

# **SIMPLE IRA PLAN ESTABLISHMENT GUIDE**

CUSTODIAN - Matrix Trust Company

# SIMPLE IRA Eligibility Form

The following questions are designed to help you, the Employer, along with your tax or legal advisor, determine if you are eligible to adopt a SIMPLE IRA plan. Please answer the following questions.

## REQUIREMENTS

YES NO

- 1.** Do you own or control a business for which you provide personal services and receive income? If the answer is NO, STOP. You are not eligible to establish this Plan.
- 2.** Do you have more than 100 employees who received at least \$5,000 of compensation from you in the previous calendar year? If the answer is YES, STOP. You are not eligible to establish this Plan (certain acquisition exception rules apply).
- 3.** Have you maintained any other qualified plan during the current calendar year in which contributions were made or benefits were accrued? If the answer is YES, STOP. You are not eligible to establish this Plan.

**Note:** If your business:

- Is a member of a controlled group of corporations, businesses, or trades, (whether or not incorporated) within the meaning of IRC Section 414(b) or 414(n);
- Is a member of an affiliated service group within the meaning of IRC Section 414(m); or uses the services of leased employees with the meaning of IRC Section 414(n);

You may have to include the leased employees and/or employees of the other business(es) in your Plan. Please consult your tax or legal advisor to determine what additional action, if any, you must take.

## SIGNATURE

**IMPORTANT:** Please read before signing.

I certify that:

1. I am an authorized representative of the Employer and the Employer is eligible to establish the SIMPLE IRA Plan.
2. In determining my eligibility to adopt this Plan, I relied solely upon the advice of my own advisors.
3. I agree not to hold Aspire Financial Services, LLC and the Plan's Custodian responsible for any liabilities I may suffer as a result of being found ineligible to establish this Plan.

Name of Employer

▶

Employer Signature

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Date Executed (month | day |year)

Upload this form through the form submission tool at [www.aspireonline.com/resources/forms-submission-tool](http://www.aspireonline.com/resources/forms-submission-tool)  
Questions? Call Client Services at 866.634.5873, M - F, 8am - 8pm EST



# SIMPLE IRA Plan Sponsor Profile

## STEP 3 AUTHORIZED PLAN SPONSOR PERSON(S) INFORMATION

**Authorized Person(s) will be responsible for reviewing all transactions, including but not limited to verifying the accuracy of plan contributions processed through the Plan Sponsor websites.** We recommend that at **least 1** person in addition to the business owner be authorized to sign. If additional Authorized Person(s) are desired, please make a copy of this page to provide additional Authorized Person(s) information.

### BUSINESS OWNER(required)

Name of Business Owner \_\_\_\_\_

Telephone Number \_\_\_\_\_

Ext. \_\_\_\_\_

Email \_\_\_\_\_

▶   
Business Owner Signature

-   -      
Date (month | day |year)

### ADDITIONAL AUTHORIZED SIGNERS (optional but recommended)

Authorized Person Name \_\_\_\_\_

Telephone Number \_\_\_\_\_

Ext. \_\_\_\_\_

Email \_\_\_\_\_

▶   
Authorized Person Signature

-   -      
Date (month | day |year)

Authorized Person Name \_\_\_\_\_

Telephone Number \_\_\_\_\_

Ext. \_\_\_\_\_

Email \_\_\_\_\_

▶   
Authorized Person Signature

-   -      
Date (month | day |year)

### PLAN SERVICES GATEWAY AUTHORIZATION

**By selecting Plan Services Gateway (PSG) Authorization for the contacts listed above, you are granting the specified contacts access to the Aspire PSG Site and agreeing to the Terms of Use below:**

1. All plan participant and employee data available through the PSG is considered confidential and must be treated as such by all authorized contacts.
2. You assume responsibility for the proper use of the PSG and for the information input and retrieved by authorized contacts.
3. You are responsible for ensuring the accuracy of information provided by means of an electronic file through the PSG.
4. You are responsible for ensuring that login IDs and passwords are kept confidential and secure. You must notify your Aspire Representative immediately of terminations or changes to prevent inappropriate use of the PSG.
5. Your authorized contacts will be responsible for reviewing all transactions and verifying the accuracy of plan contributions and plan disbursement authorizations processed through the PSG.
6. When authorized contacts submit disbursements online using their user ID and password, this will serve as their electronic signature and approval of the disbursement. These electronic signatures will satisfy all legal signatory obligations of the Plan Sponsor and will carry the same legal authority as a handwritten signature.
7. Your Financial Advisor listed on this form will automatically be granted "View Only" access to the site unless you instruct us otherwise.

Upload this form through the form submission tool at [www.aspireonline.com/resources/forms-submission-tool](http://www.aspireonline.com/resources/forms-submission-tool)  
Questions? Call Client Services at 866.634.5873, M - F, 8am - 8pm EST

# ACH Authorization Form

Plan Name

**I hereby authorize the initiation of debit entries and/or correction entries to the bank and account number referenced below.**

Bank Name

**Account Type:**  Checking  Savings

Name(s) on Bank Account

Bank Address

City

State

Zip

Routing Number

Account Number

**Authorized by:**

Name

Title

▶

Employer Signature

-  -

Date (month | day | year)

# Aspire SIMPLE IRA Agreement

Please read, complete, sign and return with a copy of your Form 5305-SIMPLE or Form 5304-SIMPLE to Aspire Financial Services. Please keep a copy of the agreement for your files.

## The Employer Acknowledges and Agrees That:

- Aspire does not give legal or tax advice.
- In the role as Employer, the Employer is not opening an account relationship with Aspire, but is administering the SIMPLE IRA program in accordance with terms and conditions of the SIMPLE IRA Plan and current law.
- It is the Employer's responsibility to provide each eligible employee with certain information about the SIMPLE IRA plan and the SIMPLE IRA where contributions for that employee will be deposited. The information must be provided each year prior to the employees' election period. Generally, the election period is 60 days prior to January 1 of a calendar year.
- It is the Employer's responsibility to ensure that a SIMPLE IRA is set up for each eligible employee.
- It is the Employer's responsibility to ensure that employee contribution instructions are clear, complete, correct and transmitted to Aspire in a timely manner. Aspire will not be held responsible for delays in depositing contributions if Aspire finds the contribution instructions unclear, incomplete or incorrect. The Employer will indemnify and hold harmless Aspire and Aspire's officers, directors, employees and affiliates from any liability that may result from following the Employer's instructions with respect to the allocation of both employer and employee contributions among employees' SIMPLE IRA investment accounts.
- Participants will establish an IRA, investing in mutual funds available on the Aspire platform. Participants can self-direct their accounts or may appoint a financial professional of their choosing.
- It is the Employer's responsibility to ensure that the SIMPLE IRA Plan is maintained in compliance with all applicable law and regulation including changes to such law and regulation.

## Aspire Acknowledges and Agrees That:

- Employer transmittals of contributions to employees' SIMPLE IRA investment accounts will be processed in a timely manner and deposited directly to each employee's account upon receipt of clear, complete and correct instructions.

## Application of Law

What Law Applies: This Agreement is subject to all applicable federal and state laws and regulations. If it is necessary to apply any state law to interpret and administer this Agreement, the law of our domicile shall govern. If any part of this Agreement is held to be illegal or invalid, the remaining parts shall not be affected. Neither your nor our failure to enforce at any time or for any period of time any of the provisions of this Agreement shall be construed as a waiver of such provisions, or your right or our right thereafter to enforce each and every such provision.

## PLAN SPONSOR/EXECUTOR OF AGREEMENT

I certify that I have been appointed to act for the company/organization named below. I am authorized to appoint individuals to be given access to this retirement plan by phone, by mail, or online. I agree to promptly notify Aspire, on behalf of the Employer, of the removal or resignation of any person with access to the plan.

\_\_\_\_\_  
Name of Company/Organization

\_\_\_\_\_  
Authorized Person Name

\_\_\_\_\_  
Title

▶   
Authorized Person Signature

--  
Date (month | day | year)

Upload this form through the form submission tool at [www.aspireonline.com/resources/forms-submission-tool](http://www.aspireonline.com/resources/forms-submission-tool)  
Questions? Call Client Services at 866.634.5873, M - F, 8am - 8pm EST

# SIMPLE IRA Plan

## Savings Incentive Match Plan For Employees

### ADOPTION AGREEMENT

#### EMPLOYER INFORMATION

Name of Adopting Employer \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_ Adopting Employer's Federal Tax Identification Number \_\_\_\_\_

#### SECTION 1. ESTABLISHMENT AND PURPOSE OF PLAN

There are no elections required for Section One. Refer to the Basic Plan Document for information regarding this section.

#### SECTION 2. EFFECTIVE DATES *Complete Option A or B.*

**Option A:**  This is the initial adoption of a SIMPLE IRA plan by the Employer.  
The Effective Date of this Plan is \_\_\_\_\_.

*NOTE: The Effective Date may be any date between January 1 and October 1.*

**Option B:**  This is an amendment and restatement of an existing SIMPLE IRA plan (a Prior Plan).  
The Prior Plan was initially effective on \_\_\_\_\_. The Effective Date of this amendment and restatement is January 1, \_\_\_\_\_.

#### SECTION 3. ELIGIBILITY REQUIREMENTS *Complete Parts A through C.*

##### Part A. Service Requirement

**Option 1:**  **Full Eligibility.** All Employees are eligible.

**Option 2:**  **Limited Eligibility.** Eligibility is limited to each Employee who satisfies the requirements in both (a) and (b) below.

(a) Prior Year Compensation. An Employee who has received at least \$5,000, or \_\_\_\_\_, if lesser, in Compensation during any 2, or \_\_\_\_\_ (specify 0 or 1), if less, preceding Years (need not be consecutive); and

(b) Current Year Compensation. An Employee who is reasonably expected to receive at least \$5,000, or \_\_\_\_\_, if lesser, in Compensation during the current Year.

*NOTE: If no option is selected, Option 1 shall be deemed to be selected.*

##### Part B. Exclusion of Certain Classes of Employees

All Employees will be eligible to become Participants in the Plan except: (Select any that apply)

1.  Collective bargaining unit Employees as described in Section 3.02(A) of the Plan. *If not selected this box will be deemed to be selected if the exclusive plan requirement as described in Section 1.03 of the Plan applies.*
2.  Non-resident aliens as described in Section 3.02(B) of the Plan.
3.  Acquired Employees as described in Section 3.02(C) of the Plan. *If not selected, this box will be deemed to be selected if there is a failure to meet the exclusive plan requirement due to an acquisition or similar transaction as described in Section 1.03(A) of the Plan.*

##### Part C. Election Periods (Select one)

In addition to the 60-day Election Period described in Section 3.04 of the Plan, a Participant may make or modify a Salary Reduction Agreement during the following Election Periods: \_\_\_\_\_

*(Specify a period or periods (e.g., semi-annually, quarterly, monthly or daily) that will apply uniformly to all Participants.)*

#### SECTION 4. CONTRIBUTIONS *Review and complete, where applicable, Parts A through C.*

##### Part A. Catch-Up Contributions.

Will Catch-Up Contributions, as described in Section 4.01 of the Plan, be permitted under this Plan? (Select one)

**Option 1:**  Yes.

**Option 2:**  No.

*NOTE: If no option is selected, Option 1 will be deemed to be selected.*

##### Part B. Employer Contributions *Complete only if Section 3, Part A, Option 2 is selected.*

Each Year the Employer shall make either Matching Contributions or Nonelective Contributions to the SIMPLE IRAs of Participants in accordance with the rules described in Section 4.02 of the Plan. For any Year the Employer makes Nonelective Contributions, such contributions will be made on behalf of each Participant who has at least \$ \_\_\_\_\_ (enter a dollar amount no less than the amount entered in Section 3, Part A, Option 2 above, if applicable, and no greater than \$5,000) of Compensation for such Year.

**Part C. Use of Designated Financial Institution**

Will the Employer make all Plan contributions at a Designated Financial Institution? *See Section 4.06 of the Plan.*

**Option 1:**  (Use SIMPLE IRA Form 5305): Yes. *Enter the name and address of the Designated Financial Institution below.*

**Option 2:**  (Use SIMPLE IRA Form 5304): No.

**NOTE:** *If no option is selected, Option 2 will be deemed to be selected even if the information below is provided.*

Name of Designated Financial Institution MG Trust Company, LLC

Address 717 17<sup>th</sup> Street, Suite 1300

City Denver State CO Zip 80202

Telephone 888-947-3472

Signature for Designated Financial Institution \_\_\_\_\_

**SECTION 5. AMENDMENT OR TERMINATION OF PLAN**

There are no elections required for Section Five. Refer to the Basic Plan Document for information regarding this section.

**SECTION 6. EMPLOYER SIGNATURE**

**I acknowledge that I have relied upon my own advisors regarding the completion of this Adoption Agreement and the legal and tax implications of adopting this Plan. I understand that my failure to properly complete this Adoption Agreement may result in adverse tax consequences. I have received a copy of this Adoption Agreement and the Basic Plan Document.**

Signature of Adopting Employer \_\_\_\_\_ Date Signed \_\_\_\_\_

(Type Name) \_\_\_\_\_

Name of Prototype Sponsor \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_



**Savings Incentive Match Plan for  
Employees of Small Employers (SIMPLE)—  
for Use With a Designated Financial Institution**

\_\_\_\_\_ establishes the following SIMPLE

Name of Employer \_\_\_\_\_

IRA plan under section 408(p) of the Internal Revenue Code and pursuant to the instructions contained in this form.

**Article I—Employee Eligibility Requirements** (complete applicable box(es) and blanks—see instructions)

- 1 General Eligibility Requirements.** The Employer agrees to permit salary reduction contributions to be made in each calendar year to the SIMPLE individual retirement account or annuity established at the designated financial institution (SIMPLE IRA) for each employee who meets the following requirements (select either 1a or 1b):
- a**  **Full Eligibility.** All employees are eligible.
- b**  **Limited Eligibility.** Eligibility is limited to employees who are described in both (i) and (ii) below:
- (i) **Current compensation.** Employees who are reasonably expected to receive at least \$ \_\_\_\_\_ in compensation (not to exceed \$5,000) for calendar year.
- (ii) **Prior compensation.** Employees who have received at least \$ \_\_\_\_\_ in compensation (not to exceed \$5,000) during any \_\_\_\_\_ calendar year(s) (insert 0, 1, or 2) preceding the calendar year.
- 2 Excludable Employees**
- The Employer elects to exclude employees covered under a collective bargaining agreement for which retirement benefits were the subject of good faith bargaining. **Note:** This box is deemed checked if the Employer maintains a qualified plan covering only such employees.

**Article II—Salary Reduction Agreements** (complete the box and blank, if applicable—see instructions)

- 1 Salary Reduction Election.** An eligible employee may make an election to have his or her compensation for each pay period reduced. The total amount of the reduction in the employee's compensation for a calendar year cannot exceed the applicable amount for that year. See instructions.
- 2 Timing of Salary Reduction Elections**
- a** For a calendar year, an eligible employee may make or modify a salary reduction election during the 60-day period immediately preceding January 1 of that year. However, for the year in which the employee becomes eligible to make salary reduction contributions, the period during which the employee may make or modify the election is a 60-day period that includes either the date the employee becomes eligible or the day before.
- b** In addition to the election periods in 2a, eligible employees may make salary reduction elections or modify prior elections \_\_\_\_\_ . If the Employer chooses this option, insert a period or periods (e.g., semi-annually, quarterly, monthly, or daily) that will apply uniformly to all eligible employees.
- c** No salary reduction election may apply to compensation that an employee received, or had a right to immediately receive, before execution of the salary reduction election.
- d** An employee may terminate a salary reduction election at any time during the calendar year.  If this box is checked, an employee who terminates a salary reduction election not in accordance with 2b may not resume salary reduction contributions during the calendar year.

**Article III—Contributions** (complete the blank, if applicable—see instructions)

- 1 Salary Reduction Contributions.** The amount by which the employee agrees to reduce his or her compensation will be contributed by the Employer to the employee's SIMPLE IRA.
- 2a Matching Contributions**
- (i) For each calendar year, the Employer will contribute a matching contribution to each eligible employee's SIMPLE IRA equal to the employee's salary reduction contributions up to a limit of 3% of the employee's compensation for the calendar year.
- (ii) The Employer may reduce the 3% limit for the calendar year in (i) only if:
- (1) The limit is not reduced below 1%; (2) The limit is not reduced for more than 2 calendar years during the 5-year period ending with the calendar year the reduction is effective; and (3) Each employee is notified of the reduced limit within a reasonable period of time before the employees' 60-day election period for the calendar year (described in Article II, item 2a).
- b Nonelective Contributions**
- (i) For any calendar year, instead of making matching contributions, the Employer may make nonelective contributions equal to 2% of compensation for the calendar year to the SIMPLE IRA of each eligible employee who has at least \$ \_\_\_\_\_ (not more than \$5,000) in compensation for the calendar year. No more than \$250,000\* in compensation can be taken into account in determining the nonelective contribution for each eligible employee.
- (ii) For any calendar year, the Employer may make 2% nonelective contributions instead of matching contributions only if:
- (1) Each eligible employee is notified that a 2% nonelective contribution will be made instead of a matching contribution; and
- (2) This notification is provided within a reasonable period of time before the employees' 60-day election period for the calendar year (described in Article II, item 2a).
- 3 Time and Manner of Contributions**
- a** The Employer will make the salary reduction contributions (described in 1 above) to the designated financial institution for the IRAs established under this SIMPLE IRA plan no later than 30 days after the end of the month in which the money is withheld from the employee's pay. See instructions.
- b** The Employer will make the matching or nonelective contributions (described in 2a and 2b above) to the designated financial institution for the IRAs established under this SIMPLE IRA plan no later than the due date for filing the Employer's tax return, including extensions, for the taxable year that includes the last day of the calendar year for which the contributions are made.

\* This is the amount for 2012. For later years, the limit may be increased for cost-of-living adjustments. The IRS announces the increase, if any, in a news release, in the Internal Revenue Bulletin, and on the IRS's internet website at [IRS.gov](http://IRS.gov).

**Article IV— Other Requirements and Provisions**

- 1 Contributions in General.** The Employer will make no contributions to the SIMPLE IRAs other than salary reduction contributions (described in Article III, item 1) and matching or nonelective contributions (described in Article III, items 2a and 2b).
- 2 Vesting Requirements.** All contributions made under this SIMPLE IRA plan are fully vested and nonforfeitable.
- 3 No Withdrawal Restrictions.** The Employer may not require the employee to retain any portion of the contributions in his or her SIMPLE IRA or otherwise impose any withdrawal restrictions.
- 4 No Cost Or Penalty For Transfers.** The Employer will not impose any cost or penalty on a participant for the transfer of the participant's SIMPLE IRA balance to another IRA.
- 5 Amendments To This SIMPLE IRA Plan.** This SIMPLE IRA plan may not be amended except to modify the entries inserted in the blanks or boxes provided in Articles I, II, III, VI, and VII.
- 6 Effects Of Withdrawals and Rollovers**
  - a** An amount withdrawn from the SIMPLE IRA is generally includible in gross income. However, a SIMPLE IRA balance may be rolled over or transferred on a tax-free basis to another IRA designed solely to hold funds under a SIMPLE IRA plan. In addition, an individual may roll over or transfer his or her SIMPLE IRA balance to any IRA or eligible retirement plan after a 2-year period has expired since the individual first participated in any SIMPLE IRA plan of the Employer. Any rollover or transfer must comply with the requirements of section 408.
  - b** If an individual withdraws an amount from a SIMPLE IRA during the 2-year period beginning when the individual first participated in any SIMPLE IRA plan of the Employer and the amount is subject to the additional tax on early distributions under section 72(t), this additional tax is increased from 10% to 25%.

**Article V—Definitions**

- 1 Compensation**
  - a General Definition of Compensation.** Compensation means the sum of wages, tips, and other compensation from the Employer subject to federal income tax withholding (as described in section 6051(a)(3)), the amounts paid for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, and the employee's salary reduction contributions made under this plan, and, if applicable, elective deferrals under a section 401(k) plan, a SARSEP, or a section 403(b) annuity contract and compensation deferred under a section 457 plan required to be reported by the Employer on Form W-2 (as described in section 6051(a)(8)).
  - b Compensation for Self-Employed Individuals.** For self-employed individuals, compensation means the net earnings from self-employment determined under section 1402(a), without regard to section 1402(c)(6), prior to subtracting any contributions made pursuant to this plan on behalf of the individual.
- 2 Employee.** Employee means a common-law employee of the Employer. The term employee also includes a self-employed individual and a leased employee described in section 414(n) but does not include a nonresident alien who received no earned income from the Employer that constitutes income from sources within the United States.
- 3 Eligible Employee.** An eligible employee means an employee who satisfies the conditions in Article I, item 1 and is not excluded under Article I, item 2.
- 4 Designated Financial Institution.** A designated financial institution is a trustee, custodian, or insurance company (that issues annuity contracts) for the SIMPLE IRA plan that receives all contributions made pursuant to the SIMPLE IRA plan and deposits those contributions to the SIMPLE IRA of each eligible employee.

**Article VI—Procedures for Withdrawals and Transfers** *(The designated financial institution will provide the instructions (to be attached or inserted in the space below) on the procedures for withdrawals of contributions by employees.)*

**Article VII—Effective Date**

This SIMPLE IRA plan is effective \_\_\_\_\_ . See instructions.

\* \* \* \* \*

\_\_\_\_\_  
Name of Employer

\_\_\_\_\_  
By: Signature Date

\_\_\_\_\_  
Address of Employer

\_\_\_\_\_  
Name and title

The undersigned agrees to serve as designated financial institution, receiving all contributions made pursuant to this SIMPLE IRA plan and depositing those contributions to the SIMPLE IRA of each eligible employee as soon as practicable. Upon the request of any participant, the undersigned also agrees to transfer the participant's balance in a SIMPLE IRA established under this SIMPLE IRA plan to another IRA without cost or penalty to the participant.

\_\_\_\_\_  
Name of designated financial institution

\_\_\_\_\_  
By: Signature Date

\_\_\_\_\_  
Address

\_\_\_\_\_  
Name and title

# SIMPLE IRA Plan

## PARTICIPATION NOTICE & SUMMARY DESCRIPTION

**IMPORTANT:** Carefully read and consider the information on both sides of this notice before you decide whether to start, continue, or change your Salary Reduction Agreement.

### SECTION A. GENERAL INFORMATION

#### Employer Information

Name of Employer \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Telephone \_\_\_\_\_

#### Trustee/Custodian/Issuer Information (for plans electing to use a Designated Financial Institution)

Name of Trustee, Custodian, or Issuer \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Telephone \_\_\_\_\_

### SECTION B. ELIGIBILITY REQUIREMENTS

#### Opportunity to Participate

**This form is intended, in part, to notify you of your right to choose, during the Election Period, to make Elective Deferrals under the savings incentive match plan for employees of small employers (SIMPLE) IRA Plan established by your Employer.** The Election Period is generally the 60-day period before the beginning of each Year and the 60-day period before the first day you become eligible to participate. This notice includes a Summary Description of your Employer's SIMPLE IRA Plan.

#### Eligible Employees

You may become eligible to participate in the Plan unless you are:  
 covered by the terms of collective bargaining agreement where retirement benefits were negotiated  
 a nonresident alien with no United States earned income from your Employer  
 an Employee on account of an acquisition or similar transaction involving your Employer

#### Compensation and Service

To become eligible to participate in the Plan, you must have earned \$5,000 during any two preceding years and you must be reasonably expected to earn such amount during the current year, unless otherwise specified below.

You are required to earn at least \$ \_\_\_\_\_ (may not exceed \$5,000) during any \_\_\_\_\_ (may not exceed 2) preceding years to be eligible to participate in the Plan. You must also be reasonably expected to earn at least \$ \_\_\_\_\_ (may not exceed \$5,000) during the current Year.

### SECTION C. PLAN CONTRIBUTIONS

#### Financial Institution

Your Employer  has  has not elected to make all contributions to a Designated Financial Institution.

If contributions are not required to be made to a Designated Financial Institution, you must select the financial organization that will serve as trustee, custodian, or issuer of your SIMPLE IRA and notify your Employer by providing a completed *Salary Reduction Agreement*.

If contributions are required to be made to a Designated Financial Institution, you may transfer the balance in your SIMPLE IRA, without cost or penalty, from the Designated Financial Institution to a SIMPLE IRA at the financial organization of your choice. To do so, you must request a transfer during the Election Period or during any other period as allowed by the Designated Financial Institution. Upon request, the Designated Financial Institution will periodically transfer your balance.

#### Elective Deferrals

By completing a *Salary Reduction Agreement*, you agree to make Elective Deferrals to this Plan. Your Compensation will be reduced each pay period by an amount equal to the percentage of your Compensation you specify on the *Salary Reduction Agreement*. Generally, your Elective Deferrals (excluding Catch-Up Contributions) may not exceed \$12,500 for 2016 (after 2016 this limit is subject to cost-of-living adjustments).

Catch-Up Contributions  will  will not be permitted under the Plan.

If Catch-Up Contributions are available under the Plan and you will attain age 50 on or before the end of the Year, you are eligible to make Catch-Up Contributions. Your Catch-Up Contributions may not exceed \$3,000 for 2016 (after 2016 this amount is subject to cost-of-living adjustments).

You may change the amount of your Elective Deferrals by completing and signing a revised *Salary Reduction Agreement* during the Election Period or any other period specified below.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You may discontinue making Elective Deferrals at any time during the Year by completing and signing a revised *Salary Reduction Agreement*. You are allowed to commence making Elective Deferrals the first day of the Year following the Year you cease deferring unless specified otherwise below.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Employer Contributions**

For calendar Year \_\_\_\_\_, your Employer will make Matching Contributions equal to 100 percent of your Elective Deferrals which do not exceed three percent of your Compensation unless your Employer elects to make either the alternative Matching Contribution or the Nonelective Contribution described in Options 1 and 2 below.

**Option 1:**  Matching Contributions in an amount equal to your Elective Deferrals which do not exceed \_\_\_\_\_% (must not be less than 1%).

**Option 2:**  Nonelective Contributions equal to two percent of Compensation on behalf of each Participant who earns at least \$5,000 during the year unless a different dollar amount is specified below.

You are required to earn at least \$ \_\_\_\_\_ (may not exceed \$5,000) during the year to be eligible to receive Nonelective Contributions.

**SECTION D. DISTRIBUTIONS**

The following is a summary of the rules applicable to distributions from SIMPLE IRAs. You are advised to refer to your SIMPLE IRA documents and/or seek the assistance of a qualified tax advisor if you have additional questions.

**Procedures** SIMPLE IRA assets are fully vested and may be withdrawn at any time subject to taxes and penalties as explained below. The trustee, custodian, or issuer of your SIMPLE IRA, and not your Employer, is responsible for making distributions to you upon your request.

**Federal Income Tax** Distributions from SIMPLE IRAs are taxed as ordinary income in the year in which you receive them. In addition, federal income tax withholding will be applied to your distribution at a rate of 10 percent unless you specify a higher rate or waive your right to withholding.

**Penalties** A 25 percent early distribution penalty tax applies to SIMPLE IRA distributions taken within two years of your initial participation in the Plan, unless you are age 59½ or older or can claim an exemption from the early distribution penalty described in Internal Revenue Code (IRC) Sec. 72(t)(6). If you are under age 59½, have satisfied the two-year requirement and receive a distribution, you will be subject to a 10 percent early distribution penalty tax.

**Rollovers** SIMPLE IRA distributions may be rolled over to other SIMPLE IRAs. If a SIMPLE IRA distribution is properly rolled over, your rollover amount will be excluded when determining the amount of your federal income tax or early distribution penalty tax. You may roll over SIMPLE IRA distributions to Traditional IRAs, qualified retirement plans, tax-sheltered annuities, and governmental 457(b) deferred compensation plans. However, you must wait two years from the date you become a participant before doing so.

**Required Minimum Distributions** You are required to begin taking minimum distributions from your SIMPLE IRA upon attainment of age 70½ in accordance with IRS regulations.

**Procedures for Withdrawals** If you wish to take a distribution from your SIMPLE IRA, you must complete a withdrawal authorization provided by the trustee, custodian, or issuer of your SIMPLE IRA. In addition, the following procedures apply to you upon requesting a distribution.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Procedures Regarding Transfers** The following additional rules and procedures apply to transfers of your balance in your SIMPLE IRA.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# SIMPLE IRA Plan–Savings Incentive Match Plan for Employees

## Basic Plan Document

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### DEFINITIONS

**ADOPTING EMPLOYER** Means any corporation, sole proprietor or other entity named in the Adoption Agreement and any successor who by merger, consolidation, purchase or otherwise, assumes the obligations of the Plan.

**ADOPTION AGREEMENT** Means the document executed by the Employer through which it adopts the Plan and thereby agrees to be bound by all terms and conditions of the Plan.

**BASIC PLAN DOCUMENT** Means this prototype plan document.

**CODE** Means the Internal Revenue Code of 1986 as amended.

**COMPENSATION** Means with respect to an Employee the sum of the wages, tips, and other compensation from the Employer subject to federal income tax withholding (as described in Code section 6051(a)(3)) and the Employee's salary reduction contributions made under this Plan, and, if applicable, elective deferrals on behalf of the Employee under a Code section 401(k) plan, a SARSEP, a Code section 403(b) annuity contract and compensation from the Employer deferred under a Code section 457 plan required to be reported by the Employer on IRS Form W-2 *Wage and Tax Statement* (as described under Code section 6051(a)(8)). Compensation does not include any amounts deferred by the Employee pursuant to a Code section 125 cafeteria plan.

Compensation shall include only that Compensation which is actually paid to the Employee during the Year.

For purposes of the two-percent Nonelective Contribution described in Section 4.02(C) of the Plan, the annual Compensation of each Employee taken into account under the Plan shall not exceed the compensation limit described in Code section 401(a)(17) as adjusted by the Secretary of the Treasury for increases in the cost-of-living in accordance with Code section 401(a)(17)(B). Such adjustments will be in multiples of \$5,000. (The Compensation limit for 2002 is \$200,000.)

**CONTRIBUTING PARTICIPANT** Means an Employee who has met the eligibility requirements and who has enrolled as a Contributing Participant pursuant to Section 3.04(A) of the Plan and on whose behalf the Employer is contributing Elective Deferrals.

**EARNED INCOME** Means the net earnings from self-employment in the trade or business with respect to which the Plan is established, determined under Code section 1402(a), without regard to Code section 1402(c)(6), prior to subtracting any contributions made pursuant to this Plan on behalf of the Self-Employed individual.

**ELECTION PERIOD** Means the period during which a Participant may enroll as a Contributing Participant. The Election Period shall be the 60-day period immediately before the beginning of any Year and such other 60-day period or periods as described in Section 3.04(A) of the Plan.

**EMPLOYEE** Means a common-law employee of the Employer, and also includes leased employees described in Code section 414(n), unless otherwise elected in the Adoption Agreement, and employees described in Code section 414(o) that are required to be treated as employed by the Employer. The term "Employee" also includes self-employed individuals described in Code section 401(c)(1).

**EMPLOYER** Means the Adopting Employer and any successor who by merger, consolidation, purchase or otherwise assumes the obligations of the Plan, provided such entity meets the eligibility requirement described in Code section 408(p)(2)(c)(i). A partnership is considered to be the Employer of each of the partners and a sole proprietorship is considered to be the Employer of the sole proprietor.

If the Adopting Employer is a member of a controlled group of corporations (as defined in Code section 414(b)), a group of trades or businesses under common control (as defined in Code section 414(c)), an affiliated service group (as defined in Code section 414(m)) or is required to be aggregated with any other entity as defined in Code section 414(o), then for purposes of the Plan, the term Employer shall include the other members of such groups or other entities required to be aggregated with the Adopting Employer.

An Employer meets the eligibility requirement and therefore will be eligible to maintain this Plan with respect to any Year only if the Employer had no more than 100 Employees who received at least \$5,000 of Compensation from the Employer for the preceding Year.

An eligible Employer who establishes and maintains a SIMPLE IRA plan for one or more Years and who fails to be an eligible Employer for any subsequent Year shall be treated as an eligible Employer for the two Years following the last Year the Employer was an eligible Employer. If such failure is due to any acquisition, disposition, or similar transaction involving an eligible Employer, the preceding sentence shall apply only in accordance with rules similar to the rules of Code section 410(b)(6)(C)(i).

**PARTICIPANT** Means any Employee who has met the eligibility requirements of Section 3.01 of the Plan and Section 3 of the Adoption Agreement, may enroll as a Contributing Participant and is or may become eligible to receive an Employer Contribution.

**PLAN** Means the prototype SIMPLE IRA plan adopted by the Employer that is intended to satisfy the requirements of Code section 408(p). The Plan consists of this Basic Plan Document plus the corresponding Adoption Agreement as completed and signed by the Adopting Employer.

**PRIOR PLAN** Means a SIMPLE IRA plan which was amended or replaced by adoption of this Plan, as indicated in the Adoption Agreement.

**PROTOTYPE SPONSOR** Means the entity specified in the Adoption Agreement that makes this prototype Plan available to employers for adoption.

**REGULATIONS** Means the Treasury Regulations.

**SALARY REDUCTION AGREEMENT** Means an agreement, made on a form provided by the Employer, pursuant to which a Participant may elect to have his or her Compensation reduced and paid as an Elective Deferral to his or her SIMPLE IRA by the Employer. No Salary Reduction Agreement may apply to Compensation that a Participant received, or had a right to immediately receive, before execution of the Salary Reduction Agreement.

**SELF-EMPLOYED INDIVIDUAL** Means an individual who has Earned Income for a Year from the trade or business for which the Plan is established; also, an individual who would have had Earned Income but for the fact that the trade or business had no net profits for the Year.

**SIMPLE IRA** Means the individual retirement account or individual retirement annuity, which satisfies the requirements of Code sections 408(p) and 408(a) or 408(b), and, with respect to which, the only contributions allowed are contributions under a SIMPLE IRA plan.

**SUMMARY DESCRIPTION** Means a statement provided by the trustee, custodian or issuer of a SIMPLE IRA to the Adopting Employer pursuant to Section 1.05 of the Plan which contains the following information:

- (i) the names and addresses of the Adopting Employer and the trustee, custodian or issuer of the SIMPLEIRA;
- (ii) the eligibility requirements that must be satisfied to become a Participant in the Plan;
- (iii) the benefits provided with respect to the Plan;
- (iv) the timing and method of making elections with respect to the Plan; and
- (v) the procedures for, and effects of, withdrawals (including rollovers) from the Plan.

**YEAR** Means the calendar year.

## SECTION 1 ESTABLISHMENT AND PURPOSE OF PLAN

**1.1 PURPOSE** The purpose of this Plan is to provide, in accordance with its provisions, a SIMPLE IRA plan providing benefits upon retirement for the individuals who are eligible to participate hereunder.

**1.2 INTENT TO QUALIFY** It is the intent of the Employer that this Plan shall be for the exclusive benefit of its Employees and shall qualify for approval under Code section 408(p), as amended from time to time (or corresponding provisions of any subsequent federal law at that time in effect) as a SIMPLE IRA plan. This document is intended to conform with the applicable rules and procedures of the Internal Revenue Service (IRS) that apply to prototype SIMPLE IRA plans.

### 1.3 EXCLUSIVE PLAN REQUIREMENT

#### A. In General

The Employer cannot contribute to this Plan for any Year if the Employer maintains another qualified plan with respect to which contributions are made, or benefits are accrued, for any Employee's service for any plan year beginning or ending in that Year.

For this purpose, a qualified plan is defined in Code section 219(g)(5) as:

A plan described in Code section 401(a) that includes a trust exempt from tax under Code section 501(a); an annuity plan described in Code section 403(a); a plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing (but not an eligible deferred compensation plan within the meaning of Code section 457 (b)); a tax-sheltered annuity plan described in Code section 403(b); a simplified employee pension (SEP) plan described in Code section 408(k); and another SIMPLE IRA Plan described in Code section 408(p).

If a failure to meet the exclusive plan requirement is due to an acquisition or similar transaction, the Employer is treated as meeting the exclusive plan requirement through the end of the following Year (through the end of the following two Years, if permitted by Code section 408(p)). However, the Employer is treated as satisfying the exclusive plan requirement only if, during the period described above, Employees who would be employed by another employer involved in the transaction had the transaction not occurred are not eligible to participate in this Plan.

#### B. Special Rule

Notwithstanding Section 1.03(A) of the Plan, the exclusive plan requirement is not violated if the Employer maintains another qualified plan that limits participation to Employees covered under a collective bargaining agreement described in Code section 410(b)(3)(A) and eligibility to participate in this Plan is limited to other Employees.

**1.4 USE WITH SIMPLE IRA** This Plan must be used with an IRS model SIMPLE IRA (Form 5305-S or Form 5305-SA) or any other plan that satisfies Code section 408(p).

**1.5 SUMMARY DESCRIPTION** The Summary Description must be provided each Year by the trustee, custodian or issuer of a SIMPLE IRA to the Adopting Employer within a reasonable period of time prior to the Election Period. However, a trustee, custodian or issuer shall be deemed to have provided a Summary Description, if it provides, to Participants for whom it maintains SIMPLE IRAs, its name and address and its procedures for taking withdrawals from a SIMPLE IRA. In addition, the trustee, custodian or issuer must obtain reasonable assurance from the Employer that the Employer will provide its name and address, the SIMPLE IRA plan's eligibility requirements, benefits, required information about SIMPLE IRA plan elections, and the effects of withdrawal pursuant to IRS Notice 98-4, to be deemed to have provided a Summary Description.

**1.6 FOR MORE INFORMATION** To obtain more information concerning the rules governing this Plan, contact the Employer listed in Section 6 of the Adoption Agreement.

## SECTION 2 EFFECTIVE DATES

The Effective Date means the date the Plan (or in the event a Prior Plan is amended, the restatement) becomes effective as indicated in the Adoption Agreement.

## SECTION 3 ELIGIBILITY AND PARTICIPATION

**3.1 ELIGIBILITY REQUIREMENTS** Except for those Employees described in Section 3.02 of the Plan who are excluded as indicated in the Adoption Agreement, each Employee of the Employer who fulfills the eligibility requirements specified in the Adoption Agreement shall become a Participant. Each Participant must establish a SIMPLE IRA to which Employer Contributions under this Plan will be made.

**3.2 EXCLUSION OF CERTAIN EMPLOYEES** The Employer may exclude collective bargaining unit Employees, non-resident aliens and acquired Employees, as defined in paragraphs (A) through (C) below, from participating in the Plan.

#### A. Collective Bargaining Unit Employees

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

#### **B. Non-Resident Aliens**

A non-resident alien is an Employee who is a non-resident alien, within the meaning of Code section 7701(b)(1)(B) and who received no earned income (within the meaning of Code section 911(d)(2)) from the Employer which constitutes income from sources within the United States (within the meaning of Code section 861(a)(3)).

#### **C. Acquired Employees**

An acquired Employee is an Employee who would be employed by another employer that has been involved in an acquisition or similar transaction with the Employer, had the transaction not occurred.

An acquired Employee will not be eligible to become a Participant in the Plan for the Year of the transaction and the following Year (the following two Years if permitted by Code section 408(p)).

### **3.3 ADMITTANCE AS A PARTICIPANT**

#### **A. Notification of Eligibility**

The Employer shall notify each Employee who becomes a Participant of his or her status as a Participant in the Plan and of his or her duty to establish a SIMPLE IRA to which Employer Contributions may be made. Unless the Employer elects to make all Plan contributions to a Designated Financial Institution, the Employer must permit each Participant to select the financial institution that will serve as trustee, custodian or issuer of the SIMPLE IRA to which the Employer will make all contributions on behalf of such Participant.

#### **B. Establishment of a SIMPLE IRA**

If a Participant fails to establish a SIMPLE IRA, the Employer may execute any necessary documents to establish a SIMPLE IRA on behalf of the Participant.

### **3.4 CONTRIBUTING PARTICIPANT**

#### **A. Requirements to Enroll as a Contributing Participant**

A Participant for a particular Year must be permitted to enroll as a Contributing Participant or modify an existing Salary Reduction Agreement during the 60-day period immediately preceding the Year, effective as soon as practical after receipt by the Employer (or, if later, the date specified by the Participant in the Salary Reduction Agreement) but not earlier than the first pay period beginning during the Year. In the case of a Participant who becomes eligible to participate after the first day of the Year because (1) the Plan does not impose a prior-year Compensation requirement, (2) the Participant satisfied the Plan's prior-year Compensation requirement during a prior period of employment with the Employer, or (3) the Plan is first effective after the beginning of a Year, the Participant must be permitted to enroll as a Contributing Participant or modify an existing Salary Reduction Agreement during the 60-day Election Period that begins on the day notice is provided to the Participant and that includes the day the Participant begins participating or the day before. In this case, the Salary Reduction Agreement will become effective as soon as practical after receipt by the Employer (or, if later, the date specified by the Participant in the Salary Reduction Agreement). Notwithstanding the foregoing, any Salary Reduction Agreement completed by the Participant may be modified prospectively at any time during the Election Period. In addition to the Election Periods described above, a Participant may make or modify an existing Salary Reduction Agreement during any additional Election Periods specified in the Adoption Agreement.

If a Salary Reduction Agreement is made or modified during one of these additional Election Periods, it will become effective as soon as practical after receipt of the Salary Reduction Agreement by the Employer or, if later, the date specified by the Participant in the Salary Reduction Agreement.

The Employer shall notify each Participant immediately before each Election Period of the Participant's opportunity to complete a Salary Reduction Agreement. The notice shall include, pursuant to rules or procedures promulgated by the IRS, a copy of the Summary Description as described in Code section 408(l)(2)(B) and this Plan. (Code section 6693(c)(1) provides that if the Employer fails to provide one or more notices, such Employer may be subject to a penalty of \$50 per day for each day that the failure to provide notice occurs.)

A Participant who desires to enroll as a Contributing Participant must complete, sign and deliver to the Employer a Salary Reduction Agreement during the Election Period. In addition, the Employer, in a uniform and nondiscriminatory manner, may provide additional opportunities for Participants to enroll as Contributing Participants in accordance with procedures established by the Employer.

#### **B. Modification of Elective Deferrals**

Each Contributing Participant shall be notified by the Employer, immediately before each Election Period, of his or her right to increase or decrease the amount of Compensation deferred into his or her SIMPLE IRA under the Plan. A Contributing Participant who desires to make such a modification shall complete, sign and file a new Salary Reduction Agreement with the Employer during the Election Period. In addition, if the Employer permits, in a uniform and nondiscriminatory manner, a Contributing Participant may modify his or her Salary Reduction Agreement more frequently in accordance with procedures established by the Employer.

#### **C. Withdrawal as a Contributing Participant**

A Participant may withdraw as a Contributing Participant at any time during the Year by revoking his or her authorization to the Employer to make Elective Deferrals on his or her behalf. A Participant who desires to withdraw as a Contributing Participant shall give written notice of withdrawal to the Employer. The notice of withdrawal must become effective as soon as practical after receipt of the notice by the Employer, or if later, the date specified by the Participant on such notice. A Participant shall cease to be a Contributing Participant upon his or her termination of employment, or on account of termination of the Plan.

#### **D. Return as Contributing Participant after Withdrawal**

A Participant who has withdrawn as a Contributing Participant may not again become a Contributing Participant until the first day of the first Year following the effective date of his or her withdrawal as a Contributing Participant, unless the Employer, in a uniform and nondiscriminatory manner, permits withdrawing Participants to resume their status as Contributing Participants sooner.

**3.5 DETERMINATIONS UNDER THIS SECTION** The Employer shall determine the eligibility of each Employee to be a Participant. This determination shall be conclusive and binding upon all persons except as otherwise provided herein or by law.

**3.6 LIMITATION RESPECTING EMPLOYMENT** Neither the fact of the establishment of the Plan, nor the fact that an Employee has become a Participant, shall give to that Employee any right to continued employment; nor shall either fact limit the right of the Employer to discharge or to deal otherwise with an Employee without regard to the effect such treatment may have upon the Employee's rights under the Plan.



**4.1 ELECTIVE DEFERRALS AND CATCH-UP CONTRIBUTIONS****A. Elective Deferrals**

Elective Deferrals are contributions made by the Employer to the Plan on behalf of a Contributing Participant under a Salary Reduction Agreement. Elective Deferrals shall include catch-up contributions made to the Plan pursuant to Code section 414(v) and the applicable Regulations and other guidance of general applicability issued thereunder as described in Section 4.01(B) of this Plan. Each Participant who has met the eligibility requirements may elect under a Salary Reduction Agreement to have his or her Compensation reduced by a percentage or a fixed dollar amount. The salary reduction election shall be in writing and delivered to the Employer. The amount of such reduction shall be contributed by the Employer to a SIMPLE IRA on behalf of the Contributing Participant. For any Year, a Contributing Participant's Elective Deferrals shall not exceed \$7,000 for 2002, \$8,000 for 2003,

\$9,000 for 2004, and \$10,000 for 2005 and later years. After 2005, the maximum amount may be adjusted for cost-of-living increases. Such adjustments will be in multiples of \$500. At the election of a Contributing Participant, the Employer shall contribute Elective Deferrals to the SIMPLE IRA of such Contributing Participant. Elective Deferrals for a Contributing Participant must be deposited to the SIMPLE IRA of such Contributing Participant by the Employer as of the earlier of: (1) the first date on which such Elective Deferrals can reasonably be segregated from the Employer's general assets or, (2) the close of the 30-day period following the last day of the month in which the contribution is withheld from the Contributing Participant's pay.

**B. Catch-Up Contribution**

Unless otherwise specified in Section 4 in the Adoption Agreement, a Contributing Participant who attains age 50 on or before the end of the Year can elect to have his or her Elective Deferrals increased above the amounts specified in Section 4.01(A) of the Plan. The additional amount shall not be greater than \$500 for 2002, \$1,000 for 2003, \$1,500 for 2004, \$2,000 for 2005, and \$2,500 for 2006 and later years. After 2006, the additional amount may be adjusted for cost-of-living increases. Such adjustments will be in multiples of \$500.

**4.2 REQUIRED EMPLOYER CONTRIBUTIONS****A. Employer Must Make Certain Contributions**

An Employer Contribution is the amount contributed by the Employer to this Plan. Each Year, the Employer shall make either the Matching Contribution described in Section 4.02(B) of the Plan or the Nonelective Contribution described in Section 4.02(C) of the Plan to the SIMPLE IRAs of Participants entitled thereto. Such contributions for any Year shall be made not later than the due date for filing the Employer's tax return for such Year (including extensions).

**B. Matching Contribution**

A Matching Contribution means an Employer Contribution made pursuant to this Plan on behalf of a Contributing Participant on account of an Elective Deferral, including Catch-up Contributions, made by such Contributing Participant. The Employer may satisfy the requirement set forth in Section 4.02(A) of the Plan by making a Matching Contribution to the SIMPLE IRA of each Contributing Participant for any Year in an amount equal to the amount of the Contributing Participant's Elective Deferral which does not exceed three percent of the Contributing Participant's Compensation for the Year (the "Matching Contribution percentage"). Notwithstanding the foregoing, the Employer may elect to apply a lower Matching Contribution percentage (not less than one percent) for any Year for all Contributing Participants if the Employer notifies Participants of such lower Matching Contribution percentage within a reasonable period of time before the Election Period for such Year. The Employer may not elect a lower Matching Contribution percentage for any Year if that election would result in the Matching Contribution percentage being lower than three percent in more than two of the Years in the five-Year period ending with such Year. If any Year in the five-Year period described in the preceding sentence is a Year prior to the first Year for which this SIMPLE IRA plan (or a Prior Plan) is in effect with respect to the Employer (or any predecessor employer), the Employer shall be treated as if the Matching Contribution percentage was equal to three percent of Compensation for such prior Year.

**C. Nonelective Contribution**

The Employer may satisfy the requirement set forth in Section 4.02(A) of the Plan by making a Nonelective Contribution of two percent of Compensation to the SIMPLE IRA of each Participant who has at least \$5,000 of Compensation (or such lesser amount of Compensation as may be specified in the Adoption Agreement) from the Employer for the Year provided the Employer notifies Participants that the Employer will be making a Nonelective Contribution within a reasonable period of time before the Election Period for such Year.

**4.3 NO OTHER CONTRIBUTIONS** The Employer shall make no contributions to the SIMPLE IRAs of Participants other than Elective Deferrals made pursuant to Section 4.01 of the Plan and those contributions required under Section 4.02 of the Plan. Nothing herein shall prevent an Employee from rolling over or transferring funds from another SIMPLE IRA to a SIMPLE IRA maintained under this Plan.

**4.4 VESTING AND WITHDRAWAL RIGHTS** All Employer Contributions made under the Plan on behalf of Employees shall be fully vested and nonforfeitable at all times. Each Employee shall have an unrestricted right to withdraw at any time all or a portion of the Employer Contributions made on his or her behalf. However, withdrawals taken are subject to the taxation and penalty provisions of the Code which are applicable to distributions from SIMPLE IRAs.

**4.5 SIMPLIFIED EMPLOYER REPORTS** The Employer shall furnish reports, relating to account activity under the Plan, in the time and manner and containing the information prescribed by the Secretary of the Treasury. The Employer shall furnish information to the trustee, custodian or issuer of SIMPLE IRAs of Participants as such trustee, custodian or issuer may reasonably request to enable it to fulfill its reporting and other responsibilities in connection with this Plan or the SIMPLE IRAs of Participants.

**4.6 USE OF DESIGNATED FINANCIAL INSTITUTION** This Section shall apply if the Employer has indicated in Section 4 in the Adoption Agreement that the Employer will make all Plan contributions at the Designated Financial Institution specified in the Adoption Agreement provided the financial organization agrees to act as the Designated Financial Institution. A Designated Financial Institution is a financial organization which is the trustee, custodian or issuer of the SIMPLE IRAs to which Plan contributions will be made. Use of a Designated Financial Institution is not required under this Plan, unless elected in Section 4 of the Adoption Agreement. If a Designated Financial Institution is named, pursuant to the provisions of Code section 408(p)(7) the Designated Financial Institution will notify Participants in writing (either separately or as part of the notice described in Section 3.04 of the Plan) that their SIMPLE IRA balances may be transferred without cost or penalty to another SIMPLE IRA in accordance with the withdrawal and rollover provisions under Code section 408(d)(3).



## SECTION 5 AMENDMENT OR TERMINATION OF PLAN

- 5.1 AMENDMENT BY EMPLOYER** The Employer reserves the right to amend the elections made or not made in the Adoption Agreement by executing a new Adoption Agreement. The Employer shall neither have the right to amend any nonelective provision of the Adoption Agreement nor the right to amend provisions of this Basic Plan Document. If the Employer adopts an amendment to the Adoption Agreement or Basic Plan Document in violation of the preceding sentence, the Plan will be deemed to be an individually designed plan and the Employer may no longer participate in this prototype Plan.
- 5.2 AMENDMENT OR TERMINATION OF SPONSORSHIP BY PROTOTYPE SPONSOR** The Employer, by adopting the Plan, expressly delegates to the Prototype Sponsor the power, but not the duty, to amend the Plan without any further action or consent of the Employer as the Prototype Sponsor deems either necessary for the purpose of adjusting the Plan to comply with all laws and applicable Regulations governing SIMPLE IRA plans or desirable to the extent consistent with such laws and applicable Regulations. Specifically, it is understood that the amendments may be made unilaterally by the Prototype Sponsor. However, it shall be understood that the Prototype Sponsor shall be under no obligation to amend the Plan documents and the Employer expressly waives any rights or claims against the Prototype Sponsor for not exercising this power to amend.
- An amendment by the Prototype Sponsor shall be accomplished by giving notice to the Adopting Employer of the amendment to be made. The notice shall set forth the text of such amendment and the date such amendment is to be effective. Such amendment shall take effect unless, within the 30-day period after such notice is provided, or within such shorter period as the notice may specify, the Adopting Employer gives the Prototype Sponsor written notice of refusal to consent to the amendment. Such written notice of refusal shall have the effect of withdrawing the Plan as a prototype plan and shall cause the Plan to be considered an individually designed plan. The right of the Prototype Sponsor to cause the Plan to be amended shall terminate should the Plan cease to conform as a prototype plan as provided in this or any other section.
- In addition to the amendment rights described above, the Prototype Sponsor shall have the right to terminate its sponsorship of this Plan by providing notice to the Adopting Employer of such termination. Such termination of sponsorship shall have the effect of withdrawing the Plan as a prototype plan and shall cause the Plan to be considered an individually designed plan. The Prototype Sponsor shall have the right to terminate its sponsorship of this Plan regardless of whether the Prototype Sponsor has terminated sponsorship with respect to other employers adopting its prototype Plan.
- 5.3 LIMITATIONS ON POWER TO AMEND** No amendment by either the Employer or the Prototype Sponsor shall reduce or otherwise adversely affect any Participant's benefits acquired prior to such amendment unless it is required to maintain compliance with any law, regulation or administrative ruling pertaining to SIMPLE IRA plans. Any amendment to this SIMPLE IRA Plan can become effective only at the beginning of the Year after which Participants have been properly notified of the amendment or at such other times as permitted or required by the IRS. Participants shall be deemed to be properly notified of an amendment if the notice is provided pursuant to the notice requirements described in Section 3.04 of the Plan.
- 5.4 TERMINATION** While the Employer expects to continue the Plan indefinitely, the Employer shall not be under any obligation or liability to continue contributions or to maintain the Plan for any given length of time. The Employer may terminate this Plan at any time by appropriate action of its managing body.
- 5.5 NOTICE OF AMENDMENT OR TERMINATION** Any amendment or termination shall be communicated by the Employer to all appropriate parties as required by law. Amendments made by the Prototype Sponsor shall be furnished to the Employer and communicated by the Employer to all appropriate parties as required by law.
- 5.6 CONTINUANCE OF PLAN BY SUCCESSOR EMPLOYER** A successor of the Employer may continue the Plan and be substituted in the place of the present Employer.
- 5.7 SENDING OF NOTICES** To the extent written instructions or notices are required under this Plan, the Prototype Sponsor or Employer may accept or provide such information in any other form permitted by the Code or related regulations. Any required notice will be considered effective when it is sent to the intended recipient at the last known address which is on file with the provider of the notice.
- 5.8 LIMITATION OF LIABILITY** The Prototype Sponsor, trustee, custodian or issuer of a SIMPLE IRA shall not be liable for any losses incurred by the SIMPLE IRA by any direction to invest communicated by the Employer, or any Participant or beneficiary. It is specifically understood that the Prototype Sponsor, trustee, custodian or issuer shall have no duty or responsibility with respect to the determination of the adequacy of contributions to the Plan and enforcing the payment of such contributions. In addition, it is specifically understood that the Prototype Sponsor, trustee, custodian or issuer shall have no duty or responsibility with respect to the determination of matters pertaining to the eligibility of any Employee to become a Participant or remain a Participant hereunder; it being understood that all such responsibilities under the Plan are vested in the Employer. Finally, it is specifically understood that the Prototype Sponsor shall have no responsibility for SIMPLE IRAs maintained by Participants at SIMPLE IRA trustees, custodians or issuers other than the Prototype Sponsor.

## SECTION 6 ADOPTING EMPLOYER SIGNATURE

Section Six of the Adoption Agreement must contain the signature of an authorized representative of the Adopting Employer evidencing the Employer's agreement to be bound by the terms of the Basic Plan Document and Adoption Agreement.