

**ARKANSAS MUNICIPAL LEAGUE
457 (b) DEFERRED COMPENSATION PLAN**

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Effective January 1, 2001, the Arkansas Municipal League (“AML”) hereby establishes the Arkansas Municipal League Deferred Compensation Plan under Section 457(b) of the Internal Revenue Code.

The Plan consists of the provisions set forth in this Master Plan document, as amended and restated, along with the provisions set forth in an Adoption Agreement of any Participating Employer, and any amendments to the Master Plan and the Adoption Agreement.

ARTICLE I - DEFINITIONS

1.01 **“Account”** means the account maintained for a Participant by the Administrator.

1.02 **“Administrator”** means Arkansas Municipal League, and includes the Service Manager with regard to functions that include services provided by the Service Manager.

1.03 **“Applicable Form”** means the appropriate form as designated and furnished by the Administrator to make an election or provide a notice as required by the Plan. If a written election or consent is not specifically required by the Code, the Administrator may prescribe a verbal, electronic or telephonic instruction in lieu of or in addition to a written form.

1.04 **“Adoption Agreement”** means the agreement entered into by an Employer to participate in this Plan.

1.05 **“Beneficiary”** means the person or persons designated by a Participant to receive any benefit payable upon the Participant’s death.

1.06 **“Code”** means the Internal Revenue Code of 1986, as amended.

1.07 **“Compensation”** means all remuneration payable to an Employee for services performed, including salary, wages, or any other allowance.

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1.08 **Disability** or **Disabled** means a total and permanent disability determined as follows: (i) by the Social Security Administration for a Participant who is covered by Social Security; or (ii) by the Employer, for a Participant who is not covered by Social Security. With respect to (ii), the Employer shall use the definition of disability found in Code Section 72(m)(7).

1.09 **Eligible Employee** means an Employee who by the Adoption Agreement is eligible to participate in the Plan.

1.010 **Employee** means any common law employee of an Employer and includes elected and appointed officials. However, the term does include independent contractors if permitted by the Adoption Agreement.

1.011 **Employer** means any municipal corporation, political subdivision, or other governmental agency or instrumentality in the State.

1.012 **Governing Authority** means the entity authorized by law to act for the Employer and adopt this Plan through the Adoption Agreement.

1.013 **Includible Compensation** means the amount of an Employee's Compensation for services performed for the Employer which (after taking into account all of the provisions of the Code) is includible in gross income for federal income tax purposes for a taxable year. An Employee's Includible Compensation for a calendar year shall be determined in accordance with Section 457(e) of the Code.

1.014 **Investment Fund** means an investment fund which forms part of the Trust Fund as established by the Trustees at the direction of the Administrator.

1.015 **Normal Retirement Age** means the age selected by a Participant that fixes the eligibility period for utilizing the catch-up limitation under Section 4.02. The Normal

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Retirement Age selected by a Participant may not be earlier than the earliest date that the Participant would become eligible to retire and receive unreduced benefits as a member of the pension plan of the Participant's Employer. A Participant's Normal Retirement Age established for catch-up does not have any bearing on the age at which the Participant actually retires. In the absence of an Employer pension plan, Normal Retirement Age shall be 65.

1.016 "**Participant**" means an Eligible Employee who participates under this Plan by signing a Participation Agreement and by maintaining an Account balance.

1.017 "**Participating Employer**" means any Employer who elects to participate in the Plan pursuant to Article II with respect to the Eligible Employees of one (1) or more departments.

1.018 "**Participation Agreement**" means the Applicable Form completed by an Employee to participate in the Plan.

1.019 "**Payroll Period**" is the time period specified by the Participating Employer in the Adoption Agreement.

1.020 "**Plan Year**" means the plan year as determined by a Participating Employer in the Adoption Agreement.

1.021 "**Separation from Service**" means severance of a Participant's employment with the Participating Employer for any reason, including retirement, within the meaning of Code Section 402(d)(4)(A)(iii). A Participant shall be deemed to have severed employment with the Participating Employer for purposes of the Plan when, in accordance with the established personnel practices of the Participating Employer, the employment relationship is considered actually terminated. If a Participant has not been terminated, but the Participant has not performed services for the Participating Employer for a period of six (6) consecutive months

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and the Participant is not on a paid leave of absence, the Participant shall be deemed Separated from Service for purposes of this Plan at the end of the six (6) month period.

1.022 “Service Manager” means the person or organization appointed by the Administrator to perform services regarding the Plan.

1.023 “State” means the State of Arkansas.

1.024 “Trust” means the trust established by the Arkansas Municipal League pursuant to a written declaration.

1.025 “Trustees” mean those individuals that Arkansas Municipal League appoints to serve as the Trustees under the Plan’s Trust.

1.026 Rules of Construction. Words used herein in the masculine gender shall be construed to include the feminine gender where appropriate, and words used herein in the singular or plural shall be construed as being in the plural or singular where appropriate.

ARTICLE II - PARTICIPATION BY EMPLOYERS

2.01 **Adoption by Employer.** Any Employer may make the Plan available to its Employees if it takes the following actions.

- (1) The Governing Authority of the Employer must pass a resolution formally adopting this Plan for its Employees and approving the Adoption Agreement.
- (2) The resolution must indicate the date of adoption.
- (3) The resolution must commit to the terms of an Adoption Agreement completed by the Employer.
- (4) The resolution must specify that the Employer shall abide by the terms of the Plan and the Trust, including all investments, administrative, and service agreements of the Plan, and all applicable provisions of the Code and other applicable law.
- (5) The resolution must acknowledge that the **Trustees** are only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the Employer.
- (6) Employers whose Employees are already participating in a deferred compensation plan under Code Section 457(b) as of the effective date of the Adoption Agreement must inform the Administrator of the name of and the provider of that plan and must provide any other information requested by the Administrator.
- (7) The **Trustees** shall determine whether the resolution complies with this section. If it does, and provided the other requirements of the Plan and Trust are met, the

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Trustees shall provide appropriate forms for the Employer to implement its participation in the Plan.

ARTICLE III - ELECTION TO DEFER COMPENSATION

3.01 **Participation.** An Employee's Compensation shall be deferred for any calendar month only if the Employee enters into a Participation Agreement prior to the beginning of such month.

3.02 **Participation Rules.** Upon signing a Participation Agreement, an Employee elects to participate in this Plan and agrees to have Compensation for each pay period deferred by the amount specified in the Participation Agreement.

3.03 **Changes to Participation Agreement.** Participants may amend their deferral amount or their investment direction on an Applicable Form in accordance with procedures established by the Administrator.

3.04 **Effective Date of Deferrals.** In all cases, a deferral shall be considered effective as of the date it is withheld from the Participant's pay.

3.05 **Cessation of Plan Participation.** An Eligible Employee shall cease to be a Participant on the distribution and/or forfeiture of the Participant's entire interest in the Plan.

3.06 **Delinquent Contributions.** It is the Participating Employer's responsibility to correctly calculate and remit the appropriate Contributions. Neither the **Trustees** nor the Administrator can have any liability for the delinquency of a Participating Employer.



ARTICLE IV - LIMITATIONS ON DEFERRALS

4.01 Limitations of Deferrals. Except as provided in Section 4.02, the maximum amount that may be deferred by a Participant shall not exceed the lesser of (a) the amount specified by Section 457(b)(2), adjusted for the calendar year to reflect increases in cost of living in accordance with Sections 457(e)(15) and 415(d) of the Code, or (b) 33 1/3% of the Participant's Includible Compensation (which is usually equivalent to 25% of gross wages).

4.02 Catch-Up Limits. For one or more of a Participant's last three taxable calendar years ending before Normal Retirement Age under the Plan, the maximum deferral shall be the lesser of (a) \$15,000 (or such greater amount as may be permitted by the Code), or (b) the sum of the plan ceiling established under Section 4.01 for the taxable year plus so much of the plan ceiling established under Section 4.01 for each prior taxable year that has not heretofore been utilized. Prior taxable years include taxable years beginning after December 31, 1978, in which the Participant was eligible to participate in this Plan or any other eligible deferred compensation plan. A Participant may elect to apply Section 4.02 only once, whether or not the catch-up is utilized in less than all three taxable years ending before the Participant attains Normal Retirement Age, and whether or not the Participant or former Participant rejoins the Plan or participates in another eligible Section 457 plan after retirement.

4.03 Coordination of Limits. Any amount contributed in a taxable year by the Participant to a tax-sheltered annuity pursuant to Code Section 403(b), to a 401(k) plan (a cash or deferred arrangement) pursuant to Code Section 402(e)(3), to another deferred compensation plan pursuant to Code Section 457(b) or to a simplified employee pension plan pursuant to Code Section 402(h)(1)(B), shall reduce the maximum amount that may be deferred under Sections 4.01 and 4.02, as if such contribution had constituted deferred amounts under this Plan for the

taxable year or years in which the contributions were made. The Participant is responsible for ensuring coordination of these limits.

4.04 Participating Employer Responsibility for Contribution Limits. The Participating Employer must monitor contributions to the Plan on behalf of a Participant to this Plan and any other 457(b) plan maintained by the Participating Employer to determine compliance with Sections 4.01 and 4.02 of this Plan. The Participating Employer must cease payroll deferrals to avoid exceeding the limits of Sections 4.01 and 4.02 and must notify the Administrator if excess deferrals have been made.



ARTICLE V - ACCOUNTS AND REPORTS

5.01 Account. The Administrator shall maintain applicable Accounts within the Participant's Account with respect to each Participant: the Employee Contribution Account, and the Miscellaneous Account. The Employee Contribution Account shall be credited with the Participant's deferrals for each Payroll Period. The Miscellaneous Account shall be credited with amounts that are transferred to the Participant's Account. The balance of the Participant's Accounts shall be adjusted daily to reflect any distribution to the Participant and all interest, dividends, account charges and changes of market value resulting from the investment of the Participant's Accounts. All Plan records, including individual account information, that are maintained by the Service Manager shall be the exclusive property of the Administrator.

5.02 Statements of Account. A written report of the status of each Participant's Account shall be furnished to the Participant by the Administrator within thirty (30) days after the end of each Plan quarter. All reports to Participants shall be based on the fair market value of investments credited to their Accounts as of the reporting dates. Participant reports shall be deemed to have been accepted by the Participant as correct unless written notice to the contrary is received by the Administrator within ninety (90) days after the mailing or distribution of a report to the Participant.

5.03 Year End Reports. Within ninety (90) days after the end of each Plan Year, a written report shall be prepared and maintained on file by the Administrator showing the assets held under the Plan, a schedule of all receipts and disbursements and all material transactions of the Plan during the preceding year. This report shall be in a form and shall contain other information as the Administrator requires. The report shall also contain such information as is necessary to enable the **Trustees** to prepare their accounting due under the Trust.

ARTICLE VI - VALUATION OF ACCOUNTS

6.01 Valuation. The Administrator shall value the investments each business day based on acceptable industry practices. All daily transactions shall be based on that day's closing market values.

6.02 Deposits. In all cases, deposits of deferrals shall be treated as actually made only as of the date the funds are accepted as in good order by the Administrator.

6.03 Report from Administrator to Trustees. The Administrator shall provide a report to the **Trustees** concerning the valuation within forty-five (45) days after the end of each calendar quarter.

ARTICLE VII - TRUST

7.01 Trust Status. All assets held in connection with the Plan, including all contributions and amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of Participants and their Beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and for defraying reasonable expenses of the Plan.

7.02 Trust Fund. To the extent required by Section 457(g) of the Code, all amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Plan shall be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan and the Trust Declaration. All contributions to the Plan must be transferred by the Participating Employers to the Trust Fund. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan.

ARTICLE VIII - INVESTMENT OF ACCOUNTS

8.01 Investment Options. From time to time, the Trustees shall determine the available Investment Funds for Participants (or Beneficiaries upon the death of the Participant). The Participants may direct the investment of their Accounts among the Investment Funds selected by the Trustees. The Administrator shall follow the Participant's (or Beneficiary's) directions with respect to the investment of each Participant's Account, except that the Administrator shall direct the investment of a Participant's (or Beneficiary's) Account to a default investment pursuant to Section 8.02 when there is no valid investment direction on file.

8.02 Investment Default. In the event that a Participant does not have a valid investment direction on file for any portion of the amount in that Participant's Account, that portion of the Account shall be invested in any default option or options as determined by the Trustees. In such event, the Participant shall be deemed to have directed that option (or options) for investment of such portion of their Account. The Trustees intend to establish one or more default options based upon various factors, including but not limited to, market risk, stability and rate of return. If the Trustees have appropriately exercised their fiduciary duty in selecting a default option(s), they have no liability for any loss sustained by a Participant or Beneficiary whose Account in whole or in part is invested in the default option(s).

ARTICLE IX - BENEFITS

9.01 Benefit Payments. Benefits shall be paid from the Trust Fund in accordance with this Article following a Participant's Separation from Service, Death, Disability or the occurrence of an unforeseeable emergency, as described in Section 9.09. Benefits payable to a Participant or a Beneficiary shall be based upon the value of the Participant's Account.

- (1) Separation from Service.** Upon Separation from Service, a Participant may elect to have benefits commence on a date, which is no later than the required distribution date of Code Section 401(a)(9), as specified in Section 9.04. A Participant may elect to change the commencement date of distribution of the Account to a later date otherwise permitted under this Article. If a Participant has elected, in accordance with the Plan, to delay the commencement of distributions to a later date, then the Participant may make one additional election to further delay the commencement of distribution, provided that the election is filed before distribution actually begins and the later commencement date meets the required distribution commencement date provisions of Code Sections 401(a)(9) and 457(d)(2). All benefits shall be paid under a payment option under Section 9.02.
- (2) Death.** In the event of the Participant's death prior to the commencement of benefits under paragraph (a), the value of the Participant's Account shall be paid to the Beneficiary under a payment option elected by the Beneficiary under Section 9.02, subject to the restrictions in Section 9.06. Such benefits shall be payable commencing within sixty (60) days after receipt by the Administrator of satisfactory proof of the Participant's death. However, if the Beneficiary is

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the spouse of the Participant, then the spouse may elect, within sixty (60) days of Participant's death, to defer distribution to a date not later than the date when the Participant would have attained age 70½.

- (3) **Disability.** Upon Separation from Service with the Participating Employer because of Disability, a Participant may elect to have benefits commence on a date no later than the required beginning date under Code Section 401(a)(9), as specified in Section 9.04. A Participant who is on leave without pay who becomes Disabled within the first six (6) months of the leave shall be considered to have separated from service on account of Disability. The commencement date must be no later than the required distribution date of Code Section 401(a)(9). A Participant may change the commencement date of distribution of the Account to a later date otherwise permitted under this Article. If a Participant has elected, in accordance with the Plan, to delay the commencement of distributions to a later date, then the Participant may make one additional election to further delay the commencement of distribution, provided that the election is filed before distribution actually begins and the later commencement date meets the required distribution commencement date provisions of Code Sections 401(a)(9) and 457(d)(2). All benefits shall be paid under a payment option under Section 9.02.

9.02 Payment Options. The election of a payment option by a Participant or a Beneficiary under Section 9.01 must be made no later than thirty (30) days before the commencement of such benefits. Subject to restrictions established by the Administrator, the Plan shall permit payout options in the form of a lump sum, periodic payments of a specified

duration, or life contingent annuities to the extent available consistent with the applicable Investment Option. Absent such an election, the Account will be paid in a lump sum.

9.03 Lump Sum Settlement. Notwithstanding anything in this Plan to the contrary, if a Participant's Account balance is less than the amount specified under Code Section 411(a)(11) (or such other amount as determined by the Administrator with respect to the Plan Years of Participating Employers following the determination) at the time of Separation of Service, the Administrator shall effect a lump sum distribution of the Participant's Account, regardless of the Participant's or Beneficiary's direction.

9.04 Minimum Distribution Rules. Notwithstanding any provision of this Plan to the contrary, any distribution under the Plan shall be made in accordance with Code Sections 401(a)(9) and 457(d) and the regulations established thereunder as they are amended. No payment option may be selected by a Participant unless the amounts payable to the Participant are expected to be at least equal to the minimum distribution required under Section 401(a)(9) of the Code. The amounts payable also must satisfy the minimum distribution incidental benefit requirements of Section 401(a)(9)(G) of the Code. Payment of the Accounts of a Participant shall begin not later than the "required beginning date." For purposes of this Section, "required beginning date" means April 1 of the calendar year following the later of (i) the calendar year in which the Participant reaches age seventy and one-half (70-1/2), or (ii) the calendar year in which the Participant retires. For purposes of this Section, "first distribution year" means the calendar year described in (i) or (ii) in the preceding sentence. Except as otherwise required by Code Section 457(d)(2), the amount to be distributed each year, beginning with distributions attributable to the first distribution year, shall not be less than the quotient obtained by dividing the Participant's benefit by the lesser of (i) the applicable life expectancy, or (ii) if the

Participant's spouse is not the designated beneficiary, the applicable divisor specified in Code Section 401(a)(9) or the regulations promulgated thereunder. Distributions after the death of the Participant shall be distributed using the applicable life expectancy as the relevant divisor.

9.05 Designated Beneficiary. A Participant shall have the right to file with the Administrator an Applicable Form designating the Beneficiary or Beneficiaries who shall receive the benefits payable under the Plan in the event of the Participant's death. No Beneficiary designation shall take effect until an Applicable Form is signed by the Participant and received and accepted by the Administrator. If the Participant dies without a valid Beneficiary form on file, the benefit payments shall be made to the Participant's surviving spouse; if there is no surviving spouse, then equally to the Participant's surviving children; if there are no surviving children, then to the Participant's estate in a lump sum.

A Participant shall have the right to designate at least one primary and contingent Beneficiary and to indicate whether the Beneficiaries in each class are to share equally or according to specified percentages. If a Beneficiary predeceases the Participant, the surviving Beneficiaries in the same class (i.e., primary or contingent) will share among each other all benefits in the same proportion as originally designated by the Participant. A contingent Beneficiary shall receive benefit payments only if there is no surviving primary Beneficiary. In the event of the death of a Beneficiary, after the Beneficiary has become entitled to receive benefits, the remaining benefits shall be paid to the estate of the Beneficiary in a lump sum. The Beneficiary designation may be changed by the Participant in writing on the Applicable Form at any time prior to Retirement. Only the last designation of a Beneficiary prior to Retirement shall have effect, and any new designation of a Beneficiary validates, supersedes, and revokes any prior designation.

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9.06 **Payments to Beneficiary.** In the event of the Participant's death, any remaining benefit shall be distributed according to the following:

- (1) If the Participant had begun receiving periodic payments of a fixed amount or fixed duration from the Plan which were not annuitized, the balance of the Account shall be paid to the Beneficiary at least as rapidly as under the payment option selected by the Participant.
- (2) If the Participant had begun receiving payments under an annuity contract, the Beneficiary shall be bound by all restrictions of that contract and the form of payment selected thereunder, and remaining payments, if any, shall be paid to the Beneficiary under the contract.
- (3) If the Participant dies before distributions have commenced, a spouse Beneficiary may delay the commencement of benefits until the Participant would have attained age 70½ and may elect to receive payments at such time over the Beneficiary's life expectancy.
- (4) If the Participant dies before distributions have commenced, a non-spouse Beneficiary may take a lump sum or a periodic payment. In the case of a lump sum, payment must be made no later than one year after the date of the Participant's death. In the case of a periodic distribution, payment must commence no later than one year after the date of the Participant's death and must be made over a maximum of fifteen years, but in no event over a period longer than the Beneficiary's life expectancy at the time the distribution commences.

Notwithstanding the foregoing, any payment to the Participant's estate must be made in a lump sum.

9.07 Voluntary In-Service Distribution. A Participant who is an active employee of a Participating Employer may elect to receive a distribution of the Participant's entire Account under the Plan before a Separation of Service if the following requirements are met:

- (1) The Participant's entire Account balance does not exceed the amount specified in Code Section 411(a)(11) or such other amount as determined by the Administrator on the date of the distribution,
- (2) The Participant has not previously received an in-service distribution of the Participant's Account, and
- (3) No amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the in-service distribution.

This election must be made in accordance with the procedures established by the Administrator.

9.08 Unforeseeable Emergency Distributions. Notwithstanding any other provision herein, Participants may request that benefits be paid in the event of an unforeseeable emergency.

(a) The Administrator shall establish procedures to review and approve or deny all requests for an unforeseeable emergency distribution. If the application for payment is approved by the Administrator, payment shall be effected as soon as practicable thereafter.

(b) Benefits shall be paid under this paragraph only in the event of an unforeseeable emergency creating severe hardship as a result of sudden and unexpected illness or accident of the Participant or of a dependent of the Participant (as defined in Section 152(a) of the Code), disability or loss of the Participant's property due to casualty or other similar extraordinary and

unforeseeable events beyond the control of the Participant. Such benefits shall be strictly limited to the amount necessary to meet the emergency situation constituting financial hardship. In any case, payment shall not be made to the extent that such hardship is or may be relieved through insurance, liquidation of the Participant's assets (to the extent the liquidation of such assets would not itself cause severe financial hardship) or by cessation of deferrals under the Plan. Foreseeable personal expenditures, such as a down payment for a home, the purchase of an automobile or educational expenses shall not constitute a financial hardship.

(c) The claim procedures of Article XIII apply to the decision of the Administrator concerning financial hardship.

(d) The Administrator may establish restrictions following a distribution pursuant to this Section. For example, the Administrator may prohibit any deferral under this Plan by the Participant for up to twelve (12) months following the date of such distribution.

9.09 **No Plan Loans.** Plan loans to Participants shall not be permitted.

ARTICLE X - PARTICIPATING EMPLOYER OBLIGATIONS

Each Participating Employer is required to: (i) remit deferrals on a timely basis pursuant to Article III; (ii) notify the Administrator of any change in the Adoption Agreement at least thirty (30) days prior to the proposed effective date of the change; (iii) provide and/or distribute any reports, information, or notices as required by the Administrator; and (iv) comply with all requirements of the Plan. The Plan for a Participating Employer who fails to comply with its obligations under the Plan may be terminated by the Trustees in their discretion. A Participating Employer shall not be liable for losses arising from expense charges of any kind or from depreciation or shrinkage in the value of investments made under this Plan.

ARTICLE XI - PLAN TO PLAN TRANSFERS

11.01 **Direct Transfers from this Plan.** Pursuant to Code Section 457 and regulations issued for such section, upon entitlement to a distribution under Article IX, a Participant's Account may be transferred in cash to another eligible Section 457 plan if the other plan provides for the acceptance of such amounts. Any such transfer is subject to the requirements of the Administrator.

11.02 **Direct Transfers to this Plan.** Subject to the approval of the Administrator, this Plan shall accept cash transfers of Participants' Accounts maintained by other employers also under an eligible Section 457 plan. These transfers shall be credited to the Miscellaneous Account in the Participant's Account.

ARTICLE XII - ADMINISTRATION OF PLAN

12.01 Compliance with Code Section 457. At all times, the Plan shall be administered in accordance and construed to be consistent with Section 457 of the Code and its accompanying regulations.

12.02 Duties and Powers of the Trustees. The Trustees shall have the authority to control and manage the operation and administration of the Plan and shall be a named fiduciary of the Plan.

- (1) The Trustees shall have such power and authority (including discretion with respect to the exercise of that power and authority) as may be necessary, advisable, desirable or convenient to enable the Trustees to carry out their duties under the Plan. The Trustees also have the powers and duties specified in the Trust Declaration. By way of illustration and not limitation, the Trustees are empowered and authorized:
- (2) to establish procedures with respect to administration of the Plan, not inconsistent with the Plan and the Code, and to amend or rescind such procedures;
- (3) to determine, consistent with the Plan, applicable law, rules or regulations, all questions of law or fact that may arise as to the eligibility for participation in the Plan and eligibility for distribution of benefits from the Plan, and the status of any person claiming benefits under the Plan, including without limitation, Participants, former Participants, Beneficiaries, Employees and former Employees;

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- (4) pursuant to Article IX of the Plan, to make payments from the Trust Fund to Participants, their Beneficiaries and other persons as the Trustees may determine;
- (5) to contract with one or more Service Managers to perform education, enrollment, and administrative services under this Plan;
- (6) to accept service of legal process;
- (7) subject to and consistent with the Code, to construe and interpret the Plan as to administrative issues and to correct any defect, supply any omission or reconcile any inconsistency in the Plan with respect to same.
- (8) Any action by the Trustees, which is not found to be an abuse of discretion, shall be final, conclusive and binding on all individuals affected thereby. The Trustees may take any such action in such manner and to such extent as the Trustees in their sole discretion may deem expedient and the Trustees shall be the sole and final judge of such expediency.
- (9) The Trustees may delegate any power or duty to the Administrator except where the Trustees are required to review an action by the Administrator.

12.03 Service providers. The Trustees may employ such service providers as it reasonably requires with regard to its responsibilities under the Plan.

12.04 Delegation by Trustees. In addition to the powers stated in Section 12.02, the Trustees may from time to time delegate to an individual, committee or organization certain of their fiduciary or other responsibilities under the Plan. Any such individual, committee or organization shall remain a fiduciary until the delegation of fiduciary duty is revoked by the Trustees, which revocation may be without cause and without advance notice. Such individual,

committee or organization shall have such power and authority with respect to delegated fiduciary or other responsibilities as the Trustees have under the Plan.

12.05 Fiduciary Insurance. To the extent that doing so does not cause any person to waive sovereign immunity, governmental immunity, or public officer immunity, the Trustees may require the purchase of fiduciary liability insurance for any of their fiduciaries to cover liability or losses occurring by reason of the act or omission of a fiduciary.

12.06 Payment of Benefits. The Trustees or Administrator, if in doubt concerning the correctness of its action in making a payment of a benefit, may suspend payment until satisfied as to the correctness of the payment or the person to receive the payment, or may file, in any state court of competent jurisdiction, a suit, in such form as it considers appropriate, for legal determination of the benefits to be paid and the persons to receive them. The Trustees or Administrator may also bring a suit or take such other action as it deems appropriate in the case of questions involving investment directions. The Trustees and Administrator shall comply with the final order of the court in any such suit, and Participants, Beneficiaries, and Participating Employers shall be bound thereby insofar as such order affects the benefits payable under this Plan or the method or manner of payment.

12.07 Limitation on Recovery. Participating Employers, Participants, and Beneficiaries may not seek recovery against the Trustees, AML or any employee or agent of the Trustees, for any loss sustained by any Participating Employer, Participant, or Beneficiary due to the nonperformance of their duties, negligence or any other misconduct of the above-named persons. Participants and Beneficiaries may not seek recovery against Participating Employers or any employee or agent of the Participating Employer, for any loss sustained by the Participant

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or Beneficiary due to the nonperformance of their duties, negligence or any other misconduct of the above-named persons.

This paragraph shall not, however, excuse fraud or a wrongful taking by any person.

ARTICLE XIII - CLAIMS PROCEDURE

13.01 Claims Procedure: Service Manager. Any Participant may present a claim in writing to the Service Manager for any issue involving the Participant's Account investments or record-keeping. In addition, the Administrator may refer such issues to the Service Manager for review and resolution. The Service Manager shall utilize the protocol agreed to with the Administrator. The Service Manager shall resolve any such claim presented to it. If a Participant is not satisfied with the resolution determined by the Service Manager, the Participant may request in writing a claim review under Section 13.04.

13.02 Claims Procedure: Employer. Any Participant may present a claim in writing to the Participant's Employer for any issue involving eligibility. In addition, the Administrator may refer such issues to the Employer for review and resolution. The Employer shall resolve any such claim presented to it. If a Participant is not satisfied with the resolution determined by the Employer, the Participant may request in writing a claim review under Section 13.04.

13.03 Claims Procedure: Administrator. The Administrator shall have sole discretion to determine, based upon the issue(s) raised, if a claim should be resolved by the Service Manager, the Employer, or the Administrator pursuant to Sections 13.01, 13.02, or 13.03, respectively. A Participant, Beneficiary, or other person claiming benefits under this Plan ("Claimant") may present a claim in writing to the Administrator for any issue not covered by Section 13.01 or 13.02. The Administrator shall resolve any such claim presented to it in accordance with the procedure specified in Section 13.04(b) - (d). If the Claimant is not satisfied with the resolution determined by the Administrator, the Claimant may appeal the Administrator's decision under Section 13.05.

13.04 Claims Review.

- (1) Within thirty (30) days after the Claimant is notified of a decision under Section 13.01 or 13.02, the Claimant may submit a written request for review of the decision by the Administrator. If such request is not filed within thirty (30) days, the decision of the Service Manager or Employer, as applicable, shall be final and binding. The thirty-day period may be waived by the Trustees for good cause shown.
- (2) The Administrator shall within ninety (90) days provide adequate notice in writing to any Claimant as to its decision on any review. Such notice shall be written in a manner calculated to be understood by the Claimant. If such claim is denied by the Administrator, in whole or in part, such notice shall set forth:
 - (a) the specific reasons for such denial,
 - (b) specific reference to any pertinent provisions of the Plan on which denial is based,
 - (c) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary, and
 - (d) an explanation of the appeals procedure for the Plan.
- (3) The Administrator shall act as a fiduciary in making a full and fair review of such claim.
- (4) The Claimant or a duly authorized representative may review any Plan document which is pertinent to the claim and may submit issues and comments to the

Administrator in writing at any time prior to the issuance of the Administrator's decision on review.

13.05 Appeals Procedure.

- (1) Within sixty (60) days after receipt by the Claimant of notification of denial under Section 13.03 or 13.04, the Claimant shall have the right to present a written appeal to the Trustees, including submission of any additional material that is pertinent to the claim. If such appeal is not filed within the sixty (60) day period, the decision of the Administrator shall be final and binding.
- (2) A decision by the Trustees shall be made no later than sixty (60) days after its receipt of the appeal. However, if the Trustees decide that a hearing at which the claimant or his duly authorized representative may be present is necessary and such a hearing is held, such decision shall be rendered as soon as possible, but not later than one hundred twenty (120) days after their receipt of the appeal. Any such decision of the Trustees shall be in writing and shall provide adequate notice to the claimant setting forth the specific reasons for any denial and written in a manner calculated to be understood by a Participant. Any such decision by the Trustees shall be final and binding.

ARTICLE XIV - AMENDMENT OF THE PLAN

14.01 Amendment of the Master Plan and the Adoption Agreement.

(1) Subject to the provisions of any applicable law, the Trustees and the Administrator may at any time amend or modify this Master Plan without the consent of the Participating Employers or of Participants (or any Beneficiaries thereof). Any modification, alteration, or amendment of the Master Plan, made in accordance with this Section, may be made retroactively, if deemed necessary or appropriate by the Trustees. A certified copy of the resolution of the Trustees making such amendment shall be delivered to the Administrator, and the Master Plan shall be amended in the manner and effective as of the date set for in such resolution, and the Participating Employers, Employees, Participants, Beneficiaries, Trustees, and the Administrator shall be bound by the amendment. A Participating Employer may not amend the Master Plan in any way.

(2) Subject to the provisions of any applicable law, the Trustees and the Administrator may at any time amend or modify the form of the Adoption Agreement with the consent of the Participating Employers unless otherwise required under Section 14.02.

14.02 Amendment for Eligible Plan Status. It is the intent of the Trustees that the Plan shall be and remain an eligible plan under the provisions of Code Section 457 and that the Trust be exempt from tax under Code Section 457. Any modification, alteration, or amendment of the Master Plan or the Adoption Agreement, made to maintain tax treatment as an eligible plan, may be made retroactively, if necessary or appropriate.

14.03 Amendment of Adoption Agreement by Participating Employer. The Governing Authority shall have the right at any time to amend, in whole or in part, any or all of its elections under of the Adoption Agreement; provided, however, that no such amendment shall:

- (1) Deprive any Participant or Beneficiary of any of the benefits to which the Participant or Beneficiary is entitled under this Plan with respect to amounts credited prior to the effective date of the amendment; or
- (2) Authorize or permit any part of the Trust Fund to be diverted to purposes other than for the exclusive benefit of Participants or their Beneficiaries; or
- (3) Become effective until approved by the Trustees. In order to be approved by the Trustees, any amendment must comply with all applicable state and federal laws, including Code Section 457(b), and the Master Plan. If the Trustees do not approve an amendment, the Trustees or Administrator shall continue to administer the Plan as if such amendment had not been made.

14.04 Effective Date of Amendments. If an amendment limits or otherwise restricts the deferral or distribution rights of the Participants, the amendment shall become effective on the first day of the month following the giving of not less than forty-five (45) days prior notice of the amendment. If the amendment was made by the Trustees, notice shall be deemed given when the amendment is posted in the office of the Administrator and is sent to each Participating Employer. If the amendment was made by the Participating Employer, notice shall be deemed given when the amendment is posted in the office of the Participating Employer and is sent to the Administrator. No amendments shall deprive any Participant of any of the benefits

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to which the Participant is entitled under this Plan with respect to amounts credited prior to the effective date of the amendment.

If the Plan is amended or modified, the Administrator shall nonetheless be responsible for the supervision and the payment of benefits resulting from amounts contributed prior to the amendment or modifications in accordance with this Article.

ARTICLE XV - TERMINATION

15.01 Plan Termination by Participating Employer. A Participating Employer may terminate its participation in the Plan if it takes the following actions:

- (1) The Governing Authority of the Participating Employer must pass a resolution terminating its Employees' rights to participate in the Plan.
- (2) The resolution must specify when the Plan will be closed to any additional participation by Eligible Employees, which date must be at least sixty (60) days after the adoption of the resolution.
- (3) The resolution must be submitted to the Trustees.

The Trustees shall determine whether the resolution complies with this section, and all applicable federal and state laws, shall determine an appropriate effective date for the termination of Employer participation, which date shall be no later than twelve (12) months from the Trustees' receipt of the resolution. The Administrator shall provide appropriate forms to the Participating Employer and the Participants to terminate ongoing participation. Distributions under the Plan of existing accounts to these Participants are subject to Article IX. However, if the Participating Employer requests a plan-to-plan transfer of Plan assets with respect to the Participating Employer's Employees who are Participants, the Trustees may in their discretion make the transfer.

15.02 Discontinuance of Contributions. At the discretion of the Trustees, a Participating Employer who fails to make contributions for a period of one (1) year or who fails to make timely contributions over a period of one (1) year shall be considered to have terminated participation.

15.03 Effect of Termination by Participating Employer. In the case of the complete or partial termination of the Plan as to one (1) or more Participating Employers, including a termination arising from the discontinuance and/or delinquency of contributions, the affected portion of the Trust Fund shall continue to be held pursuant to the direction of the Trustees, for the benefit of affected Participants pursuant to Article IX. The Plan shall remain in full effect with respect to each Participating Employer that does not terminate its participation, or which participation is not terminated by Trustees, in the Plan on behalf of its Employees.

15.04 Termination of the Entire Plan. This Plan in its entirety may be terminated at any time by official action of the Trustees, with notice to all Participating Employers and Participants. The last date for contributions and earnings to be credited to Participant Accounts must be specified in the Trustees' official action and must be no sooner than ninety (90) days after the adoption of the official action. All actions associated with the termination of the Plan, including a final accounting, must be completed within twelve (12) months after the adoption of the official action. In the event of a complete Plan termination, the Trustees must take all steps reasonable to avoid a distribution to the Participants and Beneficiaries, except pursuant to benefit options under Article IX, including identifying successor plan(s). However, if distributions must be made, the Administrator shall be responsible for directing distribution of all assets of the Trust Fund to Participants, Beneficiaries or to a successor plan.

ARTICLE XVI - NONASSIGNABILITY

16.01 Nonassignment. No Participant, Beneficiary or designee may commute, sell, assign, transfer or otherwise convey the right to receive any payment under the Plan.

16.02 Rights. The rights of Participants and Beneficiaries under this Plan shall not be subject to the rights of their creditors, and shall be exempt from execution, attachment, prior assignment or any other judicial relief or order for the benefit of creditors or other third person, except to the extent a benefit distributable under Article IX is subject to a federal tax levy.

ARTICLE XVII - MISCELLANEOUS

17.01 **Federal Taxes.** The Trustees, the Participating Employers, and the Administrator do not guarantee that any particular Federal or State income, payroll or other tax consequence will occur because of participation in this Plan.

17.02 **Contract.** This Plan, the Adoption Agreement, and the Participation Agreement, including any properly adopted or executed amendments thereof, shall constitute the total agreement or contract between the Participating Employer and any Participant regarding the Plan. No oral statement regarding the Plan may be relied upon by any Participant or other person.

17.03 **Conflicts.** In resolving any conflict between provisions of the Plan and in resolving any other uncertainty as to the meaning or intention of any provision of the Plan, the interpretation that (i) causes the Plan to constitute an eligible plan under the provisions of Code Section 457 and the Trust to be exempt from tax under Code Section 457, (ii) causes the Plan to comply with all applicable requirements of the Code, and (iii) causes the Plan to comply with all applicable Arkansas statutes and rules, shall prevail over any different interpretation.

17.04 **Limitation on Rights.** Neither the establishment or maintenance of the Plan (including the Adoption Agreement), nor any amendment thereof nor any act or omission under the Plan (or resulting from the operation of the Plan) shall be construed:

- (1) As conferring upon any Participant, Beneficiary or any other person a right or claim against the Trust, Trustees, Participating Employer, or Administrator, except to the extent that such right or claim shall be specifically expressed and provided in the Plan;

- (2) As creating any responsibility or liability of the Participating Employer for the validity or effect of the Plan;
- (3) As a contract between the Participating Employer and any Participant or other person;
- (4) As being consideration for, or an inducement or condition of, employment of any Participant or other person, or as affecting or restricting in any manner or to any extent whatsoever the rights or obligations of the Participating Employer or any Participant or other person to continue or terminate the employment relationship at any time; or
- (5) As giving any Participant the right to be retained in the service of the Participating Employer or to interfere with the right of the Participating Employer to discharge any Participant or other person at any time.

17.05 USERRA Compliance. Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Code Section 414(u), and as required by the Uniformed Services Employment and Reemployment Rights Act (“USERRA”).

17.06 Erroneous Payments. If the Trustees or Administrator make any payment that according to the terms of the Plan and the benefits provided hereunder should not have been made, the Trustees or Administrator may recover that incorrect payment, by whatever means necessary, whether or not it was made due to the error of the Trustees or Administrator, from the person to whom it was made or from any other appropriate party. For example, if any such incorrect payment is made directly to a Participant, the Trustees or Administrator may deduct it when making any future payments directly to that Participant.

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17.07 **Release.** Any payment to any Participant shall, to the extent thereof, be in full satisfaction of the claim of such Participant being paid thereby and the Trustees or Administrator may condition payment thereof on the delivery by the Participant of the duly executed receipt and release in such form as may be determined by the Trustees or Administrator.

17.08 **Liability.** The Administrator shall not incur any liability in acting upon any notice, request, signed letter, telegram or other paper or document or electronic transmission believed by the Administrator to be genuine or to be executed or sent by an authorized person.

17.09 **Governing Laws.** The law of the State of Arkansas, except to the extent preempted by federal law, shall apply in determining the construction and validity of this Plan.

17.010 **Necessary Parties to Disputes.** Necessary parties to any accounting, litigation or other proceedings relating to the Plan shall include only the Trustees and the Administrator. The settlement or judgment in any such case in which the Trustees are duly served shall be binding upon all affected Participants in the Plan, their beneficiaries, estates and upon all persons claiming by, through or under them.

17.011 **Severability.** If any provision of the Plan shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of the Plan shall continue to be fully effective.

17.012 **Supersession.** The terms of the Plan shall supersede any previous agreement between the parties pertaining to the Plan.

17.013 **Counterparts.** This Plan may be executed in one (1) or more counterparts, each of which shall constitute an original.

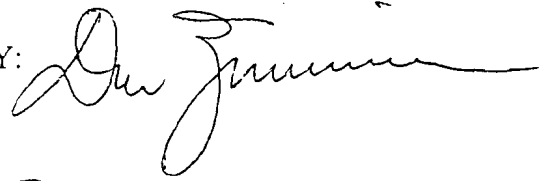
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17.014 **General Provision.** Trustees may adopt procedures for persons to act on behalf of incompetent Participants and Beneficiaries.

IN WITNESS WHEREOF the Arkansas Municipal League has caused to be affixed the signature of its duly authorized Representative:

date: 6/15/01

BY:



DON ZIMMERMAN

[Please print your name]

Executive Director

[and your title]