, or any portion thereof, remains unpaid for more than 90 days after due. A different number of days or the end of the calendar-year quarter may be specified in Item U(3)(a)(x) for the timing of the loan default. For purposes of Code Section 72(p), the Participant shall then be treated as having received a deemed distribution regardless of whether or not a distributable event has occurred.

Upon default, the Plan has the right to pursue any remedy available by law to satisfy the amount due, along with accrued interest, including the right to enforce its claim against the security pledged and execute upon the collateral as allowed by law. The entire principal balance whether or not otherwise then due, along with accrued interest, shall become immediately due and payable without demand or notice, and subject to collection or satisfaction by any lawful means, including specifically, but not limited to, the right to enforce the claim against the security pledged and to execute upon the collateral as allowed by law.

In the event of default, foreclosure on the note and attachment of security or use of amounts pledged to satisfy the amount then due shall not occur until a distributable event occurs in accordance with the Plan, and shall not occur to an extent greater than the amount then available upon any distributable event which has occurred under the Plan.

All reasonable costs and expenses, including but not limited to attorney's fees, incurred by the Plan in connection with any default or in any proceeding to enforce any provision of a promissory note or instrument by which a promissory note for a Participant loan is secured, shall be assessed and collected from the Account of the Participant as part of the loan balance.

If payroll deduction is being utilized, in the event that a Participant's available payroll deduction amounts in any given month are insufficient to satisfy the total amount due, there will be an increase in the amount taken subsequently, sufficient to make up the amount that is then due. If any amount remains past due more than 90 days, the entire principal amount, whether or not otherwise then due, along with interest then accrued, shall become due and payable, as above. In lieu of 90 days, a different number of days or the end of the calendar-year quarter may be specified in Item U(3)(a)(x).

If no distributable event has occurred under the Plan at the time that the Participant's Vested Account would otherwise be used under this provision to pay any amount due under the outstanding loan, this will not occur until the time, or in excess of the extent to which, a distributable event occurs under the Plan. An outstanding loan will become due and payable in full 60 days (or a different number of days or the end of the calendar-year quarter as specified in Item U(3)(a)(xi)) after a Participant has a Severance from Employment and ceases to be a party-in-interest as defined in ERISA or after complete termination of the Plan, unless otherwise modified as provided below.

a) If Items U(3)(a)(xi)C(1) and (2) are not selected, an outstanding loan shall not be due and payable to the extent a Participant impacted by a business event: (i) elects a Direct Rollover of an Eligible Rollover Distribution that includes the loan note; (ii) the Direct Rollover is paid to another qualified plan; and (iii) the rollover of the loan note is made in accordance with nondiscriminatory procedures set up by the Loan Administrator. For this purpose, a business event means an acquisition, merger, or similar transaction involving a change in the employer of the employees of a trade or business.

b) If Item U(3)(a)(xi)C(1) is selected, the ability to roll over an outstanding loan balance shall not be limited to Participants impacted by a business event.

c) If Item U(3)(a)(xi)(D) is selected, an outstanding loan shall not be due and payable if it has been determined by mutual agreement between the Loan Administrator and the former Participant that the former Participant may continue the repayment of a loan after having a Severance from Employment and ceasing to be a party-in-interest as defined in ERISA.

If the Plan is amended to no longer allow loans, the provisions of this section will continue to apply only for purposes of repaying any outstanding loans as of the effective date of such amendment. If the Plan does not allow loans and another plan that allows loans is merged into this Plan, the loan provisions in effect the day before the effective date of the merger shall continue to apply only for purposes of repaying any outstanding loans as of the effective date of the merger.

SECTION 5.07 – DISTRIBUTIONS UNDER QUALIFIED DOMESTIC RELATIONS ORDERS.

If Item AA(3)(e) is not selected, the Plan specifically permits distributions to an Alternate Payee under a qualified domestic relations order as defined in Code Section 414(p), at any time, irrespective of whether the Participant has attained his earliest retirement age, as defined in Code Section 414(p), under the Plan. A distribution to an Alternate Payee before the Participant has attained his earliest retirement age is available only if the order specifies that distribution shall be made prior to the earliest retirement age or allows the Alternate Payee to elect a distribution prior to the earliest retirement age.

Nothing in this section shall permit a Participant to receive a distribution at a time otherwise not permitted under the Plan nor shall it permit the Alternate Payee to receive a form of payment not permitted under the Plan.

The benefit payable to an Alternate Payee shall be subject to the small amounts payment provisions of Section 10.11 if the value of the benefit does not exceed $5,000 or a lesser amount specified in Item Z(7)(a), if selected.

The Plan Administrator shall establish reasonable procedures to determine the qualified status of a domestic relations order. Upon receiving a domestic relations order, the Plan Administrator shall promptly notify the Participant and each Alternate Payee named in the order, in writing, of the receipt of the order and the Plan's procedures for determining the qualified status of the order. Within a reasonable period of time after receiving the domestic relations order, the Plan Administrator shall determine the qualified status of the order and shall notify the Participant and each Alternate Payee, in writing, of its determination. The Plan Administrator shall provide notice under this paragraph by mailing to the individual's address specified in the domestic relations order, or in a manner consistent with Department of Labor regulations. The Plan Administrator may treat as qualified any domestic relations order entered before January 1, 1985, irrespective of whether it satisfies all the requirements described in Code Section 414(p).

If any portion of the Participant’s Vested Account is payable during the period the Plan Administrator is making its determination of the qualified status of the domestic relations order, a separate accounting shall be made of the amount payable. If the Plan Administrator determines the order is a qualified domestic relations order within 18 months of the date amounts are first payable following receipt of the order, the payable amounts shall be distributed in accordance with the order. If the Plan Administrator does not make its determination of the qualified status of the order within the 18- month determination period, the payable amounts shall be distributed in the manner the Plan would distribute if the order did not exist and the order shall apply prospectively if the Plan Administrator later determines the order is a qualified domestic relations order.

The Plan shall make payments or distributions required under this section by separate benefit checks or other separate distribution to the Alternate Payee(s).

ARTICLE VI
DISTRIBUTION OF BENEFITS FOR PLANS THAT PROVIDE FOR LIFE ANNUITIES

The provisions of this article shall apply if the Employer elected in Item AA(1)(a) or AA(2) to include life annuities as the automatic form of retirement benefit or as optional forms of distribution. The provisions of Article VIA shall apply if life annuities are not allowed (Item AA(1)(b) is selected and Items AA(2)(a) – (d) are not selected).

The provisions of this article shall apply to any Participant who is credited with at least one Hour of Service on or after August 23, 1984, and to such other Participants as provided in Section 6.05.

SECTION 6.01 – AUTOMATIC FORMS OF DISTRIBUTION.

If Item AA(1)(a) is selected, unless an optional form of benefit is selected pursuant to a qualified election within the election period (see Section 6.03), the automatic form of benefit payable to or on behalf of a Participant is determined as follows:

a) Retirement Benefits. The automatic form of retirement benefit for a Participant who does not die before his Annuity Starting Date shall be:

   1) The Qualified Joint and Survivor Annuity for a Participant who has a spouse.

   2) The Normal Form for a Participant who does not have a spouse.

b) Death Benefits. The automatic form of death benefit for a Participant who dies before his Annuity Starting Date shall be:

   1) A Qualified Preretirement Survivor Annuity for a Participant who has a spouse to whom he has been continuously married throughout the one-year period ending on the date of his death. If Item AA(3)(f) is selected the one-year marriage requirement in the preceding sentence shall not apply. The spouse may elect to start receiving the death benefit on any day (the first day of any month if Item Z(2)(a) is selected or the specified day of any month if Item Z(2)(b) is selected) on or after the Participant dies and by the date the Participant would have been age 70 1/2. If the spouse dies before benefits start, the Participant's Vested Account, determined as of the date of the spouse's death, shall be paid to the spouse's Beneficiary.

   2) A single sum payment to the Participant's Beneficiary for a Participant who does not have a spouse who is entitled to a Qualified Preretirement Survivor Annuity.

   Before a death benefit will be paid on account of the death of a Participant who does not have a spouse who is entitled to a Qualified Preretirement Survivor Annuity, it must be established to the satisfaction of a plan representative that the Participant does not have such a spouse.

If Item AA(1)(b) is selected, unless an optional form of benefit is selected pursuant to a qualified election within the election period (see Section 6.03), the automatic form of benefit payable to or on behalf of a Participant is determined as follows:

c) Retirement Benefits. The automatic form of retirement benefit for a Participant who does not die before his Annuity Starting Date shall be a single sum payment.

d) Death Benefits. The automatic form of death benefit for a Participant who dies before his Annuity Starting Date shall be a single sum payment to the Participant's Beneficiary.

SECTION 6.02 – OPTIONAL FORMS OF DISTRIBUTION.

a) Retirement Benefits. The optional forms of retirement benefit shall be the following: (i) if Item AA(2)(b) is selected, a single life annuity; (ii) if Item AA(2)(c) is selected, single life annuities with certain periods of 5, 10, or 15 years; (iii) if Item AA(2)(d) is selected, a single life annuity with installment refund; (iv) if Item AA(2)(a) is selected, survivorship life annuities with installment refund and survivorship percentages of 50%, 66 2/3%, 75%, or 100%; (v) if Item AA(2)(e) is selected, fixed period annuities for any period of whole months that is not less than 60; (vi) if Item AA(2)(f) is selected, a fixed period installment option; (vii) if Item AA(2)(g) is selected, a fixed payment installment option; and (viii) a single sum payment or partial payments subject to the limitations of Item AA(3)(c), if selected. If Item AA(2)(h) is selected, the portion of a Participant's Account that is held in the Qualifying Employer Securities Fund may be distributed in kind. If Item AA(2)(i) is selected, the portion of a Participant's Account that is held in the Self-Directed Brokerage Account may be distributed in kind.

If Item AA(3)(a) is selected, the survivorship life annuities and any life annuity options selected in Item AA(2) will only be available for the portion of a Participant's Account resulting from a direct or indirect transferee after December 31, 1984, of a defined benefit plan, money purchase plan, target benefit plan, stock bonus plan, or profit sharing plan that is subject to the survivor annuity requirements of Code Sections 401(a)(11) and 417.

If Item AA(3)(b) is selected, the portion of a Participant's Account that is held in the Qualifying Employer Securities Fund may only be distributed in-kind.

The fixed period installment option is an optional form of benefit under which the Participant elects to receive substantially equal annual payments over a fixed period of whole years. The annual payment may be paid in annual, semi-annual, quarterly, or monthly installments as elected by the Participant. The Participant may elect to receive additional payments.

The fixed payment installment option is an optional form of benefit under which the Participant elects to receive a specified dollar amount each year. The annual payment may be paid in annual, semi-annual, quarterly, or monthly installments as elected by the Participant. The Participant may elect to receive additional payments.

Under the installment options the amount payable in the Participant's first Distribution Calendar Year, as defined in Section 7.02, must satisfy the minimum distribution requirements of Article VII for such year. Distributions for later Distribution Calendar Years must satisfy the minimum distribution requirements of Article VII for such years. If the Participant's Annuity Starting Date does not occur until his second Distribution Calendar Year, the amount payable for such year must satisfy the minimum distribution requirements of Article VII for both the first and second Distribution Calendar Years.

Election of an optional form is subject to the qualified election provisions of Section 6.03 and the distribution requirements of Article VII.

Any annuity contract distributed shall be nontransferable. The terms of any annuity contract purchased and distributed by the Plan to a Participant or spouse shall comply with the requirements of this Plan.

b) Death Benefits. The optional forms of death benefit are a single sum payment and any annuity that is an optional form of retirement benefit, except for survivorship life annuities.

   Election of an optional form is subject to the qualified election provisions of Section 6.03 and the distribution requirements of Article VII.

SECTION 6.03 – ELECTION PROCEDURES.

The Participant, Beneficiary, or spouse shall make any election under this section in writing. The Plan Administrator may require such individual to complete and sign any necessary documents as to the provisions to be made. Any election permitted under (a) and (b) below shall be subject to the qualified election provisions of (c) below.

a) Retirement Benefits. A Participant may elect his Beneficiary or Contingent Annuitant and may elect to have retirement benefits distributed under any of the optional forms of retirement benefit available in Section 6.02.

b) Death Benefits. A Participant may elect his Beneficiary and may elect to have death benefits distributed under any of the optional forms of death benefit available in Section 6.02.

   If the Participant has not elected an optional form of distribution for the death benefit payable to his Beneficiary, the Beneficiary may, for his own benefit, elect the form of distribution, in like manner as a Participant.

   The Participant may waive the Qualified Preretirement Survivor Annuity by naming someone other than his spouse as Beneficiary.

In lieu of the Qualified Preretirement Survivor Annuity described in Section 6.01, the spouse may, for his own benefit, waive the Qualified Preretirement Survivor Annuity by electing to have the benefit distributed under any of the optional forms of death benefit available in Section 6.02.

c) Qualified Election. The Participant, Beneficiary, or spouse may make an election at any time during the election period. The Participant, Beneficiary, or spouse may revoke the election made (or make a new election) at any time and any number of times during the election period. An election is effective only if it meets the consent requirements below.

1) Election Period for Retirement Benefits. The election period as to retirement benefits is the 180-day period ending on the Annuity Starting Date. An election to waive the Qualified Joint and Survivor Annuity may not be made before the date the Participant is provided with the notice of the ability to waive the Qualified Joint and Survivor Annuity.

2) Election Period for Death Benefits. A Participant may make an election as to death benefits at any time before he dies. The spouse’s election period begins on the date the Participant dies and ends on the date benefits begin. The Beneficiary's election period begins on the date the Participant dies and ends on the date benefits begin.

An election to waive the Qualified Preretirement Survivor Annuity may not be made by the Participant before the date he is provided with the notice of the ability to waive the Qualified Preretirement Survivor Annuity. A Participant’s election to waive the Qualified Preretirement Survivor Annuity that is made before the first day of the Plan Year in which he reaches age 35 shall become invalid on such date. An election made by a Participant after he has a Severance from Employment will not become invalid on the first day of the Plan Year in which he reaches age 35 with respect to death benefits from that part of his Account resulting from Contributions made before he had a Severance from Employment.

3) Consent to Election. If the Participant’s Vested Account exceeds the amount determined in Section 10.11, any benefit that is (i) immediately distributable or (ii) payable in a form other than a Qualified Joint and Survivor Annuity or a Qualified Preretirement Survivor Annuity, requires the consent of the Participant and the Participant’s spouse (or where either the Participant or the spouse has died, the survivor). Such consent shall also be required if the Participant had previously had an Annuity Starting Date with respect to any portion of such Vested Account.

The consent of the Participant or spouse to a benefit that is immediately distributable must not be made before the date the Participant or spouse is provided with the notice of the ability to defer the distribution. Such consent shall be in writing.

The consent shall not be made more than 180 days before the Annuity Starting Date. Spousal consent is not required for a benefit that is immediately distributable in a Qualified Joint and Survivor Annuity. Furthermore, if spousal consent is not required because the Participant is electing an optional form of retirement benefit that is not a life annuity pursuant to (d)(1) below, only the Participant need consent to the distribution of a benefit payable in a form that is not a life annuity and which is immediately distributable. Neither the consent of the Participant nor the Participant’s spouse shall be required to the extent that a distribution is required to satisfy Code Section 401(a)(9) or 415.

In addition, upon termination of this Plan, if the Plan does not offer an annuity option (purchased from a commercial provider), and if the Employer (or any entity within the same Controlled Group) does not maintain another defined contribution plan (other than an employee stock ownership plan as defined in Code Section 4975(e)(7)), the Participant’s Account balance will, without the Participant’s consent, be distributed to the Participant.

However, if any entity within the same Controlled Group maintains another defined contribution plan (other than an employee stock ownership plan as defined in Code Section 4975(e)(7)) the Participant's Account will be transferred, without the Participant's consent, to the other plan if the Participant does not consent to an immediate distribution.

A benefit is immediately distributable if any part of the benefit could be distributed to the Participant (or surviving spouse) before the Participant attains (or would have attained if not deceased) the older of Normal Retirement Age or age 62.

If the Qualified Joint and Survivor Annuity is waived, the spouse has the right to limit consent only to a specific Beneficiary or a specific form of benefit. The spouse can relinquish one or both such rights. Such consent shall be in writing. The consent shall not be made more than 180 days before the Annuity Starting Date. If the Qualified Preretirement Survivor Annuity is waived, the spouse has the right to limit consent only to a specific Beneficiary. Such consent shall be in writing. The spouse's consent shall be witnessed by a plan representative or notary public. The spouse's consent must acknowledge the effect of the election, including that the spouse had the right to limit consent only to a specific Beneficiary or a specific form of benefit, if applicable, and that the relinquishment of one or both such rights was voluntary. Unless the consent of the spouse expressly permits designations by the Participant without a requirement of further consent by the spouse, the spouse's consent must be limited to the form of benefit, if applicable, and the Beneficiary (including any Contingent Annuitant), class of Beneficiaries, or contingent Beneficiary named in the election.

Spousal consent is not required, however, if the Participant establishes to the satisfaction of the plan representative that the consent of the spouse cannot be obtained because there is no spouse or the spouse cannot be located. A spouse's consent under this paragraph shall not be valid with respect to any other spouse. A Participant may revoke a prior election without the consent of the spouse. Any new election will require a new spousal consent, unless the consent of the spouse expressly permits such election by the Participant without further consent by the spouse. A spouse's consent may be revoked at any time within the Participant's election period.

d) <u>Spousal Consent for Profit Sharing Plans</u>. The provisions of (d)(1) below apply if the Employer did not elect in Item AA(5)(b) to require spousal consent for all distributions. The provisions of (d)(2) below apply if the Employer elected in Item AA(5)(b) to require spousal consent for all distributions.

1) <u>Special Rule for Profit Sharing Plans</u>. If the Plan is not a direct or indirect transferee after December 31, 1984, of a defined benefit plan, money purchase plan, target benefit plan, stock bonus plan, or profit sharing plan which is subject to the survivor annuity requirements of Code Sections 401(a)(11) and 417, spousal consent is not required for electing an optional form of retirement benefit that is not a life annuity.

If the Plan is such direct or indirect transferee, spousal consent shall be required for electing an optional form of retirement benefit that is not a life annuity based on the following:

i) If Item AA(5)(a) is not selected, spousal consent shall be required for all Participants electing an optional form of retirement benefit that is not a life annuity.

ii) If Item AA(5)(a) is selected and Item AA(5)(a)(i) is not selected, spousal consent shall be required for electing an optional form of retirement benefit that is not a life annuity if any portion of a Participant's Account resulted from the direct or indirect transfer regardless of whether or not the distribution includes the transferred assets.

iii) If Item AA(5)(a)(i) is selected, spousal consent shall be required for electing an optional form of retirement benefit that is not a life annuity only if the distribution includes any portion of the transferred assets.

iv) If Item AA(5)(b) is selected, spousal consent shall be required for all distributions even if such consent would not otherwise be required under Code Section 417.

SECTION 6.04 – NOTICE REQUIREMENTS.

a) Optional Forms of Retirement Benefit and Right to Defer. The Plan Administrator shall furnish to the Participant and the Participant's spouse a written explanation of the right of the Participant and the Participant's spouse to defer distribution until such time it is no longer immediately distributable. Such notice shall include a written explanation of the optional forms of retirement benefit in Section 6.02, including a general description of the material features and a description of the consequences of not deferring the distribution. The explanation shall be written in a manner that would satisfy the notice requirements of Code Section 417(a)(3) and section 1.417(a)(3)-1 of the regulations.

The Plan Administrator shall furnish the written explanation by a method reasonably calculated to reach the attention of the Participant and the Participant's spouse no less than 30 days, and no more than 180 days, before the Annuity Starting Date.

The Participant (and spouse, if applicable) may waive the 30-day election period if the distribution of the elected form of retirement benefit begins more than 7 days after the Plan Administrator provides the Participant (and spouse, if applicable) the written explanation provided that: (i) the Participant has been provided with information that clearly indicates that the Participant has at least 30 days to consider the decision of whether or not to elect a distribution and a particular distribution option, (ii) the Participant is permitted to revoke any affirmative distribution election at least until the Annuity Starting Date or, if later, at any time prior to the expiration of the 7-day period that begins the day after the explanation is provided to the Participant, and (iii) the Annuity Starting Date is a date after the date that the written explanation was provided to the Participant. Notwithstanding the foregoing, distributions shall only be delayed by the 7-day period above if the Participant is electing an optional form of retirement benefit that is a life annuity or he is subject to the survivor annuity requirements of Code Sections 401(a)(11) and 417, pursuant to Section 6.03(d).

b) Qualified Joint and Survivor Annuity. If Item AA(1)(a) or (2)(a) are selected, the Plan Administrator shall furnish to the Participant a written explanation of the following: the terms and conditions of the Qualified Joint and Survivor Annuity; the Participant's right to make, and the effect of, an election to waive the Qualified Joint and Survivor Annuity; the rights of the Participant's spouse; and the right to revoke an election and the effect of such a revocation.

The Plan Administrator shall furnish the written explanation by a method reasonably calculated to reach the attention of the Participant no less than 30 days, and no more than 180 days, before the Annuity Starting Date.

The Participant (and spouse, if applicable) may waive the 30-day election period if the distribution of the elected form of retirement benefit begins more than 7 days after the Plan Administrator provides the Participant (and spouse, if applicable) the written explanation provided that: (i) the Participant has been provided with information that clearly indicates that the Participant has at least 30 days to consider whether to waive the Qualified Joint and Survivor Annuity and elect (with spousal consent, if applicable) a form of distribution other than a Qualified Joint and Survivor Annuity, (ii) the Participant is permitted to revoke any affirmative distribution election at least until the Annuity Starting Date or, if later, at any time prior to the expiration of the 7-day period that begins the day after the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant, and (iii) the Annuity Starting Date is a date after the date that the written explanation was provided to the Participant. Notwithstanding the foregoing, distributions shall only be delayed by the 7-day period above if the Participant is electing an optional form of retirement benefit that is a life annuity or he is subject to the survivor annuity requirements of Code Sections 401(a)(11) and 417, pursuant to Section 6.03(d).

After the written explanation is given, a Participant or spouse may make a written request for additional information. The written explanation must be personally delivered or mailed (first class mail, postage prepaid) to the Participant or spouse within 30 days from the date of the written request. The Plan Administrator does not need to comply with more than one such request by a Participant or spouse.

The Plan Administrator's explanation shall be written in nontechnical language and will explain the terms and conditions of the Qualified Joint and Survivor Annuity and the financial effect upon the Participant's benefit (in terms of dollars per benefit payment) of electing not to have benefits distributed in accordance with the Qualified Joint and Survivor Annuity. The written explanation shall comply with the requirements of section 1.417(a)(3)-1 of the regulations.

c) Qualified Preretirement Survivor Annuity. If Item AA(1)(a) or (2)(a) are selected, the Plan Administrator shall furnish to the Participant a written explanation of the following: the terms and conditions of the Qualified Preretirement Survivor Annuity; the Participant's right to make, and the effect of, an election to waive the Qualified Preretirement Survivor Annuity; the rights of the Participant's spouse; and the right to revoke an election and the effect of such a revocation.

The Plan Administrator shall furnish the written explanation by a method reasonably calculated to reach the attention of the Participant within the applicable period. The applicable period for a Participant is whichever of the following periods ends last:

1) the period beginning one year before the date the individual becomes a Participant and ending one year after such date; or

2) the period beginning one year before the date the Participant's spouse is first entitled to a Qualified Preretirement Survivor Annuity and ending one year after such date.

If such notice is given before the period beginning with the first day of the Plan Year in which the Participant attains age 32 and ending with the close of the Plan Year preceding the Plan Year in which the Participant attains age 35, an additional notice shall be given within such period. If a Participant has a Severance from Employment before attaining age 35, an additional notice shall be given within the period beginning one year before the date he has a Severance from Employment and ending one year after such date.

After the written explanation is given, a Participant or spouse may make a written request for additional information. The written explanation must be personally delivered or mailed (first class mail, postage prepaid) to the Participant or spouse within 30 days from the date of the written request. The Plan Administrator does not need to comply with more than one such request by a Participant or spouse.

The Plan Administrator's explanation shall be written in nontechnical language and will explain the terms and conditions of the Qualified Preretirement Survivor Annuity and the financial effect upon the spouse's benefit (in terms of dollars per benefit payment) of electing not to have benefits distributed in accordance with the Qualified Preretirement Survivor Annuity. The written explanation shall comply with the requirements of section 1.417(a)(3)-1 of the regulations.

SECTION 6.05 – TRANSITIONAL RULES.

a) Any living Participant not receiving benefits on August 23, 1984, who would otherwise not receive the benefits prescribed by the previous sections of this article, must be given the opportunity to elect to have the prior sections of this article apply if such Participant is credited with at least one Hour of Service under this Plan, or a predecessor plan, in a Plan Year beginning on or after January 1, 1976, and such Participant had at least ten Years of Service when he separated from service.

b) Any living Participant not receiving benefits on August 23, 1984, who was credited with at least one Hour of Service under this Plan, or a predecessor plan, on or after September 2, 1974, and who is not otherwise credited with any service in a Plan Year beginning on or after January 1, 1976, must be given the opportunity to elect to have his benefits paid in accordance with (d) below.

c) The respective opportunities to elect (as described in (a) and (b) above) must be afforded to the appropriate Participants during the period beginning on August 23, 1984, and ending on the date benefits would otherwise begin to such Participants.

d) Any Participant who has elected according to (b) above and any Participant who does not elect under (a) above or who meets the requirements of (a) above except that such Participant does not have at least ten Years of Service when he separates from service, shall have his benefits distributed in accordance with all of the following requirements if benefits would have been payable in the form of a life annuity:

1) Automatic Joint and Survivor Annuity. If benefits in the form of a life annuity become payable to a married Participant who:

i) begins to receive payments under the Plan on or after his Normal Retirement Age; or

ii) dies on or after his Normal Retirement Age while still working for the Employer; or

iii) begins to receive payments on or after his qualified early retirement age; or

iv) separates from service on or after attaining his Normal Retirement Age (or his qualified early retirement age) and after satisfying the eligibility requirements for the payment of benefits under the Plan and thereafter dies before beginning to receive such benefits;

then such benefits shall be paid under the Qualified Joint and Survivor Annuity, unless the Participant has elected otherwise during the election period. The election period must begin at least six months before the Participant attains his qualified early retirement age and end not more than 90 days before benefits begin. Any election hereunder shall be in writing and may be changed by the Participant at any time.

2) Election of Early Survivor Annuity. A Participant who is employed after attaining his qualified early retirement age shall be given the opportunity to elect, during the election period, to have a Qualified Preretirement Survivor Annuity payable on death. If the Participant elects the Qualified Preretirement Survivor Annuity, payments under such annuity must not be less than the payments that would have been made to the spouse under the Qualified Joint and Survivor Annuity if the Participant had retired on the day before his death.

Any election under this provision shall be in writing and may be changed by the Participant at any time. The election period begins on the later of (i) the 90th day before the Participant attains his qualified early retirement age, or (ii) the date on which participation begins, and ends on the date he terminates employment.

3) For purposes of this subparagraph (d), qualified early retirement age is the latest of:

i) the earliest date, under the Plan, on which the Participant may elect to receive retirement benefits,

ii) the first day of the 120th month beginning before the Participant reaches his Normal Retirement Age, or

iii) the date the Participant begins participation.

ARTICLE VIA
DISTRIBUTION OF BENEFITS FOR PLANS THAT DO NOT PROVIDE FOR LIFE ANNUITIES

The provisions of this article shall apply if life annuities are not allowed (Item AA(1)(b) is selected and Items AA(2)(a) – (d) are not selected). The provisions of Article VI shall apply if the Employer elected in Item AA(1)(a) or AA(2) to include life annuities as the automatic form of retirement benefit or as optional forms of distribution.

SECTION 6A.01 – AUTOMATIC FORMS OF DISTRIBUTION.

Unless an optional form of benefit is selected pursuant to a qualified election within the election period (see Section 6A.03), the automatic form of benefit payable to or on behalf of a Participant is determined as follows:

a) Retirement Benefits. The automatic form of retirement benefit for a Participant who does not die before his Annuity Starting Date shall be a single sum payment.

b) Death Benefits. The automatic form of death benefit for a Participant who dies before his Annuity Starting Date shall be a single sum payment to the Participant's Beneficiary.

SECTION 6A.02 – OPTIONAL FORMS OF DISTRIBUTION.

a) Retirement Benefits.

The optional forms of retirement benefit shall be the following: (i) a single sum payment or partial payments subject to the limitations of Item AA(3)(c), if selected; (ii) if Item AA(2)(e) is selected, fixed period annuities for any period of whole months that is not less than 60; (iii) if Item AA(2)(f) is selected, a fixed period installment option; and (iv) if Item AA(2)(g) is selected, a fixed payment installment option. If Item AA(2)(h) is selected, the portion of a Participant's Account that is held in the Qualifying Employer Securities Fund may be distributed in kind. If Item AA(2)(i) is selected, the portion of a Participant's Account that is held in the Self-Directed Brokerage Account may be distributed in kind.

If Item AA(3)(b) is selected, the portion of a Participant's Account that is held in the Qualifying Employer Securities Fund may only be distributed in-kind.

The fixed period installment option is an optional form of benefit under which the Participant elects to receive substantially equal annual payments over a fixed period of whole years. The annual payment may be paid in annual, semi-annual, quarterly, or monthly installments as elected by the Participant. The Participant may elect to receive additional payments.

The fixed payment installment option is an optional form of benefit under which the Participant elects to receive a specified dollar amount each year. The annual payment may be paid in annual, semi-annual, quarterly, or monthly installments as elected by the Participant. The Participant may elect to receive additional payments.

Under the installment options the amount payable in the Participant's first Distribution Calendar Year, as defined in Section 7.02, must satisfy the minimum distribution requirements of Article VII for such year. Distributions for later Distribution Calendar Years must satisfy the minimum distribution requirements of Article VII for such years. If the Participant's Annuity Starting Date does not occur until his second Distribution Calendar Year, the amount payable for such year must satisfy the minimum distribution requirements of Article VII for both the first and second Distribution Calendar Years.

Election of an optional form is subject to the qualified election provisions of Section 6A.03 and the distribution requirements of Article VII.

Any annuity contract distributed shall be nontransferable. The terms of any annuity contract purchased and distributed by the Plan to a Participant or spouse shall comply with the requirements of this Plan.

b) Death Benefits. The optional forms of death benefit are a single sum payment and any annuity that is an optional form of retirement benefit.

   Election of an optional form is subject to the qualified election provisions of Section 6A.03 and the distribution requirements of Article VII.

SECTION 6A.03 – ELECTION PROCEDURES.

The Participant or the Beneficiary, if applicable, shall make any election under this section in writing. The Plan Administrator may require such individual to complete and sign any necessary documents as to the provisions to be made. Any election permitted under (a) and (b) below shall be subject to the qualified election provisions of (c) below.

a) Retirement Benefits. A Participant may elect his Beneficiary and may elect to have retirement benefits distributed under any of the optional forms of retirement benefit available in Section 6A.02.

b) Death Benefits. A Participant may elect his Beneficiary and may elect to have death benefits distributed under any of the optional forms of death benefit available in Section 6A.02.

   If the Participant has not elected an optional form of distribution for the death benefit payable to his Beneficiary, the Beneficiary may, for his own benefit, elect the form of distribution, in like manner as a Participant.

c) Qualified Election. The Participant or Beneficiary, if applicable, may make an election at any time during the election period. The Participant or Beneficiary, if applicable, may revoke the election made (or make a new election) at any time and any number of times during the election period. An election is effective only if it meets the consent requirements below.

   1) Election Period for Retirement Benefits. The Participant may make an election as to retirement benefits at any time before the Annuity Starting Date.

   2) Election Period for Death Benefits. A Participant may make an election as to death benefits at any time before he dies. The Beneficiary's election period, if applicable, begins on the date the Participant dies and ends on the date benefits begin.

   3) Consent to Election. If the Participant's Vested Account exceeds the amount determined in Section 10.11, any benefit that is immediately distributable requires the consent of the Participant.

      The consent of the Participant to a benefit that is immediately distributable must not be made before the date the Participant is provided with the notice of the ability to defer the distribution. Such consent shall be in writing.

The consent shall not be made more than 180 days before the Annuity Starting Date. The consent of the Participant shall not be required to the extent that a distribution is required to satisfy Code Section 401(a)(9) or 415.

In addition, upon termination of this Plan, if the Plan does not offer an annuity option (purchased from a commercial provider), and if the Employer (or any entity within the same Controlled Group) does not maintain another defined contribution plan (other than an employee stock ownership plan as defined in Code Section 4975(e)(7)), the Participant's Account balance will, without the Participant's consent, be distributed to the Participant. However, if any entity within the same Controlled Group maintains another defined contribution plan (other than an employee stock ownership plan as defined in Code Section 4975(e)(7)) the Participant's Account will be transferred, without the Participant's consent, to the other plan if the Participant does not consent to an immediate distribution.

A benefit is immediately distributable if any part of the benefit could be distributed to the Participant before the Participant attains the older of Normal Retirement Age or age 62.

Spousal consent is needed to name a Beneficiary other than the Participant's spouse. If the Participant names a Beneficiary other than his spouse, the spouse has the right to limit consent only to a specific Beneficiary. The spouse can relinquish such right. Such consent shall be in writing. The spouse's consent shall be witnessed by a plan representative or notary public. The spouse's consent must acknowledge the effect of the election, including that the spouse had the right to limit consent only to a specific Beneficiary and that the relinquishment of such right was voluntary. Unless the consent of the spouse expressly permits designations by the Participant without a requirement of further consent by the spouse, the spouse's consent must be limited to the Beneficiary, class of Beneficiaries, or contingent Beneficiary named in the election.

Spousal consent is not required, however, if the Participant establishes to the satisfaction of the plan representative that the consent of the spouse cannot be obtained because there is no spouse or the spouse cannot be located. A spouse's consent under this paragraph shall not be valid with respect to any other spouse. A Participant may revoke a prior election without the consent of the spouse. Any new election will require a new spousal consent, unless the consent of the spouse expressly permits such election by the Participant without further consent by the spouse. A spouse's consent may be revoked at any time within the Participant's election period.

d) Spousal Consent for all Distributions. If Item AA(5)(b) is selected, spousal consent shall be required for all distributions even if such consent would not otherwise be required under Code Section 417. If Item AA(5)(b) is not selected, spousal consent for distributions shall not be required.

SECTION 6A.04 – NOTICE REQUIREMENTS.

If Item AA(1)(b) is selected and no selections are made in Item AA(2), the provisions of (a) below apply. If any selections are made in Item AA(2), the provisions of (b) below apply.

a) Right to Defer. The Plan Administrator shall furnish to the Participant a written explanation of the right of the Participant to defer distribution until the benefit is no longer immediately distributable and a description of the consequences of not deferring the distribution.

The Plan Administrator shall furnish the written explanation by a method reasonably calculated to reach the attention of the Participant no less than 30 days, and no more than 180 days, before the Annuity Starting Date.

However, distribution may begin less than 30 days after the notice described in this subparagraph is given, provided the Plan Administrator clearly informs the Participant that he has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution, and the Participant, after receiving the notice, affirmatively elects a distribution.

b) Optional Forms of Retirement Benefit and Right to Defer. The Plan Administrator shall furnish to the Participant a written explanation of the right of the Participant to defer distribution until such time it is no longer immediately distributable. Such notice shall include a written explanation of the optional forms of retirement benefit in Section 6A.02, including a general description of the material features and a description of the consequences of not deferring the distribution. The explanation shall be written in a manner that would satisfy the notice requirements of Code Section 417(a)(3) and section 1.417(a)(3)-1 of the regulations.

The Plan Administrator shall furnish the written explanation by a method reasonably calculated to reach the attention of the Participant no less than 30 days, and no more than 180 days, before the Annuity Starting Date.

However, distribution may begin less than 30 days after the notice described in this subparagraph is given, provided the Plan Administrator clearly informs the Participant that he has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and if applicable, a particular distribution option), and the Participant, after receiving the notice, affirmatively elects a distribution.

ARTICLE VII
REQUIRED MINIMUM DISTRIBUTIONS

SECTION 7.01 – APPLICATION.

The optional forms of distribution are only those provided in Article VI and VIA, whichever applies. An optional form of distribution shall not be permitted unless it meets the requirements of this article. The timing of any distribution must meet the requirements of this article.

SECTION 7.02 – DEFINITIONS.

For purposes of this article, the following terms are defined:

Distribution Calendar Year means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant’s death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year that contains the Participant’s Required Beginning Date. For distributions beginning after the Participant’s death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under subparagraph (b)(2) of Section 7.03. The required minimum distribution for the Participant’s first Distribution Calendar Year will be made on or before the Participant’s Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant’s Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.

5-percent Owner means a Participant who is treated as a 5-percent Owner for purposes of this article. A Participant is treated as a 5-percent Owner for purposes of this article if such Participant is a 5-percent owner as defined in Code Section 416 at any time during the Plan Year ending with or within the calendar year in which such owner attains age 70 1/2.

Once distributions have begun to a 5-percent Owner under this article, they must continue to be distributed, even if the Participant ceases to be a 5-percent Owner in a subsequent year.

Life Expectancy means life expectancy as computed by use of the Single Life Table in Q&A-1 in section 1.401(a)(9)-9 of the regulations.

Participant's Account Balance means the Account balance as of the last Valuation Date in the calendar year immediately preceding the Distribution Calendar Year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Account as of dates in the valuation calendar year after the Valuation Date and decreased by distributions made in the valuation calendar year after the Valuation Date. The Account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the Distribution Calendar Year if distributed or transferred in the valuation calendar year.

Required Beginning Date means, for a Participant who is a 5-percent Owner, April 1 of the calendar year following the calendar year in which he attains age 70 1/2.

Required Beginning Date means, for a Participant who is not a 5-percent Owner, April 1 of the calendar year following the later of the calendar year in which he attains age 70 1/2 or the calendar year in which he retires.

If the Plan previously provided for a Required Beginning Date based on age 70 1/2 for all Participants, the preretirement age 70 1/2 distribution option is only eliminated with respect to Participants who reach age 70 1/2 in or after a calendar year that begins after the later of December 31, 1998, or the adoption date of the amendment which eliminated such option. The preretirement age 70 1/2 distribution option is an optional form of benefit under which benefits payable in a particular distribution form (including any modifications that may be elected after benefits begin) begin at a time during the period that begins on or after January 1 of the calendar year in which the Participant attains age 70 1/2 and ends April 1 of the immediately following calendar year.

If the Plan previously provided for a Required Beginning Date based on age 70 1/2 for all Participants, the options available for Participants who are not 5-percent Owners and attained age 70 1/2 in calendar years before the calendar year that begins after the later of December 31, 1998, or the adoption date of the amendment which eliminated the preretirement age 70 1/2 distribution option shall be the following. Any such Participant attaining age 70 1/2 in years after 1995 may elect by April 1 of the calendar year following the calendar year in which he attained age 70 1/2 (or by December 31, 1997, in the case of a Participant attaining age 70 1/2 in 1996) to defer distributions until April 1 of the calendar year following the calendar year in which he retires. If no such election is made, the Participant shall begin receiving distributions by April 1 of the calendar year following the year in which he attained age 70 1/2 (or by December 31, 1997, in the case of a Participant attaining age 70 1/2 in 1996). Any such Participant attaining age 70 1/2 in years prior to 1997 may elect to stop distributions that are not purchased annuities and recommence by April 1 of the calendar year following the calendar year in which he retires. To satisfy the joint and survivor annuity requirements described in Article VI, the requirements in Notice 97-75, Q&A-8, must be satisfied for any Participant who elects to stop distributions, including the requirement that such distributions stop before the end of the Plan's remedial amendment period under Code Section 401(b) for changes in plan qualification requirements made by the Small Business Job Protection Act of 1996. There shall be a new Annuity Starting Date upon recommencement.

SECTION 7.03 – REQUIRED MINIMUM DISTRIBUTIONS.

a) General Rules.

1) Subject to Section 6.01, joint and survivor annuity requirements, if applicable, the requirements of this article shall apply to any distribution of a Participant's interest and will

take precedence over any inconsistent provisions of this Plan. Unless otherwise specified, the provisions of this article apply to calendar years beginning after December 31, 2002.

2) All distributions required under this article shall be determined and made in accordance with the regulations under Code Section 401(a)(9), including the incidental death benefit requirement in Code Section 401(a)(9)(G), and the regulations thereunder.

b) Time and Manner of Distribution.

1) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

2) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

i) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later, except to the extent that an election is made to receive distributions in accordance with the 5-year rule under (e) below. Under the 5-year rule, the Participant's entire interest will be distributed to the Designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

ii) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, except to the extent that an election is made to receive distributions in accordance with the 5-year rule under (e) below. Under the 5-year rule, the Participant's entire interest will be distributed to the Designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

iii) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

iv) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse are required to begin, this (b)(2), other than (b)(2)(i), will apply as if the surviving spouse were the Participant.

For purposes of this (b)(2) and (d) below, unless (b)(2)(iv) above applies, distributions are considered to begin on the Participant's Required Beginning Date. If (b)(2)(iv) above applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under (b)(2)(i) above. If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under (b)(2)(i) above), the date distributions are considered to begin is the date distributions actually commence.

3) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year distributions will be made in accordance with (c) and (d) below. If the Participant's interest is distributed in the

form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the regulations thereunder.

c) Required Minimum Distributions During Participant's Lifetime.

1) Amount of Required Minimum Distribution For Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:

i) the quotient obtained by dividing the Participant's Account Balance by the distribution period in the Uniform Lifetime Table set forth in Q&A-2 in section 1.401(a)(9)-9 of the regulations, using the Participant's age as of the Participant's birthday in the Distribution Calendar Year; or

ii) if the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in Q&A-3 in section 1.401(a)(9)-9 of the regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the Distribution Calendar Year.

2) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this (c) beginning with the first Distribution Calendar Year and continuing up to, and including, the Distribution Calendar Year that includes the Participant's date of death.

d) Required Minimum Distributions After Participant's Death.

1) Death On or After Date Distributions Begin.

i) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining Life Expectancy of the Participant or the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as follows:

A. The Participant's remaining Life Expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

B. If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining Life Expectancy of the surviving spouse is calculated for each Distribution Calendar Year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For Distribution Calendar Years after the year of the surviving spouse's death, the remaining Life Expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

C. If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining Life Expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

ii) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no Designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the Participant's remaining Life Expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

2) Death Before Date Distributions Begin.

a) Participant Survived by Designated Beneficiary. If the Participant dies before the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as provided in (d)(1) above, except to the extent that an election is made to receive distributions in accordance with the 5-year rule under (e) below. Under the 5-year rule, the Participant's entire interest will be distributed to the Designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

b) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

c) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under (b)(2)(i) above, this (d)(2) will apply as if the surviving spouse were the Participant.

e) Election of 5-year Rule. Participants or Beneficiaries may elect on an individual basis whether the 5-year rule in (b)(2) and (d)(2) above applies to distributions after the death of a Participant who has a Designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which the distribution would be required to begin under (b)(2) above if no such election is made, or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death.

f) If Item U(5)(a) is selected and the Plan holds Qualifying Employer Securities that are not publicly traded, any distribution of a Participant's Vested Account attributable to Qualifying Employer Securities shall be made subject to the procedures providing liquidity, including the coordination of Contributions for the current Plan Year that are to be made in the form of Qualifying Employer Securities.

SECTION 7.04 – TEFRA SECTION 242(b)(2) ELECTIONS.

a) Notwithstanding the other requirements of this article and subject to the joint and survivor annuity requirements of Article VI, if applicable, distribution on behalf of any Participant, including a 5- percent Owner, who has made a designation under section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (a section 242(b)(2) election) may be made in accordance with all of the following requirements (regardless of when such distribution commences):

1) The distribution by the Plan is one that would not have disqualified such Plan under Code Section 401(a)(9) as in effect prior to amendment by the Deficit Reduction Act of 1984.

2) The distribution is in accordance with a method of distribution designated by the Participant whose interest in the Plan is being distributed or, if the Participant is deceased, by a Beneficiary of such Participant.

3) Such designation was in writing, was signed by the Participant or the Beneficiary, and was made before January 1, 1984.

4) The Participant had accrued a benefit under the Plan as of December 31, 1983.

5) The method of distribution designated by the Participant or the Beneficiary specifies the time at which distribution will commence, the period over which distributions will be made, and in the case of any distribution upon the Participant's death, the Beneficiaries of the Participant listed in order of priority.

b) A distribution upon death will not be covered by this transitional rule unless the information in the designation contains the required information described above with respect to the distributions to be made upon the death of the Participant.

c) For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the Participant, or the Beneficiary, to whom such distribution is being made, will be presumed to have designated the method of distribution under which the distribution is being made if the method of distribution was specified in writing and the distribution satisfies the requirements in (a)(1) and (5) above.

d) If a designation is revoked, any subsequent distribution must satisfy the requirements of Code Section 401(a)(9) and the regulations thereunder. If a designation is revoked subsequent to the date distributions are required to begin, the Plan must distribute by the end of the calendar year following the calendar year in which the revocation occurs the total amount not yet distributed which would have been required to have been distributed to satisfy Code Section 401(a)(9) and the regulations thereunder, but for the section 242(b)(2) election. For calendar years beginning after December 31, 1988, such distributions must meet the minimum distribution incidental benefit requirements. Any changes in the designation will be considered to be a revocation of the designation. However, the mere substitution or addition of another Beneficiary (one not named in the designation) under the designation will not be considered to be a revocation of the designation, so long as such substitution or addition does not alter the period over which distributions are to be made under the designation, directly or indirectly (for example, by altering the relevant measuring life).

e) In the case in which an amount is transferred or rolled over from one plan to another plan, the rules in Q&A-14 and Q&A-15 in section 1.401(a)(9)-8 of the regulations shall apply.

ARTICLE VIII
TERMINATION OF THE PLAN

The Employer expects to continue the Plan indefinitely, but reserves the right to terminate the Plan in whole or in part at any time upon giving written notice to all parties concerned.

The Account of each Participant shall be 100% vested and nonforfeitable as of the effective date of the complete termination of the Plan. The Account of each Participant shall also be 100% vested and nonforfeitable upon complete discontinuance of Contributions. If Item A(4) is selected, the effective date to freeze the Plan will be treated as the date of complete discontinuance of Contributions. Further, the Account of each Participant who is included in the group of Participants deemed to be affected by a partial termination of the Plan (as determined by the Plan Administrator or a governmental entity authorized to make such determination) shall be 100% vested and nonforfeitable as of the effective date of such event. The Participant's Vested Account shall continue to participate in the earnings credited, expenses charged, and any appreciation or depreciation of the Investment Fund until his Vested Account is distributed.

A Participant's Vested Account that does not result from Elective Deferral Contributions, Qualified Nonelective Contributions, Qualified Matching Contributions, QACA Matching Contributions, and QACA Nonelective Contributions may be distributed to the Participant after the effective date of the complete termination of the Plan. A Participant's Vested Account resulting from such Contributions may be distributed upon complete termination of the Plan, but only if neither the Employer nor any Controlled Group member maintain another defined contribution plan (other than an employee stock ownership plan as defined in Code Section 4975(e)(7) or 409(a), a simplified employee pension plan as defined in Code Section 408(k), a SIMPLE IRA plan as defined in Code Section 408(p), a plan or contract that satisfies the requirements of Code Section 403(b), or a plan described in Code Section 457(b) or (f)) at any time during the period beginning on the date of complete termination of the Plan and ending 12 months after all assets have been distributed from the Plan. Such distribution is made in a lump sum. A distribution under this article shall be a retirement benefit and shall be distributed to the Participant according to the provisions of Article VI or VIA, whichever applies. However, the fixed period and fixed payment installment options shall not be available. If a Participant or Beneficiary is receiving payments under the fixed period or fixed payment installment option, the Vested Account shall be paid to such person in a single sum.

The Participant's entire Vested Account shall be paid in a single sum to the Participant as of the effective date of complete termination of the Plan if (i) the requirements for distribution of Elective Deferral Contributions in the above paragraph are met and (ii) consent of the Participant is not required in Section 6.03 or 6A.03, whichever is applicable, to distribute a benefit that is immediately distributable. This is a small amounts payment. The small amounts payment is in full settlement of all benefits otherwise payable.

Upon complete termination of the Plan, no more Employees shall become Participants and no more Contributions shall be made.

The assets of this Plan shall not be paid to the Employer at any time, except that, after the satisfaction of all liabilities under the Plan, any assets remaining may be paid to the Employer. The payment may not be made if it would contravene any provision of law.

ARTICLE IX
ADMINISTRATION OF THE PLAN

SECTION 9.01 – ADMINISTRATION.

Subject to the provisions of this article, the Plan Administrator has complete control of the administration of the Plan. The Plan Administrator has all the powers necessary for it to properly carry out its administrative duties. Not in limitation, but in amplification of the foregoing, the Plan Administrator has complete discretion to construe or interpret the provisions of the Plan, including ambiguous provisions, if any, and to determine all questions that may arise under the Plan, including all questions relating to the eligibility of Employees to participate in the Plan and the amount of benefit to which any Participant, Beneficiary, spouse, or Contingent Annuitant may become entitled. The Plan Administrator's decisions upon all matters within the scope of its authority shall be final.

Without limiting the foregoing, the Plan Administrator shall be the Named Fiduciary for Contributions, unless the Plan Administrator delegates to a retirement committee pursuant to Section 9.06 the duties and responsibilities of the Named Fiduciary for Contributions. The Named Fiduciary for Contributions shall have sole and exclusive responsibility for (i) collecting all Contributions, including the determination of the amount of Contributions required to be made under the Plan, (ii) monitoring and ensuring that Contributions are timely made to the Plan, and (iii) enforcing the Plan’s legal claims for Contributions, including for trusteed plans, responsibility for directing the Trustee with respect to the Plan’s legal claims for delinquent Contributions.

Unless otherwise set out in the Plan or Annuity Contract, the Plan Administrator may delegate recordkeeping and other duties which are necessary to assist it with the administration of the Plan to any person or firm which agrees to accept such duties. The Plan Administrator shall be entitled to rely upon all tables, valuations, certificates, and reports furnished by the consultant or actuary appointed by the Plan Administrator and upon all opinions given by any counsel selected or approved by the Plan Administrator.

The Plan Administrator shall receive all claims for benefits by Participants, former Participants, Beneficiaries, spouses, and Contingent Annuitants. The Plan Administrator shall determine all facts necessary to establish the right of any Claimant to benefits and the amount of those benefits under the provisions of the Plan. The Plan Administrator may establish rules and procedures to be followed by Claimants in filing claims for benefits, in furnishing and verifying proofs necessary to determine age, and in any other matters required to administer the Plan.

SECTION 9.02 – EXPENSES.

Expenses of the Plan, to the extent that the Employer does not pay such expenses, may be paid out of the assets of the Plan provided that such payment is consistent with ERISA. Expenses of the Plan will be paid in accordance with the most recent service and expense agreement or such other documents duly entered into by or with regard to the Plan that govern such matters. The Plan Administrator may establish a separate expense budget account (“EBA”) under the Plan from which expenses will be paid. An EBA will generally be funded by revenue sharing payments remitted to the plan related to the Investment Fund or service agreements, but may also be funded by amounts deducted or netted from Participant Accounts. If any amounts remain in this account after expenses have been paid, the Plan Administrator may, in a uniform and nondiscriminatory manner, allocate amounts to Participants as earnings no later than the Plan Year in which the amounts were credited to the EBA or, in appropriate circumstances, no later than the end of the immediately succeeding Plan Year. Such expenses include, but are not limited to, expenses for bonding required by ERISA; expenses for recordkeeping and other administrative services; fees and expenses of the Trustee or Annuity Contract; expenses for investment education service; and direct costs that the Employer incurs with respect to the Plan. Expenses that relate solely to a specific Participant or Alternate Payee may be assessed against such Participant or Alternate Payee as provided in the service and expense agreement or such other documents duly entered into by or with regard to the Plan that govern such matters.

SECTION 9.03 – RECORDS.

All acts and determinations of the Plan Administrator shall be duly recorded. All these records, together with other documents necessary for the administration of the Plan, shall be preserved in the Plan Administrator's custody.

Writing (handwriting, typing, printing), photostating, photographing, microfilming, magnetic impulse, mechanical or electrical recording, or other forms of data compilation shall be acceptable means of keeping records.

SECTION 9.04 – INFORMATION AVAILABLE.

Any Participant in the Plan or any Beneficiary may examine copies of the summary plan description, latest annual report, any bargaining agreement, this Plan, the Annuity Contract, or any other instrument under which the Plan was established or is operated. The Plan Administrator shall maintain all of the items listed in this section in its office, or in such other place or places as it may designate in order to comply with governmental regulations. These items may be examined during reasonable business hours. Upon the written request of a Participant or Beneficiary receiving benefits under the Plan, the Plan Administrator shall furnish him with a copy of any of these items. The Plan Administrator may make a reasonable charge to the requesting person for the copy.

SECTION 9.05 – CLAIM PROCEDURES.

a) A Claimant must submit any necessary forms and needed information when making a claim for benefits under the Plan.

If a claim for benefits under the Plan is wholly or partially denied, the Plan Administrator shall provide adequate written notice to the Claimant whose claim for benefits under the Plan has been denied. The notice must be furnished within 90 days of the date that the claim is received by the Plan without regard to whether all of the information necessary to make a benefit determination is received. The Claimant shall be notified in writing within this initial 90-day period if special circumstances require an extension of the time needed to process the claim. The notice shall indicate the special circumstances requiring an extension of time and the date by which the Plan Administrator's decision is expected to be rendered. In no event shall such extension exceed a period of 90 days from the end of the initial 90-day period.

The Plan Administrator's notice to the Claimant shall: (i) specify the reason or reasons for the denial; (ii) reference the specific Plan provisions on which the denial is based; (iii) describe any additional material and information needed for the Claimant to perfect his claim for benefits; (iv) explain why the material and information is needed; and (v) inform the Claimant of the Plan’s appeal procedures and the time limits applicable to such procedures, including a statement of the Claimant’s right to bring a civil action under ERISA Section 502(a) following an adverse benefit determination on appeal.

Any appeal made by a Claimant must be made in writing to the Plan Administrator within 60 days after receipt of the Plan Administrator's notice of denial of benefits. If the Claimant appeals to the Plan Administrator, the Claimant may submit written comments, documents, records, and other information relating to the claim for benefits. The Claimant shall be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Claimant’s claim for benefits. The Plan Administrator shall review the claim taking into account all comments, documents, records, and other information submitted by the Claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.

The Plan Administrator shall provide adequate written notice to the Claimant of the Plan’s benefit determination on review. The notice must be furnished within 60 days of the date that the request for review is received by the Plan without regard to whether all of the information necessary to make a benefit determination on review is received. The Claimant shall be notified in writing within this initial 60-day period if special circumstances require an extension of the time needed to process the claim. The notice shall indicate the special circumstances requiring an extension of time and the date by which the Plan Administrator expects to render the determination on review. In no event shall such extension exceed a period of 60 days from the end of the initial 60-day period.

In the event the benefit determination is being made by a committee or board of trustees that hold regularly scheduled meetings at least quarterly, the above paragraph shall not apply. The benefit determination must be made by the date of the meeting of the committee or board that immediately follows the Plan’s receipt of a request for review, unless the request for review is filed within 30 days preceding the date of such meeting. In such case, the benefit determination must be made by the date of the second meeting following the Plan's receipt of the request for review. The date of the receipt of the request for review shall be determined without regard to whether all of the information necessary to make a benefit determination on review is received. The Claimant shall be notified in writing within this initial period if special circumstances require an extension of the time needed to process the claim. The notice shall indicate the special circumstances requiring an extension of time and the date by which the committee or board expects to render the determination on review. In no event shall such benefit determination be made later than the third meeting of the committee or board following the Plan's receipt of the request for review. The Plan Administrator shall provide adequate written notice to the Claimant of the Plan's benefit determination on review as soon as possible, but not later than five days after the benefit determination is made.

If the claim for benefits is wholly or partially denied on review, the Plan Administrator's notice to the Claimant shall: (i) specify the reason or reasons for the denial; (ii) reference the specific Plan provisions on which the denial is based; (iii) include a statement that the Claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Claimant's claim for benefits; and (iv) include a statement of the Claimant's right to bring a civil action under ERISA Section 502(a). Any civil action under (iv) must be filed no later than one year after the date on the Plan Administrator's notice.

A Claimant may authorize a representative to act on the Claimant's behalf with respect to a benefit claim or appeal of an adverse benefit determination. Such authorization shall be made by completion of a form furnished for that purpose. In the absence of any contrary direction from the Claimant, all information and notifications to which the Claimant is entitled shall be directed to the authorized representative.

The Plan Administrator shall perform periodic examinations, reviews, or audits of benefit claims to determine whether claims determinations are made in accordance with the governing Plan documents and, where appropriate, Plan provisions have been consistently applied with respect to similarly situated Claimants.

b) Disability Claim Procedures. If disability is not determined based on Title II of the Federal Social Security Act or in accordance with the terms of the Employer's long-term disability plan, in the case of a claim for disability benefits, the above provisions will be modified as provided below.

The Plan Administrator shall ensure that all claims and appeals for disability benefits are adjudicated in a manner designed to ensure the independence and impartiality of the persons involved in making the decision. If a claim for disability benefits under the Plan is wholly or partially denied, the Plan Administrator shall provide adequate written notice to the Claimant whose claim for benefits under the Plan has been denied. The notice must be furnished within 45 days of the date that the claim is received by the Plan without regard to whether all of the information necessary to make a benefit determination is received. The period for furnishing the notice may be extended for up to 30 days if the Plan Administrator both determines an extension is necessary due to matters beyond the control of the Plan and notifies the Claimant in writing within this initial 45-day period. The notice shall indicate the circumstances requiring the extension of time and the date by which the Plan expects to render a decision. If prior to the end of the first 30-day extension period, the Plan Administrator determines that, due to matters beyond the control of the Plan, a decision cannot be rendered within that extension period, the period may be extended for up to an additional 30 days, provided the Plan Administrator notifies the Claimant in writing, within the first 30-day extension period, of the circumstances requiring the extension and the date by which the Plan expects to render a decision. In the case of any extension, the notice of extension shall specifically explain the standards on which entitlement to a benefit is based, the unresolved issues that prevent a decision on the claim, and the additional information needed to resolve those issues. The Claimant shall be afforded at least 45 days within which to provide the specified information.

In the event that a period of time is extended due to a Claimant's failure to submit information necessary to decide a claim, the period for making the benefit determination shall be tolled from the date on which the notification of the extension is sent to the Claimant until the date on which the Claimant responds to the request for additional information.

The Plan Administrator's notice to the Claimant shall: (i) specify the reason or reasons for the denial; (ii) reference the specific Plan provisions on which the denial is based; (iii) describe any additional material and information needed for the Claimant to perfect his claim for benefits; (iv) explain why the material and information is needed; (v) inform the Claimant of the Plan's appeal procedures and the time limits applicable to such procedures, including a statement of the Claimant's right to bring a civil action under ERISA Section 502(a) following an adverse benefit determination on appeal; (vi) provide the Claimant with any internal rule, guideline, protocol, or other similar criteria that was relied upon in making the adverse determination or a statement that such rule, guideline, protocol, or other similar criteria of the Plan does not exist; and (vii) provide the Claimant with an explanation of any scientific or clinical judgment for the determination if benefit determination is based on a medical necessity or experimental treatment or similar exclusion or limit or a statement that the benefit is based on such an exclusion or limit and such explanation will be provided free of charge.

The notice shall also provide the Claimant with a discussion of the decision, including an explanation of the basis for disagreeing with or not following, (i) the views presented by the Claimant to the Plan of health care professionals treating the Claimant and vocational professionals who evaluated the Claimant; (ii) the views of medical or vocational experts whose advice was obtained on behalf of the Plan in connection with a Claimant's adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination; and (iii) a disability determination regarding the Claimant presented by the Claimant to the Plan made by the Social Security Administration.

The notice shall be provided in a culturally and linguistically appropriate manner and provide a statement that the Claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Claimant's claim for benefits.

Any appeal made by a Claimant must be made in writing to the Plan Administrator within 180 days after receipt of the Plan Administrator's notice of denial of benefits. The Claimant may submit written comments, documents, records, and other information relating to the claim for benefits. The Claimant shall be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Claimant's claim for benefits. The Plan Administrator shall review the claim taking into account all comments, documents, records, and other information submitted by the Claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination. The review shall not afford deference to the initial adverse benefit determination and shall be conducted by an appropriate named fiduciary who is neither the individual who made the adverse benefit determination that is the subject of the appeal, nor the subordinate of such individual. If the adverse benefit determination is based in whole or in part on a medical judgment, the appropriate named fiduciary shall consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment. Such health care professional shall be an individual who is neither an individual who was consulted in connection with the adverse benefit determination that is the subject of the appeal, nor the subordinate of such individual. The Claimant shall be provided with the identity of medical or vocational experts whose advice was obtained on behalf of the Plan in connection with the adverse benefit determination, without regard to whether the advice was relied on.

Before a claim for disability benefits is wholly or partially denied on review, the Plan Administrator shall provide the Claimant, free of charge, with any new or additional evidence considered, relied upon, or generated by the Plan, Insurer, or other person making the benefit determination (or at the direction of the Plan, Insurer or such other person) in connection with the claim; such evidence must be provided as soon as possible and sufficiently in advance of the date on which the notice that the claim for disability benefits is wholly or partially denied on review to give the Claimant a reasonable opportunity to respond prior to that date; and provide before a claim for disability benefits is wholly or partially denied on review based on a new or additional rationale, the Plan Administrator shall provide the Claimant, free of charge, with the rationale; the rationale must be provided as soon as possible and sufficiently in advance of the date on which the notice that the claim for disability benefits is wholly or partially denied on review to give the Claimant a reasonable opportunity to respond prior to that date.

The Plan Administrator shall provide adequate written notice to the Claimant of the Plan's benefit determination on review. The notice must be furnished within 45 days of the date that the request for review is received by the Plan without regard to whether all of the information necessary to make a benefit determination on review is received. The Claimant shall be notified in writing within this initial 45-day period if special circumstances require an extension of the time needed to process the claim. The notice shall indicate the special circumstances requiring an extension of time and the date by which the Plan Administrator expects to render the determination on review. In no event shall such extension exceed a period of 45 days from the end of the initial 45-day period.

To the extent that a period of time is extended due to a Claimant's failure to submit information necessary to decide a claim, the period for making the benefit determination on review shall be tolled from the date on which the notification of the extension is sent to the Claimant until the date on which the Claimant responds to the request for additional information.

If the claim for disability benefits is wholly or partially denied on review, the Plan Administrator's notice to the Claimant shall: (i) specify the reason or reasons for the denial; (ii) reference the specific Plan provisions on which the denial is based; (iii) include a statement that the Claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Claimant's claim for benefits; (iv) include a statement of the Claimant's right to bring a civil action under ERISA Section 502(a); (v) provide the Claimant with any internal rule, guideline, protocol, or other similar criteria that was relied upon in making the adverse determination or a statement that such rule, guideline, protocol, or other similar criteria of the Plan does not exist; (vi) provide the Claimant with an explanation of any scientific or clinical judgment for the determination if benefit determination is based on a medical necessity or experimental treatment or similar exclusion or limit or a statement that the benefit is based on such an exclusion or limit and such explanation will be provided free of charge; and (vii) provide the Claimant with the following statement: "You and your plan may have other voluntary alternative dispute resolution options, such as mediation. One way to find out what may be available is to contact your local U.S. Department of Labor Office and your State insurance regulatory agency." Any civil action under (iv) must be filed no later than one year after the date on the Plan Administrator's notice.

The notice shall also provide the Claimant with a discussion of the decision, including an explanation of the basis for disagreeing with or not following, (i) the views presented by the Claimant to the Plan of health care professionals treating the Claimant and vocational professionals who evaluated the Claimant; (ii) the views of medical or vocational experts whose advice was obtained on behalf of the Plan in connection with a Claimant's adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination; and (iii) a disability determination regarding the Claimant presented by the Claimant to the Plan made by the Social Security Administration.

The notice shall be provided in a culturally and linguistically appropriate manner.

SECTION 9.06 – DELEGATION OF AUTHORITY.

All or any part of the administrative duties and responsibilities under this article may be delegated by the Plan Administrator to a retirement committee. The duties and responsibilities of the retirement committee shall be set out in a separate written agreement.

SECTION 9.07 – EXERCISE OF DISCRETIONARY AUTHORITY.

The Employer, Plan Administrator, and any other person or entity who has authority with respect to the management, administration, or investment of the Plan may exercise that authority in its/his full discretion, subject only to the duties imposed under ERISA. This discretionary authority includes, but is not limited to, the authority to make any and all factual determinations and interpret all terms and provisions of the Plan documents relevant to the issue under consideration. The exercise of authority will be binding upon all persons.

SECTION 9.08 – TRANSACTION PROCESSING.

Transactions (including, but not limited to, investment directions, trades, loans, and distributions) shall be processed as soon as administratively practicable after proper directions are received from the Participant or other parties. No guarantee is made by the Plan, Plan Administrator, Trustee, Insurer, or the Employer that such transactions will be processed on a daily or other basis, and no guarantee is made in any respect regarding the processing time of such transactions. Notwithstanding any other provision of the Plan, the Employer, the Plan Administrator, or the Trustee reserve the right to not value an investment option on any given Valuation Date for any reason deemed appropriate by the Employer, the Plan Administrator, or the Trustee, except that such investment option shall be valued as of the last day of the Plan Year as stated in the definition of Valuation Date in Section 1.02.

Administrative practicality will be determined by legitimate business factors (including, but not limited to, failure of systems or computer programs, failure of the means of the transmission of data, force majeure, the failure of a service provider to timely receive values or prices, and correction for errors or omissions or the errors or omissions of any service provider) and in no event will be deemed to be less than 14 days. The processing date of a transaction shall be binding for all purposes of the Plan and considered the applicable Valuation Date for any transaction.

ARTICLE X
GENERAL PROVISIONS

SECTION 10.01 – AMENDMENTS.

a) Amendment by the Employer.

The Employer may:

1) amend a selection or specification in the Adoption Agreement at any time, including any remedial retroactive changes (within the time specified by Internal Revenue Service regulations), to comply with any law or regulation issued by any governmental agency to which the Plan is subject.

2) amend the Adoption Agreement to specify or change the effective date of a provision as permitted under the Plan.

3) amend the Plan by adding overriding plan language to the Adoption Agreement in order to satisfy Code Sections 415 and 416 because of the required aggregation of multiple plans under those sections.

4) amend the Plan by adding sample or model Plan amendments published by the Internal Revenue Service that provide that their adoption will not result in the Employer losing reliance on the opinion letter.

5) amend administrative provisions of the Plan such as provisions relating to investments, Plan claims procedures, and Employer contact information provided the amended provisions are not in conflict with any other provision of the Plan and do not cause the Plan to fail to qualify under Code Section 4.01.

6) make interim amendments or discretionary amendments that are related to a change in qualification requirements.

7) amend the Plan in order to correct failures under the Internal Revenue Service correction programs or to correct a coverage or nondiscrimination failure, as permitted under applicable Treasury regulations. An amendment to this Plan will be forwarded to Principal Life Insurance Company, the pre-approved plan provider.

8) attach an addendum which lists the Code Section 411(d)(6) protected benefits that must be preserved due to a restatement or amendment of the Plan. Such a list would not be considered an amendment to the Plan and will not cause the Plan to be treated as individually designed.

9) make minor modifications to the Plan as permitted under section 8 of Revenue Procedure 2017-41.

If the Employer amends the Plan for any reason other than those set out above, the Plan shall no longer have reliance on the opinion letter. The Employer reserves the right to continue its retirement program under a document separate and distinct from this Plan. In such event, all rights and obligations of the Employer, or of any Participant or Beneficiary, under this document, shall cease. Assets held in support of this Plan will be transferred to the designated funding medium under the new or restated plan and, if applicable, trust agreement, in the manner permitted under, and subject to the provisions of, the Annuity Contract.

An amendment may not allow reversion or diversion of Plan assets to the Employer at any time, except as may be required to comply with any law or regulation issued by any governmental agency to which the Plan is subject.

An amendment may not eliminate or reduce a section 411(d)(6) protected benefit, as defined in Q&A-1 in section 1.411(d)-4 of the regulations, that has already accrued, except as provided in section 1.411(d)-3 or 1.411(d)-4 of the regulations. This is generally the case even if such elimination or reduction is contingent upon the Employee's consent and includes an amendment that otherwise places greater restrictions or conditions on a Participant's right to Code Section 411(d)(6) protected benefits, even if the amendment merely adds a restriction or condition that is permitted under the vesting rules in Code Section 411(a)(3) through (11). However, the Plan may be amended to eliminate or reduce section 411(d)(6) protected benefits with respect to benefits not yet accrued as of the later of the amendment's adoption date or effective date without violating Code Section 411(d)(6). For purposes of this paragraph, an amendment that has the effect of decreasing a Participant's Account balance, with respect to benefits attributable to service before the amendment, shall be treated as reducing an accrued benefit.

No amendment to the Plan shall be effective to eliminate or restrict an optional form of benefit. The preceding sentence shall not apply to a Plan amendment that eliminates or restricts the ability of a Participant to receive payment of his Account balance under a particular optional form of benefit if the amendment provides a single sum distribution form that is otherwise identical to the optional form of benefit being eliminated or restricted. For this purpose, a single sum distribution form is otherwise identical only if the single sum distribution form is identical in all respects to the eliminated or restricted optional form of benefit (or would be identical except that it provides greater rights to the Participant) except with respect to the timing of payments after commencement.

If, as a result of an amendment, an Employer Contribution is removed that is not 100% immediately vested when made, the applicable vesting schedule in effect as of the last day such Contributions were permitted shall remain in effect with respect to that part of the Participant's Account resulting from such Contributions. The Participant shall not become immediately 100% vested in such Contributions as a result of the elimination of such Contribution except as otherwise specifically provided in the Plan.

An amendment shall not decrease a Participant's vested interest in the Plan. If an amendment to the Plan changes the computation of the percentage used to determine that portion of a Participant's Account attributable to Employer Contributions which is nonforfeitable (whether directly or indirectly), in the case of an Employee who is a Participant as of the later of the date such amendment or change is adopted or the date it becomes effective, the nonforfeitable percentage (determined as of such date) of such Employee's right to his Account attributable to Employer Contributions shall not be less than the percentage computed under the Plan without regard to such amendment or change. Furthermore, each Participant or former Participant

1) who has completed at least three Years of Service on the date the election period described below ends (five Years of Service if the Participant does not have at least one Hour of Service in a Plan Year beginning after December 31, 1988) and

2) whose nonforfeitable percentage will be determined on any date after the date of the change

may elect, during the election period, to have the nonforfeitable percentage of his Account resulting from Employer Contributions determined without regard to the amendment. This election may not be revoked. If after the Plan is changed, the Participant's nonforfeitable percentage will at all times be as great as it would have been if the change had not been made, no election needs to be provided. The election period shall begin no later than the date the Plan amendment is adopted and end no earlier than the 60th day after the latest of the date the amendment is adopted or becomes effective, or the date the Participant is issued written notice of the amendment by the Employer or the Plan Administrator.

With respect to a Participant's Account attributable to Employer Contributions accrued as of the later of the adoption or effective date of the amendment and earnings, the vested percentage of each Participant will be the greater of the vested percentage under the old vesting schedule or the vested percentage under the new vesting schedule.

b) Amendment by the Pre-approved Plan Provider.

The Employer delegates the authority to amend this Plan to Principal Life Insurance Company as the pre-approved plan provider. The Employer hereby consents to any such amendment. However, no such amendment shall increase the duties of the Named Fiduciary without his consent. Such an amendment shall not deprive any Participant or Beneficiary of any accrued benefit except to the extent necessary to comply with any law or regulation issued by any governmental agency to which this Plan is subject. Such an amendment shall not provide that the Plan Fund be used for any purpose other than the exclusive benefit of Participants or their Beneficiaries or that such Plan Fund ever revert to or be used by the Employer.

However, for purposes of reliance on an opinion letter, Principal Life Insurance Company as the pre-approved plan provider will no longer have the authority to amend the Plan on behalf of the Employer as of the date (i) the Employer amends the Plan to incorporate a type of plan described in section 6.03 of Revenue Procedure 2017-41 that is not permitted under the Opinion Letter program, or (ii) the Internal Revenue Service notifies the Employer, in accordance with section 8.06(3) of Revenue Procedure 2017-41, that the Plan is an individually designed plan due to the nature and extent of employer amendments to the Plan.

Any amendment to this Plan by Principal Life Insurance Company, as the pre-approved plan provider, shall be deemed to be an amendment to this Plan by the Employer. The effective date of any amendment shall be specified in the written instrument of amendment.

SECTION 10.02 – DIRECT ROLLOVERS.

Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this section, a Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

In the event of a Mandatory Distribution of an Eligible Rollover Distribution greater than $1,000, or a lesser amount specified in Item Z(7)(c), if selected, in accordance with the small amounts payment provisions of Section 10.11 (or which is a small amounts payment under Article VIII at complete termination of the Plan), if the Participant does not elect to have such distribution paid directly to an Eligible Retirement Plan specified by the Participant in a Direct Rollover or to receive the distribution directly, the Plan Administrator will pay the distribution in a Direct Rollover to an individual retirement plan with an affiliate of Principal Life Insurance Company. For purposes of determining whether a Mandatory Distribution is greater than $1,000, or a lesser amount specified in Item Z(7)(c), if selected, (i) the portion of the Participant’s distribution attributable to any Rollover Contributions is included, unless Item Z(7)(b) is selected, in which case any such Rollover Contributions shall be disregarded; and (ii) a Designated Roth Account and all other accounts under the Plan shall be treated as accounts held under two separate plans and shall not be combined.

In the event of any other Eligible Rollover Distribution to a Distributee in accordance with the small amounts payment provisions of Section 10.11 (or which is a small amounts payment under Article VIII at complete termination of the Plan), if the Distributee does not elect to have such distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover or to receive the distribution directly, the Plan Administrator will pay the distribution to the Distributee.

SECTION 10.03 – MERGERS AND DIRECT TRANSFERS.

The Plan may not be merged or consolidated with, nor have its assets or liabilities transferred to, any other retirement plan, unless each Participant in this Plan would (if that plan then terminated) receive a benefit immediately after the merger, consolidation, or transfer that is equal to or greater than the benefit the Participant would have been entitled to receive immediately before the merger, consolidation, or transfer (if this Plan had then terminated). The Employer may enter into merger agreements or direct transfer of assets agreements with the employers under other retirement plans which are qualifiable under Code Section 401(a), including an elective transfer, and may accept the direct transfer of plan assets, or may transfer plan assets, as a party to any such agreement. The Employer shall not consent to, or be a party to a merger, consolidation, or transfer of assets with a defined benefit plan if such action would result in a defined benefit feature being maintained under this Plan. The Employer will not transfer any amounts attributable to elective deferral contributions, qualified matching contributions, qualified nonelective contributions, and contributions used to satisfy Code Section 401(k)(13) safe harbors unless the transferee plan provides that the limitations of section 1.401(k)-1(d) of the regulations shall apply to such amounts (including post-transfer earnings thereon), unless the amounts could have been distributed at the time of the transfer (other than for hardship or deemed severance from employment as described in Section 5.03), and the transfer is an elective transfer described in Q&A-3(b)(1) in section 1.411(d)-4 of the regulations.

Notwithstanding any provision of the Plan to the contrary, to the extent any optional form of benefit under the Plan permits a distribution prior to the Employee’s retirement, death, disability, or Severance from Employment, and prior to plan termination, the optional form of benefit is not available with respect to benefits attributable to assets (including the post-transfer earnings thereon) and liabilities that are transferred, within the meaning of Code Section 414(l), to this Plan from a money purchase pension plan qualified under Code Section 401(a) (other than any portion of those assets and liabilities attributable to voluntary employee contributions). The limitations of section 1.401(k)-1(d) of the regulations applicable to elective deferral contributions, qualified matching contributions, qualified nonelective contributions, and contributions used to satisfy Code Section 401(k)(13) safe harbors shall continue to apply to any amounts attributable to such contributions (including post-transfer earnings thereon) transferred to this Plan, unless the amounts could have been distributed at the time of the transfer (other than for hardship or deemed severance from employment as described in Section 5.03), and the transfer is an elective transfer described in Q&A- 3(b)(1) in section 1.411(d)-4 of the regulations.

The Plan may accept a direct transfer of plan assets on behalf of an Eligible Employee. If the Eligible Employee is not an Active Participant when the transfer is made, the Eligible Employee shall be deemed to be an Active Participant only for the purpose of investment and distribution of the transferred assets. Employer Contributions shall not be made for or allocated to the Eligible Employee and he may not make Participant Contributions, until the time he meets all of the requirements to become an Active Participant.

The Plan shall hold, administer, and distribute the transferred assets as a part of the Plan. The Plan shall maintain a separate account for the benefit of the Employee on whose behalf the Plan accepted the transfer in order to reflect the value of the transferred assets.

A Participant's section 411(d)(6) protected benefits, as defined in Q&A-1 in section 1.411(d)-4 of the regulations, may not be eliminated by reason of transfer or any transaction amending or having the effect of amending a plan or plans to transfer benefits except as provided below.

A Participant's section 411(d)(6) protected benefits may be eliminated or reduced upon transfer between qualified defined contribution plans if the conditions in Q&A-3(b)(1) in section 1.411(d)-4 of the regulations are met. The transfer must meet all of the other applicable qualification requirements.

A Participant's section 411(d)(6) protected benefits may be eliminated or reduced if a transfer is an elective transfer of certain distributable benefits between qualified plans (both defined benefit and defined contribution) and the conditions in Q&A-3(c)(1) in section 1.411(d)-4 of the regulations are met. The rules applicable to distributions under the plan would apply to the transfer, but the transfer would not be treated as a distribution for purposes of the minimum distribution requirements of Code Section 401(a)(9). If the Participant is eligible to receive an immediate distribution of his entire Vested Account in a single sum distribution that would consist entirely of an eligible rollover distribution under Code Section 401(a)(31), such transfer will be accomplished as a direct rollover under Code Section 401(a)(31).

SECTION 10.04 – PROVISIONS RELATING TO THE INSURER AND OTHER PARTIES.

The obligations of an Insurer shall be governed solely by the provisions of the Annuity Contract. The Insurer shall not be required to perform any act not provided in or contrary to the provisions of the Annuity Contract. Each Annuity Contract when purchased will comply with the Plan. See Section 10.09.

Any issuer or distributor of investment contracts or securities is governed solely by the terms of its policies, written investment contract, prospectuses, security instruments, and any other written agreements entered into with the Trustee with regard to such investment contracts or securities.

Such Insurer, issuer, or distributor is not a party to the Plan, nor bound in any way by the Plan provisions. Such parties shall not be required to look to the terms of this Plan, nor to determine whether the Employer, the Plan Administrator, the Trustee, or the Named Fiduciary have the authority to act in any particular manner or to make any contract or agreement.

Until notice of any amendment or termination of this Plan or a change in Trustee has been received by the Insurer at its home office or an issuer or distributor at their principal address, they are and shall be fully protected in assuming that the Plan has not been amended or terminated and in dealing with any party acting as Trustee according to the latest information which they have received at their home office or principal address.

SECTION 10.05 – EMPLOYMENT STATUS.

Nothing contained in this Plan gives an Employee the right to be retained in the Employer's employ or to interfere with the Employer's right to discharge any Employee.

SECTION 10.06 – RIGHTS TO PLAN ASSETS.

An Employee shall not have any right to or interest in any assets of the Plan upon termination of employment or otherwise except as specifically provided under this Plan, and then only to the extent of the benefits payable to such Employee according to the Plan provisions.

Any final payment or distribution to a Participant or his legal representative or to any Beneficiaries, spouse, or Contingent Annuitant of such Participant under the Plan provisions shall be in full satisfaction of all claims against the Plan, the Named Fiduciary, the Plan Administrator, the Insurer, the Trustee, and the Employer arising under or by virtue of the Plan.

SECTION 10.07 – BENEFICIARY.

Each Participant may name a Beneficiary to receive any death benefit (other than any income payable to a Contingent Annuitant) that may arise out of his participation in the Plan. The Participant may change his Beneficiary from time to time. If life annuities are not allowed (Item AA(1)(b) is selected and Items AA(2)(a) – (d) are not selected), unless a qualified election has been made, for purposes of distributing any death benefits before the Participant's Retirement Date, the Beneficiary of a Participant who has a spouse shall be the Participant's spouse. If the Employer elected in Item AA(1)(a) or AA(2) to include life annuities as the automatic form of retirement benefit or as optional forms of distribution, unless a qualified election has been made, for purposes of distributing any death benefits before the Participant's Retirement Date, the Beneficiary of a Participant who has a spouse who is entitled to a Qualified Preretirement Survivor Annuity shall be the Participant's spouse. The Participant's Beneficiary designation and any change of Beneficiary shall be subject to the provisions of Section 6.03 or 6A.03, whichever applies.

It is the responsibility of the Participant to give written notice to the Plan Administrator of the name of the Beneficiary on a form furnished for that purpose. The Plan Administrator shall maintain records of Beneficiary designations for Participants before their Retirement Dates. However, the Plan Administrator may delegate to another party the responsibility of maintaining records of Beneficiary designations. In that event, the written designations made by Participants shall be filed with such other party. If a party other than the Insurer maintains the records of Beneficiary designations and a Participant dies before his Retirement Date, such other party shall certify to the Insurer the Beneficiary designation on its records for the Participant.

If there is no Beneficiary named or surviving when a Participant dies, the Participant's Beneficiary shall be the Participant's surviving spouse, or where there is no surviving spouse, the executor or administrator of the Participant's estate for the benefit of the estate, unless otherwise specified in Item Z(8)(a).

SECTION 10.08 – NONALIENATION OF BENEFITS.

Benefits payable under the Plan are not subject to the claims of any creditor of any Participant, Beneficiary, spouse, or Contingent Annuitant. A Participant, Beneficiary, spouse, or Contingent Annuitant does not have any rights to alienate, anticipate, commute, pledge, encumber, or assign such benefits except in the case of a loan as provided in Section 5.06. The preceding sentences shall also apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a Participant according to a domestic relations order, unless such order is determined by the Plan Administrator to be a qualified domestic relations order, as defined in Code Section 414(p), or any domestic relations order entered before January 1, 1985. The preceding sentences shall not apply to any offset of a Participant's benefits provided under the Plan against an amount the Participant is required to pay the Plan with respect to a judgment, order, or decree issued, or a settlement entered into which meets the requirements of Code Sections 401(a)(13)(C) or (D).

SECTION 10.09 – CONSTRUCTION.

The validity of the Plan or any of its provisions is determined under and construed according to Federal law and, to the extent permissible, according to the laws of the state in which the Employer has its principal office. In case any provision of this Plan is held illegal or invalid for any reason, such determination shall not affect the remaining provisions of this Plan, and the Plan shall be construed and enforced as if the illegal or invalid provision had never been included.

In the event of any conflict between the provisions of the Plan and the terms of any Annuity Contract issued hereunder, the provisions of the Plan control. Moreover, in the event of any conflict between the terms of the Plan and any conflicting provision contained in any associated trust, custodial account document or any document that is incorporate by reference, the terms of this Plan will govern.

SECTION 10.10 – LEGAL ACTIONS.

No person employed by the Employer; no Participant, former Participant, or their Beneficiaries; nor any other person having or claiming to have an interest in the Plan is entitled to any notice of process. A final judgment entered in any such action or proceeding shall be binding and conclusive on all persons having or claiming to have an interest in the Plan. Should any Participant, Beneficiary, or other person claiming an interest in the Plan pursue legal action against the Plan, such legal action may not be brought more than two years following the date such cause of action or proceeding arose.

SECTION 10.11 – SMALL AMOUNTS.

If the value of the Participant's Vested Account does not exceed $5,000 or a lesser amount specified in Item Z(7)(a), if selected, the Participant's entire Vested Account shall be distributed as of the earliest of his Retirement Date, the date he dies, or the date he has a Severance from Employment for any other reason (the date the Employer provides notice to the record keeper of the Plan of such event, if later); provided, however, if the Plan holds Qualifying Employer Securities that are not publicly traded, amounts invested in Qualifying Employer Securities may only be distributed subject to the Plan's available liquidity. For purposes of this section, if Item Z(7)(b) is selected, Rollover Contributions shall be disregarded when determining the value of the Participant's Vested Account. If the Participant's Vested Account is zero, the Participant shall be deemed to have received a distribution of such Vested Account. This is a small amounts payment.

If the vested benefit delay of the small vested account in Item Z(6) is selected, the Participant shall not be treated as having a Severance from Employment for any reason other than retirement or death before the period of time specified has elapsed or becoming Totally Disabled, if applicable, and no small amounts payment shall be made if he again becomes an Employee before such period of time has elapsed.

In the event a Participant does not elect to have a small amounts payment paid directly to an Eligible Retirement Plan specified by the Participant in a Direct Rollover or to receive the distribution directly and his Vested Account is greater than $1,000, or a lesser amount specified in Item Z(7)(c), if selected, a Mandatory Distribution will be made in accordance with the provisions of Section 10.02. If his Vested Account is $1,000, or the amount specified in Item Z(7)(c), or less, the Participant's entire Vested Account shall be paid directly to him.

If a small amounts payment is made on or after the date the Participant dies, the small amounts payment shall be made to the Participant's Beneficiary (spouse if the death benefit is payable to the spouse). If a small amounts payment is made while the Participant is living, the small amounts payment shall be made to the Participant.

The small amounts payment is in full settlement of all benefits otherwise payable. No other small amounts payment shall be made.

SECTION 10.12 – WORD USAGE.

The masculine gender, where used in this Plan, shall include the feminine gender and the singular words, where used in this Plan, shall include the plural, unless the context indicates otherwise.

The words "in writing" and "written", where used in this Plan, shall include any other forms (such as voice response or other electronic system) as permitted by any governmental agency to which the Plan is subject.

SECTION 10.13 – CHANGE IN SERVICE METHOD.

a) <u>Change of Service Method Under This Plan</u>. If this Plan is amended to change the method of crediting service from the elapsed time method to the hours method for any purpose under this Plan, the Employee's service shall be equal to the sum of (1), (2), and (3) below:

   1) The number of whole years of service credited to the Employee under the Plan as of the date the change is effective.

   2) One year of service for the service period in which the change is effective if he is credited with the required number of Hours of Service. For that portion of the service period ending on the date of the change (for the first day of the service period if the change is made on the first day of the service period), the Employee will be credited with the greater of (i) his actual Hours of Service or (ii) the number of Hours of Service that is equivalent to the fractional part of a year of elapsed time service credited as of the date of the change, if any. In determining the equivalent Hours of Service, the Employee shall be credited with 190 Hours of Service for each month and any fractional part of a month in such fractional part of a year. The number of months and any fractional part of a month shall be determined by multiplying the fractional part of a year, expressed as a decimal, by 12. For the remaining portion of the service period (the period beginning on the second day of the service period and ending on the last day of the service period if the change is made on the first day of the service period), the Employee will be credited with his actual Hours of Service.

   3) The Employee's service determined under this Plan using the hours method after the end of the service period in which the change in service method was effective.

   If this Plan is amended to change the method of crediting service from the hours method to the elapsed time method for any purpose under this Plan, the Employee's service shall be equal to the sum of (4), (5), and (6) below:

   4) The number of whole years of service credited to the Employee under the Plan as of the beginning of the service period in which the change in service method is effective.

5) The greater of (i) the service that would be credited to the Employee for that entire service period using the elapsed time method or (ii) the service credited to him under the Plan as of the date the change is effective.

6) The Employee’s service determined under this Plan using the elapsed time method after the end of the applicable service period in which the change in service method was effective.

b) Transfers Between Plans with Different Service Methods. If an Employee has been a participant in another plan of the Employer that credited service under the elapsed time method for any purpose that under this Plan is determined using the hours method, then the Employee's service shall be equal to the sum of (1), (2), and (3) below:

1) The number of whole years of service credited to the Employee under the other plan as of the date he became an Eligible Employee under this Plan.

2) One year of service for the applicable service period in which he became an Eligible Employee if he is credited with the required number of Hours of Service. For that portion of such service period ending on the date he became an Eligible Employee (for the first day of such service period if he became an Eligible Employee on the first day of such service period), the Employee will be credited with the greater of (i) his actual Hours of Service or (ii) the number of Hours of Service that is equivalent to the fractional part of a year of elapsed time service credited as of the date he became an Eligible Employee, if any. In determining the equivalent Hours of Service, the Employee shall be credited with 190 Hours of Service for each month and any fractional part of a month in such fractional part of a year. The number of months and any fractional part of a month shall be determined by multiplying the fractional part of a year, expressed as a decimal, by 12. For the remaining portion of such service period (the period beginning on the second day of such service period and ending on the last day of such service period if he became an Eligible Employee on the first day of such service period), the Employee will be credited with his actual Hours of Service.

3) The Employee's service determined under this Plan using the hours method after the end of the service period in which he became an Eligible Employee.

If an Employee has been a participant in another plan of the Employer that credited service under the hours method for any purpose that under this Plan is determined using the elapsed time method, then the Employee's service shall be equal to the sum of (4), (5), and (6) below.

4) The number of whole years of service credited to the Employee under the other plan as of the beginning of the service period under that plan in which he became an Eligible Employee under this Plan.

5) The greater of (i) the service that would be credited to the Employee for that entire service period using the elapsed time method or (ii) the service credited to him under the other plan as of the date he became an Eligible Employee under this Plan.

6) The Employee's service determined under this Plan using the elapsed time method after the end of the applicable service period under the other plan in which he became an Eligible Employee.

If an Employee has been a participant in a Controlled Group member's plan that credited service under a different method than is used in this Plan, in order to determine entry and vesting, the provisions in (b) above shall apply as though the Controlled Group member's plan was a plan of the Employer.

Any modification of service contained in this Plan shall be applicable to the service determined pursuant to this section.

SECTION 10.14 – MILITARY SERVICE.

Notwithstanding any provision of this Plan to the contrary, the Plan shall provide contributions, benefits, and service credit with respect to Qualified Military Service in accordance with Code Section 414(u). Loan repayments may be suspended under this Plan as permitted under Code Section 414(u).

A Participant who dies on or after January 1, 2007, while performing Qualified Military Service is treated as having resumed and then terminated employment on account of death, in accordance with Code Section 401(a)(37) and any subsequent guidance. The survivors of such Participant are entitled to any additional benefits provided under the Plan on account of death of the Participant.

SECTION 10.15 – QUALIFICATION OF PLAN.

If the Plan is denied initial qualification upon filing timely application, it will be treated as void from the beginning. It will be terminated and all amounts contributed to the Plan, less expenses paid, shall be returned to the Employer within one year after the date of denial. If amounts have been contributed by Employees, the Employer shall refund to each Employee the amount made by him or, if less, the amount then in his Account resulting from such amounts. The Insurer and Trustee shall be discharged from all further obligations.

If the Plan fails to attain or retain qualification, it shall no longer participate in this pre-approved plan and shall be considered an individually designed plan.

SECTION 10.16 – UNCLAIMED PROPERTY.

In the event a cash distribution of a small Vested Account in accordance with Section 10.11 or any other distribution (whether required by the Plan or requested by a Participant or Beneficiary) in accordance with Article VI, VIA or VII, whichever applies, goes unclaimed by a Participant or Beneficiary, the Plan Administrator, at its discretion, may treat such amount as a Forfeiture or pay the distribution in a Direct Rollover to an individual retirement plan with an affiliate of Principal Life Insurance Company.

Before any unclaimed amount may be treated as a Forfeiture, the Plan Administrator must make reasonable efforts to locate the Participant or Beneficiary who is entitled to the unclaimed amount. For this purpose, reasonable efforts include, but are not limited to the following: (i) send a notice to the Participant or Beneficiary at his last known address via certified mail; (ii) check related plan and employer records for updated information regarding the current residence of the Participant or Beneficiary; (iii) in the case of a Participant who has named a Designated Beneficiary, contact his Designated Beneficiary to request updated contract information for the Participant; (iv) use of one or more free internet search tools; (v) use of Internet search tools, commercial locator services, credit reporting agencies, information brokers, investigation databases and analogous services. Reasonable expenses to conduct a search for the Participant or Beneficiary, may be assessed against the Participant's Account.

If a Participant or Beneficiary make a claim for benefits that have been treated as a Forfeiture under this section, the Plan Administrator shall restore the amount that was forfeited, unadjusted for any investment gains or losses. If a Participant again becomes an Employee of the Employer, he will be deemed to have made a claim for any of his benefits that were subject to Forfeiture under this section. If the Employer terminates the Plan, any amounts forfeited under this section shall be restored and paid in a Direct Rollover to an individual retirement plan for the benefit of the Participant or Beneficiary who is entitled to the unclaimed amount. Notwithstanding the foregoing, any amount that is subject to escheatment under applicable state law shall not be considered a Forfeiture under this section.

ARTICLE XI
TOP-HEAVY PLAN REQUIREMENTS

SECTION 11.01 – APPLICATION.

The provisions of this article shall supersede all other provisions in the Plan to the contrary.

For the purpose of applying the Top-heavy Plan requirements of this article, all members of the Controlled Group shall be treated as one Employer. The term Employer, as used in this article, shall be deemed to include all members of the Controlled Group, unless the terms as used clearly indicate only the Employer is meant.

The accrued benefit or account of a participant resulting from deductible employee contributions shall not be included for any purpose under this article.

The minimum vesting and contribution provisions of Sections 11.03 and 11.04 shall not apply to any Employee who is included in a group of Employees covered by a collective bargaining agreement that the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, including the Employer, if there is evidence that retirement benefits were the subject of good faith bargaining between such representatives. For this purpose, the term "employee representatives" does not include any organization more than half of whose members are employees who are owners, officers, or executives.

SECTION 11.02 – DEFINITIONS.

For purposes of this article, the following terms are defined:

Aggregation Group means:

a) each of the Employer's qualified plans in which a Key Employee is a participant during the Plan Year containing the Determination Date or any of the four preceding Plan Years (regardless of whether the plans have terminated),

b) each of the Employer's other qualified plans which allows the plan(s) described in (a) above to meet the nondiscrimination requirement of Code Section 401(a)(4) or the minimum coverage requirement of Code Section 410, and

c) any of the Employer's other qualified plans not included in (a) or (b) above which the Employer desires to include as part of the Aggregation Group. Such a qualified plan shall be included only if the Aggregation Group would continue to satisfy the requirements of Code Sections 401(a)(4) and 410.

The plans in (a) and (b) above constitute the "required" Aggregation Group. The plans in (a), (b), and (c) above constitute the "permissive" Aggregation Group.

Compensation means compensation as defined in Items M(1), M(2) and M(4)(a) for purposes of Section 3.07.

Determination Date means as to any plan, for any plan year subsequent to the first plan year, the last day of the preceding plan year. For the first plan year of the plan, the Determination Date is the last day of that year.

Key Employee means any Employee or former Employee (including any deceased Employee) who at any time during the Plan Year that includes the Determination Date is:

a) an officer of the Employer having Compensation for the Plan Year greater than $175,000 (as adjusted under Code Section 416(i)(1)),

b) a 5-percent owner of the Employer, or

c) a 1-percent owner of the Employer having Compensation for the Plan Year of more than $150,000.

The determination of who is a Key Employee shall be made according to Code Section 416(i)(1) and the applicable regulations and other guidance of general applicability issued thereunder.

Nonkey Employee means any Employee who is not a Key Employee.

Top-heavy Plan means a plan that is top-heavy for any plan year. This Plan shall be top-heavy if any of the following conditions exist:

a) The Top-heavy Ratio for this Plan exceeds 60 percent and this Plan is not part of any required Aggregation Group or permissive Aggregation Group.

b) This Plan is a part of a required Aggregation Group, but not part of a permissive Aggregation Group, and the Top-heavy Ratio for the required Aggregation Group exceeds 60 percent.

c) This Plan is a part of a required Aggregation Group and part of a permissive Aggregation Group and the Top-heavy Ratio for the permissive Aggregation Group exceeds 60 percent.

Top-heavy Ratio means:

a) If the Employer maintains one or more defined contribution plans (including any simplified employee pension plan) and the Employer has not maintained any defined benefit plan that during the five-year period ending on the Determination Date(s) has or has had accrued benefits, the Top-heavy Ratio for this Plan alone or for the required or permissive Aggregation Group, as appropriate, is a fraction, the numerator of which is the sum of the account balances of all Key Employees as of the Determination Date(s) (including any part of any account balance distributed in the one-year period ending on the Determination Date(s) and distributions under a terminated plan which if it had not been terminated would have been required to be included in the Aggregation Group), and the denominator of which is the sum of all account balances (including any part of any account balance distributed in the one-year period ending on the Determination Date(s) and distributions under a terminated plan which if it had not been terminated would have been required to be included in the Aggregation Group), both computed in accordance with Code Section 416 and the regulations thereunder. In the case of a distribution made for a reason other than Severance from Employment, death, or disability, this provision shall be applied by substituting “five-year period” for “one-year period.” Both the numerator and denominator of the Top-heavy Ratio are increased to reflect any contribution not actually made as of the Determination Date, but which is required to be taken into account on that date under Code Section 416 and the regulations thereunder.

b) If the Employer maintains one or more defined contribution plans (including any simplified employee pension plan) and the Employer maintains or has maintained one or more defined benefit plans that during the five-year period ending on the Determination Date(s) has or has had accrued benefits, the Top-heavy Ratio for any required or permissive Aggregation Group, as appropriate, is a fraction, the numerator of which is the sum of the account balances under the aggregated defined contribution plan or plans of all Key Employees, determined in accordance with (a) above, and the present value of accrued benefits under the aggregated defined benefit plan or plans for all Key Employees as of the Determination Date(s), and the denominator of which is the sum of the account balances under the aggregated defined contribution plan or plans for all participants, determined in accordance with (a) above, and the present value of accrued benefits under the defined benefit plan or plans for all participants as of the Determination Date(s), all determined in accordance with Code Section 416 and the regulations thereunder. The accrued benefits under a defined benefit plan in both the numerator and denominator of the Top-heavy Ratio are increased for any distribution of an accrued benefit made in the one-year period ending on the Determination Date (and distributions under a terminated plan which if it had not been terminated would have been required to be included in the Aggregation Group). In the case of a distribution made for a reason other than Severance from Employment, death, or disability, this provision shall be applied by substituting “five-year period” for “one-year period.”

c) For purposes of (a) and (b) above, the value of account balances and the present value of accrued benefits will be determined as of the most recent Valuation Date that falls within or ends with the 12-month period ending on the Determination Date, except as provided in Code Section 416 and the regulations thereunder for the first and second plan years of a defined benefit plan. The account balances and accrued benefits of a participant (i) who is not a Key Employee but who was a Key Employee in a prior year or (ii) who has not been credited with at least one hour of service with any employer maintaining the plan at any time during the one-year period ending on the Determination Date will be disregarded. The calculation of the Top-heavy Ratio and the extent to which distributions, rollovers, and transfers are taken into account will be made in accordance with Code Section 416 and the regulations thereunder. Deductible employee contributions will not be taken into account for purposes of computing the Top-heavy Ratio. When aggregating plans, the value of account balances and accrued benefits will be calculated with reference to the Determination Dates that fall within the same calendar year.

The accrued benefit of a participant other than a Key Employee shall be determined under (i) the method, if any, that uniformly applies for accrual purposes under all defined benefit plans maintained by the Employer, or (ii) if there is no such method, as if such benefit accrued not more rapidly than the slowest accrual rate permitted under the fractional rule of Code Section 411(b)(1)(C).

SECTION 11.03 – MODIFICATION OF VESTING REQUIREMENTS.

A Participant’s Vesting Percentage is at all times at least as great as the Vesting Percentage required to satisfy the requirements of Code Section 416. The part of the Participant’s Account resulting from the minimum contributions required pursuant to Section 11.04 will vest according to the vesting schedule selected in Item V(2) or (3). If no schedule is selected in Items V(2) or (3) the minimum contribution (and earnings thereon) will be 100% vested and nonforfeitable.

The part of the Participant’s Vested Account resulting from the minimum contributions required pursuant to Section 11.04 (to the extent required to be nonforfeitable under Code Section 416(b)) may not be forfeited under Code Section 411(a)(3)(B) or (D).

SECTION 11.04 – MODIFICATION OF CONTRIBUTIONS.

During any Plan Year in which this Plan is a Top-heavy Plan, the Employer shall make a minimum contribution for the Plan Year on behalf of each Nonkey Employee who is an Employee on the last day of the Plan Year and who was an Active Participant at any time during the Plan Year. A Nonkey Employee is not required to have a minimum number of Hours of Service or minimum amount of Compensation in order to be entitled to this minimum. A Nonkey Employee who fails to be an Active Participant merely because his Compensation is less than a stated amount or merely because of a failure to make mandatory participant contributions or, in the case of a cash or deferred arrangement, elective contributions shall be treated as if he were an Active Participant. The minimum is the lesser of (a) or (b) below:

a) 3 percent of such person's Compensation for such Plan Year.

b) The "highest percentage" of Compensation for such Plan Year at which Employer Contributions are made for or allocated to any Key Employee. The highest percentage shall be determined by dividing Employer Contributions made for or allocated to each Key Employee during the Plan Year by the amount of his Compensation for such Plan Year, and selecting the greatest quotient (expressed as a percentage). To determine the highest percentage, all of the Employer's defined contribution plans within the Aggregation Group shall be treated as one plan. The minimum shall be the amount in (a) above if this Plan and a defined benefit plan of the Employer are required to be included in the Aggregation Group and this Plan enables the defined benefit plan to meet the requirements of Code Section 401(a)(4) or 410.

For purposes of (a) and (b) above, Compensation shall be limited by Code Section 401(a)(17).

If employer contributions and allocations otherwise required under the defined contribution plan(s) are at least equal to the minimum above, no additional contribution shall be required. If total employer contributions and allocations are less than the minimum above, the Employer shall contribute the difference for the Plan Year.

The minimum contribution applies to all of the Employer's defined contribution plans in the aggregate which are Top-heavy Plans. A minimum contribution under a profit sharing plan shall be made without regard to whether or not the Employer has profits.

To the extent a participant covered under this Plan can be covered under any other plan or plans of the Employer, the Employer may provide in Item S(3) that the minimum contribution or benefit requirement applicable to Top-heavy Plans shall be made in only one of the plans (including a plan that consists solely of a cash or deferred arrangement that meets the requirements of Code Section 401(k)(12) or 401(k)(13) and matching contributions with respect to which the requirements of Code Section 401(m)(11) or 401(m)(12) are met).

For purposes of this section, any employer contribution made according to a salary reduction or similar arrangement shall not apply in determining if the minimum contribution requirement has been met, but shall apply in determining the minimum contribution required. Matching contributions, as defined in Code Section 401(m), shall be taken into account for purposes of satisfying the minimum contribution requirements of Code Section 416(c)(2) and the Plan. Matching contributions that are used to satisfy the minimum contribution requirements shall be treated as matching contributions for purposes of the actual contribution percentage test and other requirements of Code Section 401(m).

The requirements of this section shall be met without regard to any Social Security contribution.

APPENDIX A

The actuarial factor under Table 1 for a Plan Year for a person is the factor corresponding to the number of years such person's attained age as of the end of the Plan Year precedes the testing age. The testing age is the Normal Retirement Age of such person, or his age as of the end of the Plan Year, if older. A person's attained age as of the end of the Plan Year is his age on his last birthday. For any Plan Year beginning on or after the Participant's attainment of Normal Retirement Age, the factor for 'zero' years is multiplied by the adjustment factor in Table 1A that corresponds to the Participant's attained age as of the end of the Plan Year.

Table 1

Number of Years Attained Age Precedes Testing Age	UP-1984 8.5%	Number of Years Attained Age Precedes Testing Age	UP-1984 8.5%
0	.079486	26	.009531
1	.073259	27	.008784
2	.067520	28	.008096
3	.062230	29	.007462
4	.057355	30	.006877
5	.052862	31	.006338
6	.048721	32	.005842
7	.044904	33	.005384
8	.041386	34	.004962
9	.038144	35	.004574
10	.035155	36	.004215
11	.032401	37	.003885
12	.029863	38	.003581
13	.027524	39	.003300
14	.025367	40	.003042
15	.023380	41	.002803
16	.021548	42	.002584
17	.019860	43	.002381
18	.018304	44	.002195
19	.016870	45	.002023
20	.015549	46	.001864
21	.014331	47	.001718
22	.013208	48	.001584
23	.012173	49	.001460
24	.011220	50	.001345
25	.010341		

Table 1A

Attained Age	UP-1984 8.5%	Attained Age	UP-1984 8.5%
55	1.2058	78	0.6751
56	1.1879	79	0.6494
57	1.1694	80	0.6238
58	1.1503	81	0.5986
59	1.1305	82	0.5738
60	1.1101	83	0.5493
61	1.0891	84	0.5252
62	1.0676	85	0.5013
63	1.0455	86	0.4777
64	1.0229	87	0.4544
65	1.0000	88	0.4314
66	0.9767	89	0.4089
67	0.9533	90	0.3868
68	0.9296	91	0.3653
69	0.9055	92	0.3443
70	0.8810	93	0.3241
71	0.8561	94	0.3044
72	0.8307	95	0.2853
73	0.8049	96	0.2667
74	0.7790	97	0.2489
75	0.7529	98	0.2319
76	0.7268	99	0.2154
77	0.7008		

For a Normal Retirement Age other than 65, adjust Table 1 by multiplying all factors in Table 1 by the corresponding Table 1A factor for an attained age equal to such Normal Retirement Age.

APPENDIX B

The actuarial factor under Table 1 for a Plan Year for a person is the factor corresponding to the number of years such person's attained age as of the end of the Plan Year precedes the testing age. The testing age is the Normal Retirement Age of such person, or his age as of the end of the Plan Year, if older. A person's attained age as of the end of the Plan Year is his age on his last birthday. For any Plan Year beginning on or after the Participant's attainment of Normal Retirement Age, the factor for 'zero' years is multiplied by the adjustment factor in Table 1A that corresponds to the Participant's attained age as of the end of the Plan Year.

Table 1

Number of Years Attained Age Precedes Testing Age	UP-1984 7.5%	Number of Years Attained Age Precedes Testing Age	UP-1984 7.5%
0	.084578	26	.012901
1	.078677	27	.012001
2	.073188	28	.011164
3	.068082	29	.010385
4	.063332	30	.009661
5	.058914	31	.008987
6	.054803	32	.008360
7	.050980	33	.007776
8	.047423	34	.007234
9	.044114	35	.006729
10	.041037	36	.006260
11	.038174	37	.005823
12	.035510	38	.005417
13	.033033	39	.005039
14	.030728	40	.004687
15	.028584	41	.004360
16	.026590	42	.004056
17	.024735	43	.003773
18	.023009	44	.003510
19	.021404	45	.003265
20	.019911	46	.003037
21	.018522	47	.002825
22	.017229	48	.002628
23	.016027	49	.002445
24	.014909	50	.002274
25	.013869		

Table 1A

Attained Age	UP-1984 7.5%	Attained Age	UP-1984 7.5%
55	1.2242	78	0.6611
56	1.2043	79	0.6349
57	1.1838	80	0.6090
58	1.1627	81	0.5835
59	1.1411	82	0.5584
60	1.1188	83	0.5338
61	1.0960	84	0.5096
62	1.0726	85	0.4857
63	1.0488	86	0.4622
64	1.0246	87	0.4390
65	1.0000	88	0.4162
66	0.9752	89	0.3939
67	0.9502	90	0.3721
68	0.9251	91	0.3509
69	0.8998	92	0.3304
70	0.8740	93	0.3106
71	0.8478	94	0.2913
72	0.8214	95	0.2727
73	0.7946	96	0.2547
74	0.7678	97	0.2374
75	0.7409	98	0.2208
76	0.7140	99	0.2049
77	0.6874		

For a Normal Retirement Age other than 65, adjust Table 1 by multiplying all factors in Table 1 by the corresponding Table 1A factor for an attained age equal to such Normal Retirement Age.

APPENDIX C

The actuarial factor under Table 1 for a Plan Year for a person is the factor corresponding to the number of years such person's attained age as of the end of the Plan Year precedes the testing age. The testing age is the Normal Retirement Age of such person, or his age as of the end of the Plan Year, if older. A person's attained age as of the end of the Plan Year is his age on his last birthday. For any Plan Year beginning on or after the Participant's attainment of Normal Retirement Age, the factor for 'zero' years is multiplied by the adjustment factor in Table 1A that corresponds to the Participant's attained age as of the end of the Plan Year.

Table 1

Number of Years Attained Age Precedes Testing Age	UP-1984 8.0%	Number of Years Attained Age Precedes Testing Age	UP-1984 8.0%
0	.081958	26	.011081
1	.075887	27	.010260
2	.070266	28	.009500
3	.065061	29	.008796
4	.060242	30	.008145
5	.055779	31	.007541
6	.051647	32	.006983
7	.047822	33	.006466
8	.044279	34	.005987
9	.040999	35	.005543
10	.037962	36	.005133
11	.035150	37	.004752
12	.032547	38	.004400
13	.030136	39	.004074
14	.027904	40	.003773
15	.025837	41	.003493
16	.023923	42	.003234
17	.022151	43	.002995
18	.020510	44	.002773
19	.018991	45	.002568
20	.017584	46	.002377
21	.016281	47	.002201
22	.015075	48	.002038
23	.013959	49	.001887
24	.012925	50	.001747
25	.011967		

Table 1A

Attained Age	UP-1984 8.0%	Attained Age	UP-1984 8.0%
55	1.2147	78	0.6682
56	1.1959	79	0.6423
57	1.1764	80	0.6165
58	1.1563	81	0.5911
59	1.1357	82	0.5622
60	1.1144	83	0.5417
61	1.0925	84	0.5175
62	1.0700	85	0.4936
63	1.0471	86	0.4700
64	1.0237	87	0.4468
65	1.0000	88	0.4239
66	0.9760	89	0.4015
67	0.9518	90	0.3795
68	0.9274	91	0.3582
69	0.9027	92	0.3374
70	0.8776	93	0.3174
71	0.8520	94	0.2979
72	0.8261	95	0.2790
73	0.7999	96	0.2607
74	0.7735	97	0.2432
75	0.7470	98	0.2264
76	0.7205	99	0.2102
77	0.6942		

For a Normal Retirement Age other than 65, adjust Table 1 by multiplying all factors in Table 1 by the corresponding Table 1A factor for an attained age equal to such Normal Retirement Age.

UNILATERAL INTERIM AMENDMENT TO COMPLY WITH TAX CUTS AND JOBS ACT, THE BIPARTISAN BUDGET ACT OF 2018 AND FINAL REGULATIONS RELATING TO HARDSHIP DISTRIBUTIONS

Principal Life Insurance Company hereby amends the following pre-approved plan and by such amendment, amends each retirement plan set forth on any such pre-approved plan by an adopting employer.

The Principal Financial Group Pre-Approved Document for Savings Plans with an approval date of June 30, 2020.

Nonstandard - Plus   Letter Serial No.: Q702477a   Plan No.: 006   Basic Plan No.: 04

This amendment of the Plan is adopted to comply with the Tax Cuts and Jobs Act, the Bipartisan Budget Act of 2018 and final regulations that amend the rules relating to hardship distributions. This amendment is to be construed in accordance with such laws and any applicable regulations. This amendment shall continue to apply to the Plan, including the Plan as later amended, until such provisions are integrated into the Plan or the provisions of this amendment are specifically amended.

This amendment shall supersede any previous amendment and the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this amendment.

EXTENDED ROLLOVER PERIOD FOR PLAN LOAN OFFSET AMOUNTS

The provisions of this section of the amendment shall be effective January 1, 2018, in accordance with the Tax Cuts and Jobs Act.

By modifying subparagraph (c) in Plan Section 3.03 of the Basic Plan as follows:

c) The Contribution is made in the form of a direct rollover under Code Section 401(a)(31) or is a rollover made under Code Section 402(c) or 408(d)(3)(A) within 60 days after an Eligible Employee or Inactive Participant or a Participant, as applicable, receives the distribution. For purposes of accepting a qualified plan loan offset amount, the 60-day time period in the preceding sentence shall be extended in accordance with Code Section 402(c)(3)(C).

CHANGES TO FINANCIAL HARDSHIP WITHDRAWALS

The provisions of this section of the amendment shall be effective for plan years beginning after December 31, 2018, in accordance with the Bipartisan Budget Act of 2018.

By modifying the definitions of Qualified Matching Contributions and Qualified Nonelective Contributions in Plan Sections 1.02 and 3.08, to remove the distribution restriction applicable to hardships.

By modifying the definitions of QACA Matching Contributions and QACA Nonelective Contributions in Plan Section 1.02, to remove the distribution restriction applicable to hardships.

By modifying subparagraph (b) of Plan Section 5.04 in the Basic Plan as follows:

b) The Participant's Vested Account resulting from Elective Deferral Contributions, Qualified Nonelective Contributions, Qualified Matching Contributions, QACA Matching Contributions, and QACA Nonelective Contributions may not be distributed earlier than Severance from Employment, death, or disability. Such amount may also be distributed upon:

1) Termination of the Plan as permitted in Article VIII.

2) The attainment of age 59 1/2 as permitted in Item 2(3), Y(4), and Section 5.05.

3) A federally declared disaster, where resulting legislation or guidance authorizes such a distribution.

4) As a hardship withdrawal as permitted in Item Y(3) and Section 5.05.

The Participant's Vested Account resulting from Elective Deferral Contributions may also be distributed:

5) As a Qualified Reservist Distribution as permitted in Item Y(6) and Section 5.05.

6) If the Participant is deemed to have had a severance from employment as described in Code Section 414(u)(12)(B)(i) and Section 5.03

All distributions that may be made pursuant to one or more of the foregoing distributable events will be a retirement benefit and shall be distributed to the Participant according to the distribution of benefits provisions of Article VI or VIA, whichever applies. In addition, distributions that are triggered by the termination of the Plan must be made in a lump sum. A lump sum shall include a distribution of an annuity contract.

By modifying the first paragraph of Item Y(3) in the Adoption Agreement as follows:

401(k) HARDSHIP. A Participant may withdraw any part of his Vested Account resulting from Elective Deferral Contributions in the event of hardship due to an immediate and heavy financial need.

For plans that do not allow for the withdrawal of Contributions in addition to Elective Deferral Contributions in the event of a financial hardship in Items Y(3)(a)-(f), a 401(k) hardship withdrawal, if allowed, is limited to Elective Deferral Contributions, including any earnings accrued.

For plans that allow the withdrawal of Contributions in addition to Elective Deferral Contributions in the event of a financial hardship in Items Y(3)(a)-{f), the Contributions available for such withdrawal shall include the following:

Qualified Matching Contributions QACA Matching Contributions
Qualified Nonelective Contributions QACA Nonelective Contributions

Wage Rate Contributions that are designated as Qualified Nonelective Contributions By modifying subparagraph (a) of

Plan Section 5.05 in the Basic Plan as follows:

a) <u>Financial Hardship Withdrawals.</u> If elected by the Employer in Item Y(3), withdrawals of part of the Participant's Account as provided in Item Y(3) will be permitted in the event of hardship due to an immediate and heavy financial need. If elected by the Employer in Item Y(7), the portion of the Participant's Account held in the Qualifying Employer Securities Fund may not be redeemed for purposes of these withdrawals.

Immediate and heavy financial need shall be limited to: (i) expenses incurred or necessary for medical care that would be deductible under Code Section 213(a) (determined without regard to whether the expenses exceed the stated limit on adjusted gross income); (ii) the purchase (excluding mortgage payments) of a principal residence for the Participant; (iii) payment of tuition, related educational fees, and room and board expenses, for up to the next 12 months of postsecondary education for the Participant, his spouse, children, or dependents (as defined in Code Section 152 without regard to Code Sections 152(b)(1), (b)(2), and (d)(1)(B)); (iv) payments necessary to prevent the eviction of the Participant from, or foreclosure on the mortgage of, the Participant's principal residence; (v) payments for funeral or burial expenses for the Participant's deceased parent, spouse, child, or dependent (as defined in Code Section 152 without regard to Code Section 152(d)(1)(B)); (vi) expenses to repair damage to the Participant's principal residence that would qualify for a casualty loss deduction under Code Section 165 (determined without regard to Code Section 165{h){5) and whether the loss exceeds 10% of adjusted gross income); (vii) expenses and losses (including loss of income) incurred by the Employee on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100-707, provided that the Employee's principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster; or (viii) any other distribution which is deemed by the Commissioner of Internal Revenue to be made on account of immediate and heavy financial need as provided in Treasury regulations. If elected by the Employer in Item Y(3)(g), immediate and heavy financial need shall also include expenses described in (i), (iii), and {v) (relating to medical, tuition, and funeral expenses, respectively) of a Primary Beneficiary.

No withdrawal shall be allowed which is not necessary to satisfy such immediate and heavy financial need.

Such withdrawal shall be deemed necessary only if all of the following requirements are met: (i) the Participant cannot relieve the immediate and heavy financial need from cash or other liquid resources that are reasonably available to the Participant, (ii) the distribution is not in excess of the amount of the immediate and heavy financial need (including amounts necessary to pay any Federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution), and (iii) the Participant has obtained all distributions, other than hardship distributions, currently available under all plans maintained by the Employer.

In determining whether the need can be relieved from cash or other liquid resources that are reasonably available to a Participant, the Employer may rely on the Participant's representation (unless the Employer has actual knowledge to the contrary) that the need cannot reasonably be relieved from other resources.

Executed by Principal Life Insurance Company on September 28, 2021

by ______________________.
Assistant Director

INDEMNIFICATION AGREEMENT

This Indemnification Agreement ("Agreement") is made as of _____________, ____ by and between Liberty Oilfield Services Inc., a Delaware corporation (the "**Company**"), and ___________ ("**Indemnitee**").

RECITALS:

WHEREAS, directors, officers and other persons in service to corporations or business enterprises are subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Company or business enterprise itself;

WHEREAS, highly competent persons have become more reluctant to serve as directors, officers or in other capacities unless they are provided with adequate protection through insurance and adequate indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the corporation;

WHEREAS, the Board of Directors of the Company (the "**Board**") has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Company and its stockholders and that the Company should act to assure such persons that there will be increased certainty of such protection in the future;

WHEREAS, (i) the Amended and Restated Bylaws of the Company (as may be amended, the "**Bylaws**") requires indemnification of the officers and directors of the Company (ii) Indemnitee may also be entitled to indemnification pursuant to the General Corporation Law of the State of Delaware ("**DGCL**") and (iii) the Bylaws and the DGCL expressly provide that the indemnification provisions set forth therein are not exclusive and thereby contemplate that contracts may be entered into between the Company and members of the Board, officers and other persons with respect to indemnification;

WHEREAS, this Agreement is a supplement to and in furtherance of the Bylaws and the Amended and Restated Certificate of Incorporation of the Company (as may be amended, the "**Certificate of Incorporation**") and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefore, nor to diminish or abrogate any rights of Indemnitee thereunder; and

WHEREAS, (i) Indemnitee does not regard the protection available under the Bylaws and insurance as adequate in the present circumstances, (ii) Indemnitee may not be willing to serve or continue to serve as a director or officer of the Company without adequate protection, (iii) the Company desires Indemnitee to serve in such capacity, and (iv) Indemnitee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that Indemnitee be so indemnified.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

Section 1. **Definitions**. (a) As used in this Agreement:

"**Affiliate**" of any specified Person shall mean any other Person directly or indirectly controlling, controlled by or under common control with such specified Person.

"**Corporate Status**" describes the status of a person who is or was a director, officer, employee or agent of (i) the Company or (ii) any other corporation, limited liability company, partnership or joint venture, trust, employee benefit plan or other enterprise which such person is or was serving at the request of the Company.

"**Disinterested Director**" shall mean a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

"**Enterprise**" shall mean the Company and any other corporation, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise of which Indemnitee is or was serving at the request of the Company as a director, officer, employee, trustee, agent or fiduciary.

"**Exchange Act**" shall mean the Securities Exchange Act of 1934, as amended.

"**Expenses**" shall mean all reasonable costs, expenses, fees and charges, including, without limitation, attorneys' fees, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, or otherwise participating in, a Proceeding. Expenses also shall include, without limitation, (i) expenses incurred in connection with any appeal resulting from, incurred by Indemnitee in connection with, arising out of, or in respect of or relating to, any Proceeding, including, without limitation, the premium, security for, and other costs relating to any cost bond, supersedes bond, or other appeal bond or its equivalent, (ii) for purposes of Section 12(d) hereof only, expenses incurred by Indemnitee in connection with the interpretation, enforcement or defense of Indemnitee's rights under this Agreement, by litigation or otherwise, (iii) any federal, state, local or foreign taxes imposed on Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement, and (iv) any interest, assessments or other charges in respect of the foregoing. "Expenses" shall not include "Liabilities."

"**Indemnity Obligations**" shall mean all obligations of the Company to Indemnitee under this Agreement, including the Company's obligations to provide indemnification to Indemnitee and advance Expenses to Indemnitee under this Agreement.

"**Independent Counsel**" shall mean a law firm of fifty (50) or more attorneys, or a member of a law firm of fifty (50) or more attorneys, that is experienced in matters of corporation law and neither presently is, nor in the past five (5) years has been, retained to represent: (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder; provided, however, that the term "Independent Counsel" shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement.

"**Liabilities**" shall mean all claims, liabilities, damages, losses, judgments, orders, fines, penalties and other amounts payable in connection with, arising out of, or in respect of or relating to any Proceeding, including, without limitation, amounts paid in settlement in any Proceeding and all costs and expenses in complying with any judgment, order or decree issued or entered in connection with any Proceeding or any settlement agreement, stipulation or consent decree entered into or issued in settlement of any Proceeding.

"**Person**" shall mean any individual, corporation, partnership, limited partnership, limited liability company, trust, governmental agency or body or any other legal entity.

"**Proceeding**" shall mean any threatened, pending or completed action, claim, suit, arbitration, alternate dispute resolution mechanism, formal or informal hearing, inquiry or investigation, litigation, inquiry, administrative hearing or any other actual, threatened or completed judicial, administrative or arbitration proceeding (including, without limitation, any such proceeding under the Securities Act of 1933, as amended, or the Exchange Act or any other federal law, state law, statute or regulation), whether brought in the right of the Company or otherwise, and whether of a civil, criminal, administrative or investigative nature, in each case, in which Indemnitee was, is or will be, or is threatened to be, involved as a party, witness or otherwise by reason of the fact that Indemnitee is or was a director or officer of the Company, by reason of any actual or alleged action taken by Indemnitee (or a failure to take action by Indemnitee) or of any action (or inaction) on Indemnitee's part while acting as director or officer of the Company, or by reason of the fact that Indemnitee is or was serving at the request of the Company as a director, officer, trustee, employee or agent of another corporation, limited liability company, partnership, joint venture, trust or other enterprise, in each case whether or not serving in such capacity at the time any liability or expense is incurred for which indemnification, reimbursement, or advancement can be provided under this Agreement.

(b) For the purpose hereof, references to "fines" shall include any excise tax assessed with respect to any employee benefit plan; references to "serving at the request of the Company" shall include any service as a director, officer, employee or agent of the Company which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a Person who acted in good faith and in a manner such Person reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Company" as referred to in this Agreement.

Section 2. **Indemnity in Third-Party Proceedings**. The Company shall indemnify and hold harmless Indemnitee, to the fullest extent permitted by applicable law, from and against all Liabilities and Expenses suffered or reasonably incurred (and, in the case of retainers, reasonably expected to be incurred) by Indemnitee or on Indemnitee's behalf in connection with any Proceeding (other than any Proceeding brought by or in the right of the Company to procure a judgment in its favor, which is provided for in Section 3 below), or any claim, issue or matter therein.

Section 3. **Indemnity in Proceedings by or in the Right of the Company**. The Company shall indemnify and hold harmless Indemnitee, to the fullest extent permitted by applicable law, from and against all Liabilities and Expenses suffered or incurred (and, in the case of retainers, reasonably expected to be incurred) by Indemnitee or on Indemnitee's behalf in connection with any Proceeding brought by or in the right of the Company to procure a judgment in its favor, or any claim, issue or matter therein. No indemnification for Expenses shall be made under this Section 3 in respect of any claim, issue or matter as to which Indemnitee shall have been finally adjudged by a court to be liable to the Company, unless and only to the extent that the Delaware Court of Chancery or any court in which the Proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnification.

Section 4. **Indemnification for Expenses of a Party Who is Wholly or Partly Successful**. Notwithstanding any other provisions of this Agreement, and without limiting the rights of Indemnitee under any other provision hereof, including any rights to indemnification pursuant to Sections 2 or 3 hereof, to the fullest extent permitted by applicable law, to the extent that Indemnitee is successful, on the merits or otherwise, in any Proceeding or in defense of any claim, issue or matter therein, in whole or in part, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred (and, in the case of retainers, reasonably expected to be incurred) by Indemnitee or on Indemnitee's behalf in connection with each successfully resolved Proceeding, claim, issue or matter. For purposes of this Section 4 and without limitation, the termination of any Proceeding or claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

Section 5. **Indemnification For Expenses of a Witness**. Notwithstanding any other provision of this Agreement, to the fullest extent permitted by applicable law and to the extent that Indemnitee is, by reason of Indemnitee's Corporate Status, a witness or otherwise a participant, including by receipt of a subpoena, in any Proceeding to which Indemnitee is not a party and is not threatened to be made a party, Indemnitee shall be indemnified against all Expenses suffered or incurred (or, in the case of retainers, reasonably expected to be incurred) by Indemnitee or on Indemnitee's behalf in connection therewith.

Section 6. **Additional Indemnification**. Notwithstanding any limitation in Sections 2, 3 or 4 hereof, the Company shall indemnify Indemnitee to the fullest extent permitted by applicable law if Indemnitee is a party to or threatened to be made a party to any Proceeding (including a Proceeding by or in the right of the Company to procure a judgment in its favor) against all Liabilities and Expenses suffered or reasonably incurred (and, in the case of retainers, reasonably expected to be incurred) by Indemnitee in connection with such Proceeding, including but not limited to:

(a) the fullest extent permitted by the provision of the DGCL that authorizes or contemplates additional indemnification by agreement, or the corresponding provision of any amendment to or replacement of the DGCL; and

(b) the fullest extent authorized or permitted by any amendments to or replacements of the DGCL adopted after the date of this Agreement that increase the extent to which a corporation may indemnify its officers and directors.

Section 7. **Exclusions**. Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to indemnify or hold harmless Indemnitee, or, in the case of (a) and (c), to advance Expenses to Indemnitee:

(a) for which payment has actually been made to or on behalf of Indemnitee under any insurance policy obtained by the Company except with respect to any excess beyond the amount paid under such insurance policy;

(b) for an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Exchange Act or similar provisions of state statutory law or common law;

(c) except as provided in Section 12(d) of this Agreement, in connection with any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company or its directors, officers, employees or other indemnitees, unless (i) the Board authorized the Proceeding (or any part of any Proceeding) prior to its initiation, (ii) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law or (iii) such Proceeding is being brought by Indemnitee to assert, interpret or enforce Indemnitee's rights under this Agreement (for the avoidance of doubt, Indemnitee shall not be deemed, for purposes of this subsection, to have initiated or brought any claim by reason of (A) having asserted any affirmative defenses in connection with a claim not initiated by Indemnitee or (B) having made any counterclaim (whether permissive or mandatory) in connection with any claim not initiated by Indemnitee); or

(d) if a final decision by a court having jurisdiction in the matter that is not subject to appeal shall determine that such indemnification is not lawful.

Section 8. **Advancement**. In accordance with the pre-existing requirements of the Bylaws, and notwithstanding any provision of this Agreement to the contrary, the Company shall advance, to the extent not prohibited by applicable law, the Expenses and Liabilities reasonably incurred by Indemnitee in connection with any Proceeding, and such advancement shall be made within thirty (30) days after the receipt by the Company of a statement or statements requesting such advances from time to time, whether prior to or after final disposition of any Proceeding. Advances shall be unsecured and interest free. Advances shall be made without regard to Indemnitee's ability to repay the Expenses and without regard to Indemnitee's ultimate entitlement to indemnification under the other provisions of this Agreement. Advances shall include any and all Expenses reasonably incurred pursuing an action to enforce this right of advancement, including Expenses incurred preparing and forwarding statements to the Company to support the advances claimed. Indemnitee shall qualify for advances upon the execution and delivery to the Company of this Agreement, which shall constitute an undertaking providing that Indemnitee undertakes to repay the amounts advanced to the extent that it is ultimately determined by final judicial decision from which there is no further right to appeal that the Indemnitee is not entitled to be indemnified by the Company. Nothing in this Section 8 shall limit Indemnitee's right to advancement pursuant to Section 12(d) of this Agreement. This Section 8 shall not apply to any claim made by Indemnitee for which indemnity is excluded pursuant to Sections 7(a) or (c) hereof.

Section 9. **Procedure for Notification and Defense of Claim**.

(a) Indemnitee shall promptly notify the Company in writing of any Proceeding with respect to which Indemnitee intends to seek indemnification or advancement hereunder following the receipt by Indemnitee of written notice thereof (the date of such notification, the "**Submission Date**"). The written notification to the Company shall include a description of the nature of the Proceeding and the facts underlying the Proceeding. To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification following the final disposition of such Proceeding, including any appeal therein. Any delay or failure by Indemnitee to notify the Company hereunder will not relieve the Company from any liability which it may have to Indemnitee hereunder or otherwise than under this Agreement, and any delay or failure in so notifying the Company shall not constitute a waiver by Indemnitee of any rights under this Agreement. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Board in writing that Indemnitee has requested indemnification.

(b) In the event Indemnitee is entitled to indemnification and/or advancement with respect to any Proceeding, Indemnitee may, at Indemnitee's option, (i) retain counsel (including local counsel) selected by Indemnitee and approved by the Company to defend Indemnitee in such Proceeding, at the sole expense of the Company (which approval shall not be unreasonably withheld, conditioned or delayed), or (ii) have the Company assume the defense of Indemnitee in such Proceeding, in which case the Company shall assume the defense of such Proceeding with counsel selected by the Company and approved by Indemnitee (which approval shall not be unreasonably withheld, conditioned or delayed) within ten (10) days of the Company's receipt of written notice of Indemnitee's election to cause the Company to do so. If the Company is required to assume the defense of any such Proceeding, it shall engage legal counsel for such defense, and the Company shall be solely responsible for all fees and expenses of such legal counsel and otherwise of such defense. Such legal counsel may represent both

Indemnitee and the Company (and any other party or parties entitled to be indemnified by the Company with respect to such matter) unless, in the reasonable opinion of legal counsel to Indemnitee, there is a conflict of interest between Indemnitee and the Company (or any other such party or parties) or there are legal defenses available to Indemnitee that are not available to the Company (or any such other party or parties). Notwithstanding either party's assumption of responsibility for defense of a Proceeding, each party shall have the right to engage separate counsel at its own expense. If the Company has responsibility for defense of a Proceeding, the Company shall provide the Indemnitee and its counsel with all copies of pleadings and material correspondence relating to the Proceeding. Indemnitee and the Company shall reasonably cooperate in the defense of any Proceeding with respect to which indemnification is sought hereunder, regardless of whether the Company or Indemnitee assumes the defense thereof. Indemnitee may not settle or compromise any Proceeding without the prior written consent of the Company, which consent shall not be unreasonably withheld, conditioned or delayed. The Company may not settle or compromise any Proceeding without the prior written consent of Indemnitee.

Section 10. **Procedure Upon Application for Indemnification**.

(a) Upon written request by Indemnitee for indemnification pursuant to Section 9(a) hereof, if any determination by the Company is required by applicable law with respect to Indemnitee's entitlement thereto, such determination shall be made (i) if Indemnitee shall request such determination be made by Independent Counsel, by Independent Counsel, and (ii) in all other circumstances, (A) by a majority vote of the Disinterested Directors, even though less than a quorum of the Board, (B) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum of the Board, (C) if there are no such Disinterested Directors or, if such Disinterested Directors so direct, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to Indemnitee, or (D) if so directed by the Board, by the stockholders of the Company holding a majority of the securities of the Company entitled to vote; and, if it is so determined that Indemnitee is entitled to indemnification, payment to Indemnitee shall be made within ten (10) days after such determination. Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any Expenses incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall, to the fullest extent permitted by law, be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom. The Company will not deny any written request for indemnification hereunder made in good faith by Indemnitee unless a determination as to Indemnitee's entitlement to such indemnification described in this Section 10(a) has been made. The Company agrees to pay the reasonable fees and expenses of the Independent Counsel referred to above and to fully indemnify such counsel against any and all Liabilities and Expenses arising out of or relating to this Agreement or its engagement pursuant hereto.

(b) In the event the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 10(a) hereof, (i) the Independent Counsel shall be selected by the Company within ten (10) days of the Submission Date (the cost of such Independent Counsel to be paid by the Company), (ii) the Company shall give written notice to Indemnitee advising it of the identity of the Independent Counsel so selected and (iii) Indemnitee may, within ten (10) days after such written notice of selection shall have been given, deliver to the Company Indemnitee's written objection to such selection. Such objection by Indemnitee may be asserted only on the ground that the Independent Counsel selected does not meet the requirements of "Independent Counsel" as defined in this Agreement. If such written objection is made and substantiated, the Independent Counsel selected shall not serve as Independent Counsel unless and until Indemnitee withdraws the objection or a court has determined that such objection is without merit. Absent a timely objection, the person so selected shall act as Independent Counsel. If no Independent Counsel shall have been selected and not objected to before the later of (A) thirty (30) days after the Submission Date and (B) ten (10) days after the final disposition of the Proceeding, including any appeal therein, each of the Company and Indemnitee shall select a law firm or member of a law firm meeting the qualifications to serve as Independent Counsel, and such law firms or members of law firms shall select the Independent Counsel.

Upon the due commencement of any judicial proceeding or arbitration pursuant to Section 12(a) of this Agreement, Independent Counsel shall be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing).

Section 11. **Presumptions and Effect of Certain Proceedings**.

(a) In making a determination with respect to entitlement to indemnification hereunder, the person, persons or entity making such determination shall, to the fullest extent not prohibited by applicable law, presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 9(a) of this Agreement, and the Company shall, to the fullest extent not prohibited by applicable law, have the burden of proof to overcome that presumption in connection with the making by any person, persons or entity of any determination contrary to that presumption. Neither the failure of the Company (including by its directors or Independent Counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Company (including by its directors or Independent Counsel) that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

(b) Subject to Section 12(d) hereof, if the person, persons or entity empowered or selected under Section 10 of this Agreement to determine whether Indemnitee is entitled to indemnification shall not have made a determination within sixty (60) days after receipt by the Company of the request therefore, the requisite determination of entitlement to indemnification shall, to the fullest extent not prohibited by applicable law, be deemed to have been made and Indemnitee shall be entitled to such indemnification, absent a prohibition of such indemnification under applicable law; provided, however, that such 60-day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if (i) the determination is to be made by Independent Counsel and Indemnitee objects to the Company's selection of Independent Counsel and (ii) the Independent Counsel ultimately selected requires such additional time for the obtaining or evaluating of documentation or information relating thereto; provided further, however, that such 60-day period may also be extended for a reasonable time, not to exceed an additional sixty (60) days, if the determination of entitlement to indemnification is to be made by the stockholders of the Company.

(c) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not (except as otherwise expressly provided in this Agreement) adversely affect the right of Indemnitee to indemnification or create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, that Indemnitee had reasonable cause to believe that Indemnitee's conduct was unlawful.

(d) **Reliance as Safe Harbor**. For purposes of any determination of good faith, Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Enterprise, including financial statements, or on information supplied to Indemnitee by the officers of the Enterprise in the course of their duties, or on the advice of legal counsel for the Enterprise or on information or records given or reports made to the Enterprise by an independent certified public accountant or by an appraiser or other expert selected with the reasonable care by the Enterprise. The provisions of this Section 11(d) shall not be deemed to be exclusive or to limit in any way the other circumstances in which Indemnitee may be deemed to have met the applicable standard of conduct set forth in this Agreement.

(e) **Actions of Others**. The knowledge or actions, or failure to act, of any director, officer, agent or employee of the Enterprise shall not be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement.

Section 12. **Remedies of Indemnitee**.

(a) Subject to Section 12(d) hereof, in the event that (i) a determination is made pursuant to Section 10 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement is not timely made pursuant to Section 8 of this Agreement, (iii) no determination of entitlement to indemnification shall have been timely made pursuant to Section 10(a) of this Agreement within sixty (60) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Sections 4 or 5 or the third to the last sentence of Section 10(a) of this Agreement within ten (10) days after receipt by the Company of a written request therefor, (v) payment of indemnification pursuant to Sections 2, 3 or 6 of this Agreement is not made within ten (10) days after a determination has been made that Indemnitee is entitled to indemnification, or (vi) in the event that the Company or any other Person takes or threatens to take any action to declare this Agreement void or unenforceable, or institutes any litigation or other action or proceeding designed to deny, or to recover from, Indemnitee the benefits provided or intended to be provided to Indemnitee hereunder, Indemnitee shall be entitled to an adjudication by a court of Indemnitee's entitlement to such indemnification or advancement. Alternatively, Indemnitee, at Indemnitee's option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. The Company shall not oppose Indemnitee's right to seek any such adjudication or award in arbitration.

(b) In the event that a determination shall have been made pursuant to Section 10(a) of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding or arbitration commenced pursuant to this Section 12 shall be conducted in all respects as a de novo trial, or arbitration, on the merits and Indemnitee shall not be prejudiced by reason of that adverse determination. In any judicial proceeding or arbitration commenced pursuant to this Section 12 the Company shall have the burden of proving Indemnitee is not entitled to indemnification or advancement, as the case may be.

(c) If a determination shall have been made pursuant to Section 10(a) of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 12, absent a prohibition of such indemnification under applicable law.

(d) The Company shall, to the fullest extent not prohibited by applicable law, be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 12 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all the provisions of this Agreement. It is the intent of the Company that Indemnitee not be required to incur Expenses associated with the interpretation, enforcement or defense of Indemnitee's rights under this Agreement by litigation or otherwise because the cost and expense thereof would substantially detract from the benefits intended to be extended to Indemnitee hereunder. The Company shall indemnify Indemnitee against any and all Expenses and, if requested by Indemnitee, shall (within ten (10) days after receipt by the Company of a written request therefore) advance, to the extent not prohibited by applicable law, such Expenses to Indemnitee, which are incurred by Indemnitee in connection with any action brought by Indemnitee for indemnification or advancement from the Company under this Agreement or the Bylaws, or under any directors' and officers' liability insurance policies maintained by the Company, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement or insurance recovery, as the case may be.

(e) Notwithstanding anything in this Agreement to the contrary, no determination as to entitlement to indemnification under this Agreement shall be required to be made prior to the final disposition of the Proceeding, including any appeal therein; provided that, in absence of any such determination with respect to such Proceeding, the Company shall advance Expenses with respect to such Proceeding.

Section 13. **Non-Exclusivity; Survival of Rights; Insurance; Subrogation**.

(a) The rights of indemnification and to receive advancement as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the Certificate of Incorporation, the Bylaws, any agreement, a vote of stockholders or a resolution of directors, or otherwise. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in Indemnitee's Corporate Status prior to such amendment, alteration or repeal. The Company shall not adopt any amendment or alteration to, or repeal of, the Certificate of Incorporation or the Bylaws, the effect of which would be to deny, diminish or encumber the Indemnitee's rights to indemnification pursuant to this Agreement, the Certificate of Incorporation, the Bylaws or applicable law relative to such rights prior to such amendment, alteration or repeal. To the extent that a change in Delaware law, whether by statute or judicial decision, permits greater indemnification or advancement than would be afforded currently under the Bylaws or this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

(b) The Company hereby acknowledges that Indemnitee may have certain rights to indemnification, advancement and insurance provided by one or more Persons with whom or which Indemnitee may be associated. The Company hereby acknowledges and agrees that (i) the Company shall be the indemnitor of first resort with respect to any Proceeding, Expense, Liability or matter that is the subject of the Indemnity Obligations, (ii) the Company shall be primarily liable for all Indemnity Obligations and any indemnification afforded to Indemnitee in respect of any Proceeding, Expense, Liability or matter that is the subject of Indemnity Obligations, whether created by applicable law, organizational or constituent documents, contract (including this Agreement) or otherwise, (iii) any obligation of any other Persons with whom or which Indemnitee may be associated to indemnify Indemnitee or advance Expenses or Liabilities to Indemnitee in respect of any Proceeding shall be secondary to the obligations of the Company hereunder, (iv) the Company shall be required to indemnify Indemnitee and advance Expenses or Liabilities to Indemnitee hereunder to the fullest extent provided herein without regard to any rights Indemnitee may have against any other Person with whom or which Indemnitee may be associated or insurer of any such Person and (v) the Company irrevocably waives, relinquishes and releases any other Person with whom or which Indemnitee may be associated from any claim of contribution, subrogation or any other recovery of any kind in respect of amounts paid by the Company hereunder. In the event any other Person with whom or which Indemnitee may be associated or their insurers advances or extinguishes any liability or loss which is the subject of any Indemnity Obligation owed by the Company or payable under any Company insurance policy, the payor shall have a right of subrogation against the Company or its insurer or insurers for all amounts so paid which would otherwise be payable by the Company or its insurer or insurers under this Agreement. In no event will payment of an

Indemnity Obligation by any other Person with whom or which Indemnitee may be associated or their insurers affect the obligations of the Company hereunder or shift primary liability for any Indemnity Obligation to any other Person with whom or which Indemnitee may be associated. Any indemnification, insurance or advancement provided by any other Person with whom or which Indemnitee may be associated with respect to any liability arising as a result of Indemnitee's Corporate Status or capacity as an officer or director of any Person is specifically in excess over any Indemnity Obligation of the Company or valid and any collectible insurance (including but not limited to any malpractice insurance or professional errors and omissions insurance) provided by the Company under this Agreement.

(c) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, trustees, or agents of any Enterprise, Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any such director, officer, employee, trustee or agent under such policy or policies and such policies shall provide for and recognize that the insurance policies are primary to any rights to indemnification, advancement or insurance proceeds to which Indemnitee may be entitled from one or more Persons with whom or which Indemnitee may be associated to the same extent as the Company's indemnification and advancement obligations set forth in this Agreement. If, at the time of the receipt of a notice of a claim pursuant to the terms hereof, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of the commencement of such Proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

(d) In the event of any payment under this Agreement, the Company shall be subrogated to the rights of recovery of Indemnitee, including rights of indemnification provided to Indemnitee from any other person or entity with whom Indemnitee may be associated; provided, however, that the Company shall not be subrogated to the extent of any such payment of all rights of recovery of Indemnitee with respect to any Person with whom or which Indemnitee may be associated.

(e) The indemnification and contribution provided for in this Agreement will remain in full force and effect regardless of any investigation made by or on behalf of Indemnitee.

Section 14. **Duration of Agreement; Not Employment Contract**. This Agreement shall continue until and terminate upon the latest of: (i) ten (10) years after the date that Indemnitee shall have ceased to serve as director, officer, employee or agent of the Company or any other Enterprise and (ii) one (1) year after the date of final termination of any Proceeding, including any appeal, then pending in respect of which Indemnitee is granted rights of indemnification or advancement hereunder and of any proceeding, including any appeal, commenced by Indemnitee pursuant to Section 12 of this Agreement relating thereto. This Agreement shall be binding upon the Company and its successors and assigns and shall inure to the benefit of Indemnitee and Indemnitee's heirs, executors and administrators. The Company shall require and cause any successor, and any direct or indirect parent of any successor, whether direct or indirect by purchase, merger, consolidation or otherwise, to all, substantially all or a substantial part, of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place. This Agreement shall not be deemed an employment contract between the Company (or any of its subsidiaries or any other Enterprise) and Indemnitee. Indemnitee specifically acknowledges that Indemnitee's employment with the Company (or any of its subsidiaries or any other Enterprise), if any, is at will, and Indemnitee may be discharged at any time for any reason, with or without cause, except as may be otherwise provided in any written employment contract between Indemnitee and the Company (or any of its subsidiaries or any other Enterprise), other applicable formal severance policies duly adopted by the Board, or, with respect to service as a director of the Company, by the Certificate of Incorporation, the Bylaws or the DGCL.

Section 15. **Severability**. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including, without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and shall remain enforceable to the fullest extent permitted by applicable law; (b) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (c) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

Section 16. **Enforcement**.

(a) The Company expressly confirms and agrees that it has entered into this Agreement and assumed the obligations imposed on it hereby in order to induce Indemnitee to serve as a director, officer, employee or agent of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving as a director, officer, employee or agent of the Company.

(b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof; provided, however, that this Agreement is a supplement to and in furtherance of the Certificate of Incorporation, the Bylaws and applicable law, and shall not be deemed a substitute therefore, nor diminish or abrogate any rights of Indemnitee thereunder.

Section 17. **Modification and Waiver**. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by the parties thereto. No waiver of any of the provisions of this Agreement shall be deemed to be or shall constitute a waiver of any other provision of this Agreement nor shall any waiver constitute a continuing waiver.

Section 18. **Notices**. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, (b) mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed, (c) mailed by reputable overnight courier and receipted for by the party to whom said notice or other communication shall have been directed or (d) sent by facsimile transmission, with receipt of oral confirmation that such transmission has been received:

(i) If to Indemnitee, at the address indicated on the signature page of this Agreement, or such other address as Indemnitee shall provide to the Company.

(ii) If to the Company to

Liberty Energy Inc.
950 17th Street, Suite 2400
Denver, Colorado 80202
Attention: Board of Directors

or to any other address as may have been furnished to Indemnitee by the Company.

Section 19. **Contribution**. To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by Indemnitee, whether for Liabilities or for Expenses, in connection with any Proceeding, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (a) the relative benefits received by the Company and Indemnitee as a result of the event(s) and transaction(s) giving cause to such Proceeding; and (b) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and transaction(s).

Section 20. **Applicable Law and Consent to Jurisdiction**. This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to its conflict of laws rules. Except with respect to any arbitration commenced by Indemnitee pursuant to Section 12(a) of this Agreement, the Company and Indemnitee hereby irrevocably and unconditionally (a) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Chancery Court of the State of Delaware (the "**Delaware Court**"), and not in any other state or federal court in the United States of America or any court in any other country, (b) consent to submit to the exclusive jurisdiction of the Delaware Court for purposes of any action or proceeding arising out of or in connection with this Agreement, (c) consent to service of process at the address set forth in Section 18 of this Agreement with the same legal force and validity as if served upon such party personally within the State of Delaware; (d) waive any objection to the laying of venue of any such action or proceeding in the Delaware Court, and (e) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Delaware Court has been brought in an improper or inconvenient forum.

Section 21. **Counterparts**. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

Section 22. **Miscellaneous**. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

*[Signature page follows.]*IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

LIBERTY ENERGY INC.

By: ______________________

Name: ______________________

Title: ______________________

INDEMNITEE

By: ______________________

Printed Name: ______________________

Address: ______________________

____

Email: ______________________

EX 21.1

Subsidiaries of Liberty Energy Inc.

Pursuant to Item 601(b)(21) of Regulation S-K, we have omitted some subsidiaries that, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary under Rule 1-02(w) of Regulation S-X.

Entity	State or Jurisdiction of Formation
Liberty Energy Services LLC	Texas
LOS Leasing Company LLC	Texas
Freedom Proppant LLC	Delaware
Proppant Express Solutions, LLC	Delaware
Liberty Power Innovations LLC	Texas
Liberty Advanced Equipment Technologies LLC	Texas
LOS Canada Holdings Inc.	British Colombia
LOS Canada Operations ULC	British Colombia

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in Registration Statement Nos. 333-222616, 333-225948, and 333-279492 on Form S-8, and Registration Statement No. 333-264559 on Form S-3 of our reports dated February 6, 2025, relating to the financial statements of Liberty Energy Inc. and its subsidiaries and the effectiveness of Liberty Energy Inc. and its subsidiaries' internal control over financial reporting, appearing in the Annual Report on Form 10-K for the year ended December 31, 2024.

/s/ Deloitte & Touche LLP

Denver, Colorado
February 6, 2025

Exhibit 31.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER

I, Ron Gusek, certify that:

1. I have reviewed this Annual Report on Form 10-K of Liberty Energy Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting; or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's fourth fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 6, 2025

By: /s/ Ron Gusek
Ron Gusek
Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER

I, Michael Stock, certify that:

1. I have reviewed this Annual Report on Form 10-K of Liberty Energy Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting; or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's fourth fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 6, 2025

By: /s/ Michael Stock
Michael Stock
Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER UNDER
18 U.S.C. SECTION 1350 AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of Section 1350, Chapter 63 of Title 18, United States Code), the undersigned officer of Liberty Energy Inc. (the "*Company*"), does hereby certify, to such officer's knowledge, that:

The Annual Report on Form 10-K for the year ended December 31, 2024 ("*Form 10-K*") of the Company fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, and information contained in the Form 10-K fairly presents, in all material respects, the financial condition and results of operations of the Company, as of, and for, the periods presented in the Form 10-K.

Date: February 6, 2025

By: /s/ Ron Gusek
Ron Gusek
Chief Executive Officer
(Principal Executive Officer)

Exhibit 32.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER UNDER
18 U.S.C. SECTION 1350 AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of Section 1350, Chapter 63 of Title 18, United States Code), the undersigned officer of Liberty Energy Inc. (the "*Company*"), does hereby certify, to such officer's knowledge, that:

The Annual Report on Form 10-K for the year ended December 31, 2024 ("*Form 10-K*") of the Company fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, and information contained in the Form 10-K fairly presents, in all material respects, the financial condition and results of operations of the Company, as of, and for, the periods presented in the Form 10-K.

Date: February 6, 2025

By: /s/ Michael Stock
Michael Stock
Chief Financial Officer
(Principal Financial Officer)

Exhibit 95

Mine Safety Disclosure

The following disclosure is provided pursuant to Section 1503(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which requires certain disclosures by companies required to file periodic reports under the Securities Exchange Act of 1934, as amended, that operate mines regulated under the Federal Mine Safety and Health Act of 1977.

The table that follows reflects citations, orders, violations and proposed assessments issued by the Mine Safety and Health Administration (the “MSHA”) to indirect subsidiaries of Liberty Energy Inc. The disclosure is with respect to the full year ended December 31, 2024. Due to timing and other factors, the data may not agree with the mine data retrieval system maintained by the MSHA at www.MSHA.gov.

Year Ended December 31, 2024
(unaudited)
(whole dollars)

Mine or Operating Name/MSHA Identification Number	Section 104 S&S Citations	Section 104(b) Orders	Section 104(d) Citations and Orders	Section 110(b)(2) Violations	Section 107(a) Orders	Total Dollar Value of MSHA Assessments Proposed (1)	Mining Related Fatalities	Received Notice of Pattern of Violations Under Section 104(e) (yes/no)	Received Notice of Potential Have Pattern Under Section 104(e) (yes/no)	Legal Actions Pending as of Last Day of Period	Legal Actions Initiated During Period	Legal Actions Resolved During Period
Freedom Proppants —Monahans Mine/4105336	10	—	—	—	—	$ 1,651	—	N	N	—	—	—
Freedom Proppants —Kermit Mine/4105321	1	—	—	—	—	$ 147	—	N	N	—	—	—

(1) Amounts included are the total dollar value of proposed assessments received from MSHA on or before December 31, 2024, regardless of whether the assessment has been challenged or appealed, for citations and orders occurring during the year ended December 31, 2024. Citations and orders can be contested and appealed, and as part of that process, are sometimes reduced in severity and amount, and sometimes dismissed. The number of citations, orders, and proposed assessments vary by inspector and vary depending on the size and type of the operation.