Defined Benefit Prototype Plans - 415 Amendment Available

The 415 amendment package for the ING Life Insurance and Annuity Company Defined Benefit Prototype Plan Document is now available. This amendment includes the Final 415 Regulations released in April of 2007 and the Pension Funding Equity Act of 2004 (PFEA as modified by the Pension Protection Act of 2006 (PPA)). Also included is a provision to address the Final 411 Regulations that were issued in August 2006 (in response to the *Heinz* decision). This amendment does NOT address any PPA specific provisions (with the exception of the PPA modification to PFEA). Plans are not required to be amended for PPA until the end of the 2009 plan year and we expect that any amendment provided today would need to be modified as the IRS issues additional PPA guidance. The 415 amendment package includes the amendment, a sample Certificate of Adopting Resolution and the related sample Summary of Material Modifications. Note that all the documents are contained in one Word file with the exception of the signature page for the amendment. The signature page is contained in a separate PDF file to protect the signature of the authorized representative signing on behalf of ING Life Insurance and Annuity Company.

Please work with our mutual defined benefit clients that have adopted the ING prototype plan document, to bring those plans into compliance with this legislatively required amendment.

Attached below is a copy of the amendment. You may also request a copy of the amendment by sending an e-mail to INGPrototype@us.ing.com.

In general, plans must be updated for a change in the qualification requirements, or a change that is integral to a change in the qualification requirements, by the due date of the employer's tax return (including extensions) for the year in which the change is effective. The Final 415 Regulations are effective for the first limitation year beginning on or after July 1, 2007. Thus, for a plan where the plan year, limitation year, and fiscal year are all the calendar year, an amendment would not be required to be adopted until the due date of the employer's 2008 tax return (i.e., at some point in 2009).

The deadline for the PFEA amendment is the last day of the plan year beginning in 2008 (i.e., December 31, 2008 for a calendar year plan). Note that this is earlier than the 2009 amendment deadline that applies to other changes made by the PPA.

Please carefully review the cover memo (presented in question and answer format) that precedes the amendment for more details.
We are providing you with an amendment to conform your defined benefit plans to the Final Section 415 Regulations that were released in April 2007 and the Pension Funding Equity Act of 2004 (PFEA) (as modified by the Pension Protection Act of 2006 (PPA)). This amendment also includes a provision to address the Final 411 Regulations that were issued in August 2006 (in response to the Heinz decision). However, full compliance with the Final 411 Regulations is dependent on the terms of the plan and any separate amendment that might have been made to the plan that resulted in the potential Code Section 411(d)(6) cutback.

This amendment does NOT address any PPA specific provisions (with the exception of the PPA modification to PFEA). This is because plan amendments for PPA are not required until the end of the 2009 plan year and we expect that any amendment provided today would need to be modified as the IRS issues additional PPA guidance.

In addition, this amendment does NOT address plan design changes that may be needed as a result of the Final 415 regulations (e.g., coordination of the plan's provisions for accruals and actuarial adjustments after a normal retirement age that is less than age 65) or the Final 401(a) regulations relating to permissible normal retirement ages. Amendments for these provisions would require plan design changes that either need to be individually designed for the plan or that can be made within the parameters of pre-approved plans (i.e., it may just entail a short amendment to change elections within a prototype or volume submitter plan).

**Which plans are required to be amended?**

All defined benefit plans must be amended to reflect these changes in the law. This Amendment, however, does not include provisions that are specific to: (1) governmental plans, (2) tribal government plans, or (3) multiemployer plans.

**When must these plans be amended?**

In general, plans must be updated for a change in the qualification requirements, or a change that is integral to a change in the qualification requirements, by the due date of the employer's tax return (including extensions) for the year in which the change is effective. The Final 415 Regulations are effective for the first limitation year beginning on or after July 1, 2007. Thus, for a calendar year plan, limitation, and fiscal year, an amendment would not be required to be adopted until the due date of the employer's 2008 tax return (i.e., at some point in 2009).

The deadline for the PFEA amendment is the last day of the plan year beginning in 2008 (i.e., December 31, 2008 for a calendar year plan). This is because Section 301(c) of the PPA provided an extension of the deadline for employers to adopt an amendment to conform to the PFEA. Note that this is earlier than the 2009 amendment deadline that applies to other changes made by the PPA.

The above deadlines are general rules. Terminating plans must be updated, prior to termination, for all outstanding legal requirements in effect as of the termination date. Also, the timing of an amendment cannot result in a violation of the anti-cutback rules of Code Section 411(d)(6). Therefore, in some cases,
the amendment must be adopted sooner than the deadlines stated above (or the effective date of the provision would need to be delayed to a date that does not result in a prohibited cutback of benefits). Unfortunately, there is no guidance from the IRS regarding the interaction of the changes made by the Final 415 Regulations and the anti-cutback rules.

Is this amendment adopted on behalf of all users of the ING Defined Benefit Prototype Plan?

Yes. ING Life Insurance and Annuity Company, as prototype sponsor, has adopted this amendment on behalf of all adopting employers. The amendment is drafted so that, in most cases, adopting employers will not need to take any action. An employer only needs to execute the amendment if an election is made in Article II of the Amendment to override one or more default provisions. See Article II for the default provisions.

Does it matter whether the employer (or sponsor) adopts this amendment before or after the employer executes its EGTRRA restatement?

No, unless there are anti-cutback concerns as described above. Under Rev. Proc 2007-44, the amendment will survive (not be superseded by) the restatement. Therefore, if the employer adopts the amendment as part of its GUST plan, the Employer need not "re-adopt" the amendment when the employer restates for EGTRRA. See Section 1.4 of the Amendment.

Is an Adopting Resolution and SMM provided with this Amendment?

In addition to the amendment, we have provided a sample Adopting Resolution (for an employer to adopt the amendment, if applicable) and a sample Summary of Material Modifications (SMM) (if applicable). You must modify or make selections on the SMM to match the terms of the Plan being amended.
AMENDMENT FOR
FINAL 415 REGULATIONS, PENSION FUNDING EQUITY ACT
AND FINAL 411 REGULATIONS

ARTICLE I
PREAMBLE

1.1 Effective date of Amendment. This Amendment is effective as indicated herein for the respective provisions.

1.2 Superseding of inconsistent provisions. This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.

1.3 Construction. Except as otherwise provided in this Amendment, any reference to "Section" in this Amendment refers only to sections within this Amendment, and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section or other numbering designations.

1.4 Effect of restatement of Plan. If the Employer restates the Plan, then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates the final Code Section 415 Regulations provisions).

1.5 Adoption by prototype sponsor. Except as otherwise provided herein, pursuant to the provisions of the Plan and Section 5.01 of Revenue Procedure 2005-16, the sponsor hereby adopts this Amendment on behalf of all adopting employers.

ARTICLE II
EMPLOYER ELECTIONS

The Employer only needs to complete the questions in this Article II in order to override the default provisions set forth below. If the Plan will use all of the default provisions, then the questions in this Article II should be skipped and the Employer does not need to execute this amendment.

Default Provisions. Unless the Employer elects otherwise in this Article, the following defaults will apply:

a. The transition rule of Section 101(d)(3) of the Pension Funding Equity Act (PFEA), as described in IRS Notice 2004-78, will not be used.

b. The "Defined Benefit Compensation Limitation" is adjusted after a Participant has a "Severance from Employment." The "Defined Benefit Dollar Limitation" is not adjusted after a Participant has a "Severance from Employment."

c. The provisions of the Plan setting forth the definition of compensation for purposes of Code Section 415 (hereinafter referred to as "415 Compensation"), as well as compensation for purposes of determining highly compensated employees pursuant to Code Section 414(q) and for top-heavy purposes under Code Section 416 (including the determination of key employees), is modified by (1) including payments for unused sick, vacation or other leave, (2) including payments from nonqualified unfunded deferred compensation plans, (3) excluding salary continuation payments for participants on military service, and (4) excluding salary continuation payments for disabled participants.

d. The "first few weeks rule" does not apply for purposes of 415 Compensation (Amendment Section 3.3).

e. The provision of the Plan setting forth the definition of compensation for benefit purposes (hereinafter referred to as "Plan Compensation") is modified to provide for the same adjustments to Plan Compensation that are made to 415 Compensation pursuant to this Amendment.

2.1 415 Compensation and Plan Compensation. In lieu of the default provisions above, the following apply: (select all that apply; if no selections are made, then the defaults apply)
415 Compensation. (select all that apply):

a. [ ] Exclude leave cashouts (Section 3.2(b))
b. [ ] Exclude deferred compensation (Section 3.2(c))
c. [ ] Include military continuation payments (Section 3.2(d))
d. [ ] Include disability continuation payments (Section 3.2(e)):
   1. [ ] For Nonhighly Compensated Employees only
   2. [ ] For all participants and the salary continuation will continue for the following fixed or determinable period: ________________________________
e. [ ] Apply the administrative delay ("first few weeks") rule (Section 3.3)

Plan Compensation. (select f. or all that apply in g. – m.):
f. [ ] No change from existing Plan provisions

OR

g. [ ] Exclude all post-severance compensation
h. [ ] Exclude post-severance regular pay
i. [ ] Exclude leave cashouts
j. [ ] Exclude deferred compensation
k. [ ] Include military continuation payments
l. [ ] Include disability continuation payments:
   1. [ ] For Nonhighly Compensated Employees only
   2. [ ] For all participants and the salary continuation will continue for the following fixed or determinable period: ________________________________
m. [ ] Other_________________________ (describe)

Special Effective Date. The definition of Plan Compensation is modified as set forth herein effective as of the same date as the 415 Compensation change is effective unless otherwise specified:

n. _________________________________ (enter the effective date).

2.2 PFEA Transition rule. The transition rule of Section 101(d)(3) of the Pension Funding Equity Act (PFEA), as described in IRS Notice 2004-78, sets out a transition period during which a plan is permitted to pay a benefit subject to Code Section 417(e)(3) in an amount that would be higher than what is otherwise permitted under Code Section 415. This higher amount is the lesser of the transition amount as calculated and the benefit calculated under the terms of the plan reflecting the limitations of Code Section 415 disregarding the enactment of PFEA. The transition rule will not apply unless selected below.

[ ] The transition rule applies, which sets the 2003 Code Section 415 limit calculation as a minimum Code Section 415 limit applicable to the 2004 Plan Year.

2.3 Adjustment to compensation limitation after date of severance. In the case of a Participant who has had a "Severance from Employment" with the Employer, the "Defined Benefit Compensation Limitation" applicable to the Participant in any "Limitation Year" beginning after the date of severance shall be automatically adjusted under Code Section 415(d) unless otherwise elected below.

[ ] The "Defined Benefit Compensation Limitation" shall not be automatically adjusted.

2.4 Adjustment to dollar limit after date of severance. In the case of a Participant who has had a "Severance from Employment" with the Employer, the "Defined Benefit Dollar Limitation" applicable to the Participant in any "Limitation Year" beginning after the date of severance shall not be automatically adjusted under Code Section 415(d) unless otherwise elected below.

[ ] The "Defined Benefit Dollar Limitation" shall be automatically adjusted.

ARTICLE III
415 COMPENSATION

3.1 Effective date. The provisions of this Article III shall apply to "Limitation Years" beginning on and after July 1, 2007.

3.2 415 Compensation paid after "Severance from Employment." 415 Compensation shall be adjusted, as set forth herein and as otherwise elected in Article II, for the following types of compensation paid after a
Participant's "Severance from Employment" with the Employer maintaining the Plan (or any other entity that is treated as the Employer pursuant to Code Section 414(b), (c), (m) or (o)). However, amounts described in subsections (a), (b) and (c) below may only be included in 415 Compensation to the extent such amounts are paid by the later of 2 1/2 months after "severance from Employment" or by the end of the "Limitation Year" that includes the date of such "Severance from Employment." Any other payment of compensation paid after "Severance from Employment" that is not described in the following types of compensation is not considered 415 Compensation within the meaning of Code Section 415(c)(3), even if payment is made within the time period specified above.

(a) **Regular pay.** 415 Compensation shall include regular pay after "Severance from Employment" if:

1. The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
2. The payment would have been paid to the Participant prior to a "Severance from Employment" if the Participant had continued in employment with the Employer.

(b) **Leave cashouts.** Leave cashouts shall be included in 415 Compensation, unless otherwise elected in Section 2.1 of this Amendment, if those amounts would have been included in the definition of 415 Compensation if they were paid prior to the Participant's "Severance from Employment," and the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued.

(c) **Deferred Compensation.** Unless otherwise elected in Section 2.1 of this Amendment, 415 Compensation will include deferred compensation if the compensation would have been included in the definition of 415 Compensation if it had been paid prior to the Participant's "Severance from Employment," and the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the Participant had continued in employment with the Employer and only to the extent that the payment is includible in the Participant's gross income.

(d) **Salary continuation payments for military service Participants.** 415 Compensation does not include, unless otherwise elected in Section 2.1 of this Amendment, payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code Section 414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

(e) **Salary continuation payments for disabled Participants.** Unless otherwise elected in Section 2.1 of this Amendment, 415 Compensation does not include compensation paid to a Participant who is permanently and totally disabled (as defined in Code Section 22(e)(3)). If elected, this provision shall apply to either just non-highly compensated Participants or to all Participants for the period specified in Section 2.1 of this Amendment.

3.3 **Administrative delay ("the first few weeks") rule.** 415 Compensation for a "Limitation Year" shall not include, unless otherwise elected in Section 2.1 of this Amendment, amounts earned but not paid during the "Limitation Year" solely because of the timing of pay periods and pay dates. However, if elected in Section 2.1 of this Amendment, 415 Compensation for a "Limitation Year" shall include amounts earned but not paid during the "Limitation Year" solely because of the timing of pay periods and pay dates, provided the amounts are paid during the first few weeks of the next "Limitation Year," the amounts are included on a uniform and consistent basis with respect to all similarly situated Participants, and no compensation is included in more than one "Limitation Year."

3.4 **Inclusion of certain nonqualified deferred compensation amounts.** If the Plan's definition of Compensation for purposes of Code Section 415 is the definition in Regulations Section 1.415(c)-2(b) (Regulations Section 1.415-2(d)(2) under the Regulations in effect for "Limitation Years" beginning prior to July 1, 2007) and the simplified compensation definition of Regulations Section 1.415(c)-2(d)(2) (Regulations Section 1.415-2(d)(10) under the Regulations in effect for "Limitation Years" prior to July 1, 2007) is not used, then 415 Compensation shall include amounts that are includible in the gross income of a Participant under the rules of Code Section 409A or Code Section 457(f)(1)(A) or because the amounts are

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constructively received by the Participant. [Note if the Plan’s definition of Compensation is W-2 wages or wages for withholding purposes, then these amounts are already included in Compensation.]

3.5 **Back Pay.** Payments awarded by an administrative agency or court or pursuant to a bona fide agreement by an Employer to compensate an Employee for lost wages are 415 Compensation for the "Limitation Year" to which the back pay relates, but only to the extent such payments represent wages and compensation that would otherwise be included in 415 Compensation under this Article.

3.6 **Change of "Limitation Year."** The "Limitation Year" may only be changed by a Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's "Limitation Year," then the Plan is treated as if the Plan had been amended to change its "Limitation Year."

**ARTICLE IV**

**PLAN COMPENSATION**

4.1 **Compensation paid after "Severance from Employment."** Compensation for purposes of benefits (hereinafter referred to as Plan Compensation) shall be adjusted, unless otherwise elected in Amendment Section 2.1, in the same manner as 415 Compensation pursuant to Article III of this Amendment if those amounts would have been included in Compensation if they were paid prior to the Participant's "Severance from Employment," except in applying Article III, the term "Limitation Year" shall be replaced with the term "Plan Year" and the term "415 Compensation" shall be replaced with the term "Plan Compensation."

4.2 **Effective date of Plan Compensation provisions.** The provisions of this Article shall apply for Plan Years beginning on and after July 1, 2007, unless another effective date is specified in Section 2.1 of this Amendment.

**ARTICLE V**

**FINAL SECTION 411 REGULATIONS**

No amendment to the plan (including a change in the actuarial basis for determining optional or early retirement benefits) shall be effective to the extent that it has the effect of decreasing a Participant's accrued benefit. For purposes of this paragraph, a plan amendment that has the effect of (1) eliminating or reducing an early retirement benefit or a retirement-type subsidy, or (2) eliminating an optional form of benefit, with respect to benefits attributable to service before the amendment shall be treated as reducing accrued benefits. In the case of a retirement-type subsidy, the preceding sentence shall apply only with respect to a Participant who satisfies (either before or after the amendment) the pre-amendment conditions for the subsidy. Notwithstanding the preceding sentences, a Participant's Accrued Benefit, early retirement benefit, retirement-type subsidy, or optional form of benefit may be reduced to the extent permitted under Code Section 412(c)(8) (for Plan Years beginning on or before December 31, 2007) or Code Section 412(d)(2) (for Plan Years beginning after December 31, 2007), or to the extent permitted under Regulations Sections 1.411(d)-3 and 1.411(d)-4. For purposes of this paragraph, a retirement-type subsidy is the excess, if any, of the actuarial present value of a retirement-type benefit over the actuarial present value of the Accrued Benefit commencing at Normal Retirement Age or at actual commencement date, if later, with both such actuarial present values determined as of the date the retirement-type benefit commences.

**ARTICLE VI**

**CODE SECTION 415 LIMITATIONS**

6.1 **Annual Benefit.**

(a) **Effective date.** The limitations of this Article apply in "Limitation Years" beginning on or after July 1, 2007, except as otherwise provided herein.

(b) **"Annual Benefit."** The “Annual Benefit” otherwise payable to a Participant under the Plan at any time shall not exceed the “Maximum Permissible Benefit.” If the benefit the Participant would otherwise accrue in a "Limitation Year" would produce an “Annual Benefit” in excess of the “Maximum Permissible Benefit,” then the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the “Maximum Permissible Benefit.”

(c) **Adjustment if in two defined benefit plans.** If the Participant is, or has ever been, a Participant in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by
the Employer or a "Predecessor Employer," the sum of the Participant’s “Annual Benefits” from all such plans may not exceed the “Maximum Permissible Benefit.” Where the Participant’s employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the “Maximum Permissible Benefit” applicable at that age, the Employer shall limit a Participant’s benefit in accordance with the terms of the Plans.

(d) **Grandfather of limits prior to July 1, 2007.** The application of the provisions of this Article shall not cause the “Maximum Permissible Benefit” for any Participant to be less than the Participant’s Accrued Benefit under all the defined benefit plans of the Employer or a "Predecessor Employer" as of the end of the last "Limitation Year" beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, Regulations, and other published guidance relating to Code Section 415 in effect as of the end of the last "Limitation Year" beginning before July 1, 2007, as described in Regulations Section 1.415(a)-1(g)(4).

(e) **Other rules applicable.** The limitations of this Article shall be determined and applied taking into account the rules in Amendment Section 6.3.

6.2 **Definitions.** For purposes of this Amendment, the following definitions apply.

(a) **Annual Benefit.** "Annual Benefit" means a benefit that is payable annually in the form of a "Straight Life Annuity." Except as provided below, where a benefit is payable in a form other than a "Straight Life Annuity," the benefit shall be adjusted to an actuarially equivalent "Straight Life Annuity" that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this Article. For a Participant who has or will have distributions commencing at more than one Annuity Starting Date, the "Annual Benefit" shall be determined as of each such Annuity Starting Date (and shall satisfy the limitations of this Article as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other Annuity Starting Dates. For this purpose, the determination of whether a new Annuity Starting Date has occurred shall be made without regard to Regulations Section 1.401(a)-20, Q&A 10(d), and with regard to Regulations Section 1.415(b)1(b)(1)(iii)(B) and (C).

No actuarial adjustment to the benefit shall be made for (a) survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the Participant’s benefit were paid in another form; (b) benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or (c) the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to Code Section 417(e)(3) and would otherwise satisfy the limitations of this Article, and the Plan provides that the amount payable under the form of benefit in any "Limitation Year" shall not exceed the limits of this Article applicable at the Annuity Starting Date, as increased in subsequent years pursuant to Code Section 415(d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

The determination of the "Annual Benefit" shall take into account Social Security supplements described in Code Section 411(a)(9) and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant Regulations Section 1.411(d)-4, Q&A-3(c), but shall disregard benefits attributable to Employee contributions or rollover contributions.

Effective for distributions in Plan Years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a "Straight Life Annuity" shall be made in accordance with (1) or (2) below.

1. **Benefit forms not subject to Code Section 417(e)(3).** The "Straight Life Annuity" that is actuarially equivalent to the Participant’s form of benefit shall be determined under this subsection (1) if the form of the Participant’s benefit is either (a) a nondecreasing annuity (other than a "Straight Life Annuity") payable for a period of not less than the life of the Participant (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse), or (b) an annuity that decreases during the life of the Participant merely because of (1) the death of the survivor annuitant (but only if the reduction is not below 50% of the benefit payable before the death of the survivor annuitant), or (2) the cessation or reduction of Social Security supplements or qualified disability payments (as defined in Code Section 401(a)(11)).
(i) "Limitation Years" beginning before July 1, 2007. For "Limitation Years" beginning before July 1, 2007, the actuarially equivalent "Straight Life Annuity" is equal to the annual amount of the "Straight Life Annuity" commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant’s form of benefit computed using whichever of the following produces the greater annual amount: (I) the interest rate and mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form; and (II) 5% interest rate assumption and the applicable mortality table defined in the Plan for that Annuity Starting Date.

(ii) "Limitation Years" beginning on or after July 1, 2007. For "Limitation Years" beginning on or after July 1, 2007, the actuarially equivalent "Straight Life Annuity" is equal to the greater of (I) the annual amount of the "Straight Life Annuity" (if any) payable to the Participant under the Plan commencing at the same Annuity Starting Date as the Participant’s form of benefit; and (II) the annual amount of the "Straight Life Annuity" commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant’s form of benefit, computed using a 5% interest rate assumption and the applicable mortality table defined in the Plan for that Annuity Starting Date.

(2) Benefit Forms Subject to Code Section 417(e)(3). The "Straight Life Annuity" that is actuarially equivalent to the Participant’s form of benefit shall be determined under this paragraph if the form of the Participant’s benefit is other than a benefit form described in Amendment Section 6.2(a)(1) above. In this case, the actuarially equivalent "Straight Life Annuity" shall be determined as follows:

(i) Annuity Starting Date in Plan Years Beginning After 2005. If the Annuity Starting Date of the Participant’s form of benefit is in a Plan Year beginning after 2005, the actuarially equivalent "Straight Life Annuity" is equal to the greatest of (I) the annual amount of the "Straight Life Annuity" commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant’s form of benefit, computed using the interest rate and mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form; (II) the annual amount of the "Straight Life Annuity" commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant’s form of benefit, computed using a 5.5 percent interest rate assumption and the applicable mortality table defined in the Plan; and (III) the annual amount of the "Straight Life Annuity" commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant’s form of benefit, computed using whichever of the following produces the greatest annual amount: (I) the interest rate and mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form; and (II) a 5.5% interest rate assumption and the applicable mortality table defined in the Plan.

(ii) Annuity Starting Date in Plan Years Beginning in 2004 or 2005. If the Annuity Starting Date of the Participant’s form of benefit is in a Plan Year beginning in 2004 or 2005, except as provided in the transition rule of (iii) below (if elected), the actuarially equivalent "Straight Life Annuity" is equal to the annual amount of the "Straight Life Annuity" commencing at the same annuity starting date that has the same actuarial present value as the Participant’s form of benefit, computed using whichever of the following produces the greater annual amount: (I) the interest rate and mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form; and (II) a 5.5% interest rate assumption and the applicable mortality table defined in the Plan.

(iii) Transition rule. If the transitional rule is elected in Amendment Section 2.2, then if the Annuity Starting Date of the Participant’s benefit is on or after the first day of the first Plan Year beginning in 2004 and before December 31, 2004, the application of this Amendment Section 6.2(a)(ii) shall not cause the amount payable under the Participant’s form of benefit to be less than the benefit calculated under the Plan, taking into account the limitations of this Article, except that the actuarially equivalent "Straight Life Annuity" is equal to the annual amount of the "Straight Life Annuity" commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant’s form of benefit, computed using whichever of the following produces the greatest annual amount: (I) the interest rate and mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form; (II) the applicable interest rate and applicable mortality table defined in the Plan; and (III) the applicable interest.
rate defined in the Plan (as in effect on the last day of the last Plan Year beginning before January 1, 2004, under provisions of the Plan then adopted and in effect) and the applicable mortality table defined in the Plan.

(b) **Defined Benefit Compensation Limitation.** "Defined Benefit Compensation Limitation" means 100% of a Participant’s "High Three-Year Average Compensation," payable in the form of a "Straight Life Annuity." Unless otherwise elected by the Employer in Amendment Section 2.3, in the case of a Participant who has had a "Severance from Employment" with the Employer, the "Defined Benefit Compensation Limitation" applicable to the Participant in any "Limitation Year" beginning after the date of severance shall be automatically adjusted by multiplying the limitation applicable to the Participant in the prior "Limitation Year" by the annual adjustment factor under Code Section 415(d) that is published in the Internal Revenue Bulletin. The adjusted compensation limit shall apply to "Limitation Years" ending with or within the calendar year of the date of the adjustment, but a Participant’s benefits shall not reflect the adjusted limit prior to January 1 of that calendar year.

In the case of a Participant who is rehired after a "Severance from Employment," the "Defined Benefit Compensation Limitation" is the greater of 100% of the Participant’s "High Three-Year Average Compensation," as determined prior to the "Severance from Employment," as adjusted pursuant to the preceding paragraph, if applicable; or 100% of the Participant’s "High Three-Year Average Compensation," as determined after the "Severance from Employment."

(c) **Defined Benefit Dollar Limitation.** "Defined Benefit Dollar Limitation" means, effective for "Limitation Years" ending after December 31, 2001, $160,000, automatically adjusted under Code Section 415(d), effective January 1 of each year, as published in the Internal Revenue Bulletin, and payable in the form of a "Straight Life Annuity." 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 benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. If elected by the Employer in Amendment Section 2.4, the automatic annual adjustment of the "Defined Benefit Dollar Limitation" under Code 415(d) shall apply to Participants who have had a separation from employment.

(d) **Employer.** "Employer" means, for purposes of this Article, the Employer that has adopted the 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).

(e) **Formerly Affiliated Plan of the Employer.** "Formerly Affiliated Plan of the Employer" means a plan that, immediately prior to the cessation of affiliation, was actually maintained by the Employer and, immediately after the cessation of affiliation, is not actually maintained by the Employer. For this purpose, "cessation of affiliation" means the event that (i) causes an entity to no longer be considered the Employer, such as the sale of a member of a controlled group of corporations, as defined in Code Section 414(b), as modified by Code Section 415(h), to an unrelated corporation, or (ii) causes a plan to not actually be maintained by the Employer, such as transfer of plan sponsorship outside a controlled group.

(f) **High Three-Year Average Compensation.** "High Three-Year Average Compensation" means the average 415 Compensation for the three consecutive Years of Service (or, if the Participant has less than three consecutive Years of Service, the Participant’s longest consecutive period of service, including fractions of years, but not less than one year) with the Employer that produces the highest average. A Participant’s 415 Compensation for a Year of Service shall not include 415 Compensation in excess of the limitation under Code Section 401(a)(17) that is in effect for the calendar year in which such Year of Service begins. For purposes of this definition, a Year of Service with the Employer is the 12-consecutive month period defined in the Plan which is used to determine 415 Compensation under the Plan.

In the case of a Participant who is rehired by the Employer after a "Severance from Employment," the Participant’s "High Three-Year Average Compensation" shall be calculated by excluding all years for which the Participant performs no services for and receives no 415 Compensation from the Employer (the break period) and by treating the years immediately preceding and following the break period as consecutive.

(g) **Limitation Year.** "Limitation Year" means the period specified in the Plan that is used to apply the Code Section 415 limitations.
(h) Maximum Permissible Benefit. "Maximum Permissible Benefit" means the lesser of the "Defined Benefit Dollar Limitation" or the "Defined Benefit Compensation Limitation" (both adjusted where required, as provided below).

1. Adjustment for Less Than 10 Years of Participation or Service: If the Participant has less than 10 years of participation in the Plan, the "Defined Benefit Dollar Limitation" shall be multiplied by a fraction -- (i) the numerator of which is the number of "Years of Participation" in the Plan (or part thereof, but not less than one year), and (ii) the denominator of which is ten (10). In the case of a Participant who has less than ten Years of Service with the Employer, the "Defined Benefit Compensation Limitation" shall be multiplied by a fraction -- (i) the numerator of which is the number of "Years of Service" with the Employer (or part thereof, but not less than one year), and (ii) the denominator of which is ten (10).

2. Adjustment of "Defined Benefit Dollar Limitation" for Benefit Commencement Before Age 62 or after Age 65: Effective for benefits commencing in "Limitation Years" ending after December 31, 2001, the "Defined Benefit Dollar Limitation" shall be adjusted if the Annuity Starting Date of the Participant’s benefit is before age 62 or after age 65. If the Annuity Starting Date is before age 62, the "Defined Benefit Dollar Limitation" shall be adjusted under section 6.2(h)(2)(i), as modified by Amendment Section 6.2(h)(2)(iii). If the Annuity Starting Date is after age 65, the "Defined Benefit Dollar Limitation" shall be adjusted under Amendment Section 6.2(h)(2)(ii), as modified by Amendment Section 6.2(h)(2)(iii).

(i) Adjustment of "Defined Benefit Dollar Limitation" for Benefit Commencement Before Age 62:

(I) "Limitation Years" Beginning Before July 1, 2007. If the Annuity Starting Date for the Participant’s benefit is prior to age 62 and occurs in a "Limitation Year" beginning before July 1, 2007, the "Defined Benefit Dollar Limitation" for the Participant’s Annuity Starting Date is the annual amount of a benefit payable in the form of a "Straight Life Annuity" commencing at the Participant’s Annuity Starting Date that is the actuarial equivalent of the "Defined Benefit Dollar Limitation" (adjusted under Amendment Section 6.2(h)(1) for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and mortality table (or other tabular factor) specified in the Plan; or (2) a five-percent (5%) interest rate assumption and the applicable mortality table as defined in the Plan.

(II) "Limitation Years" Beginning on or After July 1, 2007.

(A) Plan Does Not Have Immediately Commencing "Straight Life Annuity" Payable at both Age 62 and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant’s benefit is prior to age 62 and occurs in a "Limitation Year" beginning on or after July 1, 2007, and the Plan does not have an immediately commencing "Straight Life Annuity" payable at both age 62 and the age of benefit commencement, the "Defined Benefit Dollar Limitation" for the Participant’s Annuity Starting Date is the annual amount of a benefit payable in the form of a "Straight Life Annuity" commencing at the Participant’s Annuity Starting Date that is the actuarial equivalent of the "Defined Benefit Dollar Limitation" (adjusted under Amendment Section 6.2(h)(1) for years of participation less than ten (10), if required) with actuarial equivalence computed using a five-percent (5%) interest rate assumption and the applicable mortality table for the Annuity Starting Date as defined in the Plan (and expressing the Participant’s age based on completed calendar months as of the Annuity Starting Date).

(B) Plan Has Immediately Commencing "Straight Life Annuity" Payable at both Age 62 and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant’s
benefit is prior to age 62 and occurs in a "Limitation Year" beginning on or after July 1, 2007, and the Plan has an immediately commencing "Straight Life Annuity" payable at both age 62 and the age of benefit commencement, the "Defined Benefit Dollar Limitation" for the Participant’s Annuity Starting Date is the lesser of the limitation determined under Amendment Section 6.2(h)(2)(ii)(I)(A) and the "Defined Benefit Dollar Limitation" (adjusted under Amendment Section 6.2(h)(1) for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the immediately commencing "Straight Life Annuity" under the Plan at the Participant’s Annuity Starting Date to the annual amount of the immediately commencing "Straight Life Annuity" under the Plan at age 62, both determined without applying the limitations of this article.

(ii) Adjustment of "Defined Benefit Dollar Limitation" for Benefit Commencement After Age 65:

(I) "Limitation Years" Beginning Before July 1, 2007. If the Annuity Starting Date for the Participant’s benefit is after age 65 and occurs in a Limitation Year beginning before July 1, 2007, the "Defined Benefit Dollar Limitation" for the Participant’s Annuity Starting Date is the annual amount of a benefit payable in the form of a "Straight Life Annuity" commencing at the Participant’s Annuity Starting Date that is the actuarial equivalent of the "Defined Benefit Dollar Limitation" (adjusted under Amendment Section 6.2(h)(1) for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and mortality table (or other tabular factor) specified in the Plan; or (2) a five-percent (5%) interest rate assumption and the applicable mortality table as defined in the Plan.

(II) "Limitation Years" Beginning Before July 1, 2007.

(A) Plan Does Not Have Immediately Commencing "Straight Life Annuity" Payable at both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the Participant’s benefit is after age 65 and occurs in a "Limitation Year" beginning on or after July 1, 2007, and the Plan does not have an immediately commencing "Straight Life Annuity" payable at both age 65 and the age of benefit commencement, the "Defined Benefit Dollar Limitation" at the Participant’s Annuity Starting Date is the annual amount of a benefit payable in the form of a "Straight Life Annuity" commencing at the Participant’s Annuity Starting Date that is the actuarial equivalent of the "Defined Benefit Dollar Limitation" (adjusted under Amendment Section 6.2(h)(1) for years of participation less than 10, if required), with actuarial equivalence computed using a 5% interest rate assumption and the applicable mortality table for that Annuity Starting Date as defined in the Plan (and expressing the Participant’s age based on completed calendar months as of the Annuity Starting Date).

(B) Plan Has Immediately Commencing "Straight Life Annuity" Payable at both Age 65 and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant’s benefit is after age 65 and occurs in a "Limitation Year" beginning on or after July 1, 2007, and the plan has an immediately commencing "Straight Life Annuity" payable at both age 65 and the age of benefit commencement, the "Defined Benefit Dollar Limitation" at the Participant’s Annuity Starting Date is the lesser of the limitation determined under Amendment Section 6.2(h)(2)(ii)(I)(A) and the "Defined Benefit Dollar Limitation" (adjusted under Amendment Section 6.2(h)(1) for years of participation less than ten (10), if
required) multiplied by the ratio of the annual amount of the adjusted immediately commencing "Straight Life Annuity" under the Plan at the Participant’s Annuity Starting Date to the annual amount of the adjusted immediately commencing "Straight Life Annuity" under the Plan at age 65, both determined without applying the limitations of this Article. For this purpose, the adjusted immediately commencing "Straight Life Annuity" under the Plan at the Participant’s Annuity Starting Date is the annual amount of such annuity payable to the Participant, computed disregarding the Participant’s accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing "Straight Life Annuity" under the Plan at age 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical Participant who is age 65 and has the same accrued benefit as the Participant.

(iii) Notwithstanding the other requirements of this Amendment Section 6.2(h)(2), no adjustment shall be made to the "Defined Benefit Dollar Limitation" to reflect the probability of a Participant’s death between the Annuity Starting Date and age 62, or between age 65 and the Annuity Starting Date, as applicable, if benefits are not forfeited upon the death of the Participant prior to the Annuity Starting Date. To the extent benefits are forfeited upon death before the Annuity Starting Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Participant’s death if the Plan does not charge Participants for providing a qualified preretirement survivor annuity, as defined in Code Section 417(c), upon the Participant’s death.

(3) Minimum benefit permitted: Notwithstanding anything else in this Section to the contrary, the benefit otherwise accrued or payable to a Participant under this Plan shall be deemed not to exceed the "Maximum Permissible Benefit" if:

(i) the retirement benefits payable for a "Limitation Year" under any form of benefit with respect to such Participant under this Plan and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the Employer do not exceed $10,000 multiplied by a fraction – (I) the numerator of which is the Participant’s number of Years (or part thereof, but not less than one year) of Service (not to exceed ten (10)) with the Employer, and (II) the denominator of which is ten (10); and

(ii) the Employer (or a "Predecessor Employer") has not at any time maintained a defined contribution plan in which the Participant participated (for this purpose, mandatory Employee contributions under a defined benefit plan, individual medical accounts under Code Section 401(h), and accounts for post-retirement medical benefits established under Code Section 419A(d)(1) are not considered a separate defined contribution plan).

(i) **Predecessor Employer.** "Predecessor Employer" means, with respect to a Participant, a former employer of such Participant if the Employer maintains a Plan that provides a benefit which the Participant accrued while performing services for the former employer. A former entity that antedates the Employer is also a "Predecessor Employer" with respect to a Participant 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. For this purpose, the formerly affiliated plan rules in Regulations Section 1.415(f)-1(b)(2) apply as if the Employer and "Predecessor Employer" constituted a single employer under the rules described in Regulations Section 1.415(a)-1(l)(1) and (2) immediately prior to the cessation of affiliation (and as if they constituted two, unrelated employers under the rules described in Regulations Section 1.415(a)-1(l)(1) and (2) immediately after the cessation of affiliation) and cessation of affiliation was the event that gives rise to the "Predecessor Employer" relationship, such as a transfer of benefits or plan sponsorship.

(j) **Severance from Employment.** "Severance from Employment" means, with respect to any individual, cessation from being 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.
6.3 **Other rules.**

(a) **Benefits under terminated plans.** If a defined benefit plan maintained by the Employer has terminated with sufficient assets for the payment of benefit liabilities of all plan participants and a Participant in the plan has not yet commenced benefits under the plan, the benefits provided pursuant to the annuities purchased to provide the Participant’s benefits under the terminated plan at each possible Annuity Starting Date shall be taken into account in applying the limitations of this Article. If there are not sufficient assets for the payment of all Participants’ benefit liabilities, the benefits taken into account shall be the benefits that are actually provided to the Participant under the terminated plan.

(b) **Benefits transferred from the Plan.** If a Participant’s benefits under a defined benefit plan maintained by the Employer are transferred to another defined benefit plan maintained by the Employer and the transfer is not a transfer of distributable benefits pursuant Regulations Section 1.411(d)-4, Q&A-3(c), then the transferred benefits are not treated as being provided under the transferor plan (but are taken into account as benefits provided under the transferee plan). If a Participant’s benefits under a defined benefit plan maintained by the Employer are transferred to another defined benefit plan that is not maintained by the Employer and the transfer is not a transfer of distributable benefits pursuant to Regulations Section 1.411(d)-4, Q&A-3(c), then the transferred benefits are treated by the Employer’s Plan as if such benefits were provided under annuities purchased to provide benefits under a plan maintained by the Employer that terminated immediately prior to the transfer with sufficient assets to pay all Participants’ benefit liabilities under the plan. If a Participant’s benefits under a defined benefit plan maintained by the Employer are transferred to another defined benefit plan pursuant to Regulations Section 1.411(d)-4, Q&A-3(c), the amount transferred is treated as a benefit paid from the transferor plan.

(c) **Formerly affiliated plans of the Employer.** A "Formerly Affiliated Plan of an Employer" shall be treated as a plan maintained by the Employer, but the formerly affiliated plan shall be treated as if it had terminated immediately prior to the cessation of affiliation with sufficient assets to pay Participants’ benefit liabilities under the Plan and had purchased annuities to provide benefits.

(d) **Plans of a "Predecessor Employer."** If the Employer maintains a defined benefit plan that provides benefits accrued by a Participant while performing services for a "Predecessor Employer," then the Participant’s benefits under a plan maintained by the "Predecessor Employer" shall be treated as provided under a plan maintained by the Employer. However, for this purpose, the plan of the "Predecessor Employer" shall be treated as if it had terminated immediately prior to the event giving rise to the "Predecessor Employer" relationship with sufficient assets to pay Participants’ benefit liabilities under the plan, and had purchased annuities to provide benefits; the Employer and the "Predecessor Employer" shall be treated as if they were a single employer immediately prior to such event and as unrelated employers immediately after...
the event; and if the event giving rise to the predecessor relationship is a benefit transfer, the transferred benefits shall be excluded in determining the benefits provide under the plan of the "Predecessor Employer."

(e) **Special rules.** The limitations of this Article shall be determined and applied taking into account the rules in Regulations Section 1.415(f)-1(d), (e) and (h).

(f) **Aggregation with Multiemployer Plans.**

(1) If the Employer maintains a multiemployer plan, as defined in Code Section 414(f), and the multiemployer plan so provides, only the benefits under the multiemployer plan that are provided by the Employer shall be treated as benefits provided under a plan maintained by the Employer for purposes of this Article.

(2) Effective for "Limitation Years" ending after December 31, 2001, a multiemployer plan shall be disregarded for purposes of applying the compensation limitation of Amendment Sections 6.2(b) and 6.2(h)(1) to a plan which is not a multiemployer plan.
CERTIFICATE OF ADOPTING RESOLUTION

The undersigned authorized representative of ____________________________ (the Employer) hereby certifies that the following resolutions were duly adopted by Employer on __________________________, __________, and that such resolutions have not been modified or rescinded as of the date hereof;

RESOLVED, the Amendment to the ____________________________ Plan (the Amendment) generally effective for Limitation Years beginning on or after July 1, 2007, is hereby approved and adopted and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the amendment.

The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted in the foregoing resolution.

Date: ________________________________

Signed: ________________________________

________________________________ [print name/title]
SUMMARY OF MATERIAL MODIFICATIONS
for the

(Name of Plan)

(1) **General.** This is a Summary of Material Modifications regarding the ("Plan"). This Summary of Material Modifications supplements and amends the Summary Plan Description previously provided to you. You should retain this document with your copy of the SPD.

(2) **Identification of Employer.** The legal name, address and Federal Employer identification number of the Employer are:


EIN: ______________________

(3) **Description of Modifications.** In determining maximum benefits that may be paid under the Internal Revenue Code, Compensation in excess of $230,000 (as adjusted for future cost-of-living adjustments) may not be taken into account. In addition, the Employer has amended the plan’s definition of compensation for purposes of determining your benefit under the Plan effective as of the first plan year beginning on or after July 1, 2007 [if applicable, enter alternative effective date] to (select all that apply):

- [ ] Exclude all Compensation paid after you terminate employment with the Employer.
- [X] Include the following amounts (to the extent they would otherwise be taken into account under the Plan's definition of Compensation) that are paid after you terminate employment with the Employer, provided the payments are made within the later of 2 1/2 months after you terminate employment or the end of the year that includes the date of the your termination of employment. Any other payment that is made after termination of employment is not treated as Compensation.
  - [X] Include compensation for services performed during your regular working hours, or compensation for services outside your regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and payments that would have been made to you had you continued employment.
  - [X] Include amounts paid for unused accrued bona fide sick, vacation or other leave, if such amounts would have been included in Compensation had they been paid prior to your termination of employment and you would have been able to use the leave if employment had continued.
  - [X] Include nonqualified unfunded deferred Compensation if the payment is includible in gross income and would have been paid to you had you continued employment.
- [ ] Including amounts paid to you if you do not currently perform services for the Employer by reason of qualified military service, provided the payments do not exceed the amounts you would had have received had you remained employed.
- [ ] Including amounts paid to you if you are permanently and totally disabled (as defined in the Internal Revenue Code) provided:
  - [ ] You are not a highly compensated employee (within the meaning of the Internal Revenue Code).
  - [ ] The payments do not continue beyond the following period ________________.