

PAGE/COLLINS
SETTLEMENT AGREEMENT

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EXHIBITS

1. List of terminated nontrusteed pension plans that PBGC categorized in Rettig as Vesting in the Assets.
2. List of terminated pension plans that PBGC categorized in Rettig as unamended for ERISA vesting.
3. 29 C.F.R. 2621 Appendix A, as of date of Agreement, of maximum guaranteeable benefits.
4. Distribution Data summary documents.

PAGE/COLLINS SETTLEMENT AGREEMENT

_____ This Settlement Agreement is entered into as of November 1, 1995 by Mary E. Collins, Anna M. Vendola, Mary F. Caples, and Estella Page, individually and on behalf of the Class as herein defined, by and through their attorneys of record, and the Pension Benefit Guaranty Corporation.

WHEREAS, the Named Plaintiffs on behalf of the Class brought the Actions against the PBGC seeking a determination that PBGC had wrongfully failed to provide Guaranteed Benefits to participants in terminated pension plans who were vested under ERISA's statutory vesting rules;

WHEREAS, PBGC had denied it is liable to the Named Plaintiffs or to the Class because their benefits were not nonforfeitable under the terms of the plan documents when their pension plans were terminated;

WHEREAS, the Court has consolidated the Actions and certified the Named Plaintiffs as representatives of the Class;

WHEREAS, the United States Court of Appeals for the District of Columbia held on July 10, 1992 that PBGC's interpretation of ERISA was not compelled by the language of the statute and remanded the Actions for PBGC's Board of Directors to consider the appropriate policy;

WHEREAS, the PBGC and the Class Representatives have reached a compromise under which PBGC assumes an obligation to provide the members of the Class with relief that is more certain and prompt than may be achieved through litigation; and

WHEREAS, the parties intend to compensate Class Members promptly and efficiently as this Agreement specifies;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which each party hereby acknowledges, the parties agree as follows:

I. DEFINITIONS

1.1 "Abstract" means a summary of a plan's benefit formula that allows a Gross Settlement Benefit to be calculated under Article V of this Agreement.

1.2 "Actions" means Mary E. Collins, et al. v. PBGC and Estella Page v. PBGC, Civil Action Nos. 88-3406 and 89-2997 (D.D.C.) (consolidated).

1.3 "Agreement" means this Agreement and any and all Exhibits hereto.

1.4 "Case file" means the file contemporaneously compiled by the PBGC relating to a plan's termination, which PBGC shall provide "as is" and solely for the purpose of implementing this Agreement.

1.5 "Class" means the Class certified by Order of the Court dated April 25, 1990, as modified by an Agreed Order of the Court that the parties will jointly seek to conform with the definition in Section 3.1 hereof.

1.6 "Class Action Settlement Board" or "CASB" means the joint board established under Article XV hereof.

1.7 "Class Counsel" means the undersigned attorneys for the Class.

1.8 "Class Member" means any person described by the Class definition, as set forth in Section 3.1 hereof, whether or not he or she is entitled to a Settlement Benefit hereunder.

1.9 "Contingent Distribution Fund" means the fund established in Section 16.5.

1.10 "Court" means the United States District Court for the District of Columbia.

1.11 "Date of birth" means the month, day and year of a Class Member's birth when that information is in the plan's case file. If the date of birth is not in the case file, the Director may base the Settlement Benefit calculations and valuations required by this Agreement on a Class Member's year of birth or his or her age as of a known date. If the case file does not contain this information, the Director shall find the Class Member's date of birth, year of birth or age as of a known date under Article IX. Where all that is known is a year of birth, the date of birth shall be July 1 of that year.

1.12 "Director" or "Settlement Director" means the person appointed pursuant to Article II hereof.

1.13 "Effective Date of Settlement" means the sixtieth day following the date on which the Court enters an Order approving this Agreement; provided, however, that if an appeal is taken from any such Order, the Effective Date of Settlement is the date the Order is affirmed or not subject to further judicial review.

The parties agree that they shall take certain steps before the Effective Date of Settlement. The steps shall include, but are not limited to, establishment of the CASB, the selection of the CASB neutral, the retention of Settlement Consultants, the selection of the Director, the establishment of the Settlement Administration Fund, the identification of unamended plans under Article III, the publication and mailing of notice described in Article XXIII, and the preparation of the case files for transfer to the Director.

1.14 "Eligible Class Member" means a Class Member who is included under Section 3.3 and who has not been determined to be ineligible because of Section 3.4.

1.15 "ERISA" means the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq., and unless otherwise specified or clearly required by the context, all references to ERISA or to Title 29, United States Code are to the provisions of ERISA as they existed upon enactment in 1974.

1.16 A participant having an "ERISA-Vested Right" is one who is one hundred (100) percent vested under ERISA's 10-Year Cliff vesting schedule based on his or her Years of Service as defined in Section 1.41.

1.17 The fraction prescribed by the "Fractional Rule" means the fraction prescribed by the benefit accrual method set forth in 29 U.S.C. § 1054(b)(1)(C), except that the numerator shall consist of all Years of Service as defined in Section 1.41 and the denominator shall consist of the Years of Service between date of hire and the normal retirement age used in Section 6.2. If date of hire does not appear in the case file, the Director shall find it using available service data and rules approved by the CASB.

1.18 "Guaranteed Benefits" means benefits guaranteed under 29 U.S.C. § 1322 and applicable regulations, as in effect on the plan's Termination Date.

1.19 "Named Plaintiffs" means plaintiffs Mary E. Collins, Anna M. Vendola, Mary F. Caples, and Estella Page.

1.20 "Nontrusteed plans" means terminated plans for which the PBGC was not appointed trustee under 29 U.S.C. § 1342.

1.21 "PBGC" means the Pension Benefit Guaranty Corporation, an agency of the United States established by 29 U.S.C. § 1302.

1.22 "Participant" means an employee or former employee who was covered under a plan, except that no minimum participation requirements shall apply.

1.23 "Person" means a natural person, or a corporation or other business organization, as the context requires.

1.24 "Phase-In Rule" means the limitation on guaranteed benefits set forth in 29 U.S.C. § 1322(b)(1)(B) and (b)(8), as implemented by 29 C.F.R. Pt. 2621. This Agreement does not authorize, or imply authorization for, any application of the Phase-In Rule to reduce Settlement Benefits other than under Sections 5.1(b)(4) and 5.3(a). For purposes of Section 5.1(b)(4), an increase in a plan's benefit rate or formula shall only include direct increases in the rate or formula, and shall not include changes that advance a participant

or beneficiary's entitlement to benefits in other ways, such as liberalized participation requirements, reductions in the normal or early retirement age under a plan, and changes in the form of benefit payments.

1.25 "Plan" means a pension plan covered under 29 U.S.C. § 1321(a) and not excluded under § 1321(b).

1.26 "Plan Year" means the "plan year" defined by 29 U.S.C. § 1002(39), but as determined pursuant to Section 3.5 hereof.

1.27 "Predecessor Plan" has the same meaning as in 29 U.S.C. § 1321(a).

1.28 "Rettig" means the litigation or the settlement in Gene Rettig v. PBGC, et al. and Joseph Piech, et al. v. PBGC, Civil Action Nos. 82-517 and 82-1131 (D.D.C.) (consolidated), as the context requires.

1.29 "Salaried" when used with reference to a plan means a plan in which benefits depend on a defined percentage of salary and years of service, or a defined percentage of salary alone. If a plan used a Salaried formula but offered only "Vesting in the Assets" before retirement, the plan shall be considered a "Vesting in the Assets" plan instead of a "Salaried" plan.

1.30 "Salary" shall be defined as follows: If a Class Member's monthly or annual benefit is previously calculated as Section 5.1(a) describes, the Class Member's Salary shall be the salary implicit in the previous benefit calculation and shall not be recalculated. If a Class Member's monthly or annual benefit is not previously calculated, the following rules apply to the "Salary" element in the abstract or default formula described in Section 5.1(b) and (c):

(1) If the spreadsheet has a salary average used in the plan's formula or a salary listing that appears to be the salary average used in the plan's formula, the Director shall use it as Salary.

(2) If the spreadsheet or other records have monthly or annual salary entries but not the salary average or listing described in (1), the Director

shall use the most recent annual earnings unless higher earnings are shown by the case file.

(3) If a Class Member's salary has to be obtained from Social Security or other sources outside the case file, the Director shall use the most recent annual earnings unless higher earnings are shown. The Director shall obtain the two most recent years of earnings from Social Security or other sources and shall use the higher of the two.

The Director shall develop additional rules, as necessary, to (i) use available salary information in the case file, or (ii) find a participant's Salary using earnings in Social Security records. The Director's rules shall be subject to the approval of the CASB.

1.31 "Settlement Administration Fund" means the fund established under Article XVI hereof for purposes of administering this Agreement.

1.32 "Settlement Benefits Fund" means the fund established under Article XII hereof for purposes of paying Settlement Benefits under this Agreement.

1.33 "Settlement Consultants" means consultants retained by the parties jointly or by the CASB for the purposes described in Section 15.6.

1.34 "Settlement Benefits" means those benefits established under Articles VI and VII hereof. "Gross Settlement Benefits" means those benefits specified in Article V before application of Article VI.

1.35 "Spreadsheet" means a compilation contained in a case file, in ledger or other format, reflecting participants' monthly or annual benefit amounts.

1.36 "10-Year Cliff" means the vesting schedule set forth in 29 U.S.C. § 1053(a)(2)(A), except that all Years of Service as defined in Section 1.41 shall be counted.

1.37 "Termination Date" when used with reference to a plan means the date of termination established under 29 U.S.C. § 1348, except that the Termination Date for a plan shall be the 29 U.S.C. § 1341(a) date of termination if PBGC established an earlier, retroactive termination date under 29 U.S.C. § 1348 for other purposes.

1.38 "Trusteed plans" means terminated plans for which the PBGC has been appointed trustee under 29 U.S.C. § 1342.

1.39 "Unit Benefit" when used with reference to a plan means a plan that calculates benefits by multiplying a plan-defined dollar amount by years of service, e.g., \$5 per month for each year of service before 1970 and \$6 per month for each year of service after 1969.

1.40 "Vesting in the Assets" when used with reference to a plan means a nontrusteed plan that PBGC categorized in Rettig in the listing attached hereto as Exhibit 1, as Vesting in the Assets (because the plan did not offer an accrued benefit, as such, before retirement).

1.41 "Years of Service" means all of the years between a participant's date of hire by the employer or employers maintaining the plan and the earlier of the date of termination of his or her employment or the Termination Date of the plan. If the case file does not contain a date of employment termination, the endpoint for Years of Service shall be the Termination Date of the plan. If the case file does not contain a participant's date of hire but lists a number of years of service for the participant, the participant's "Years of Service" shall be the case file's number of years of service.

Where the case file does not contain information sufficient to determine a participant's Years of Service, the Director shall develop rules for counting Years of Service that rely on (i) other records in case files that approximate Years of Service data (e.g., records of a participant's entry date or years of credited service), or, in the absence thereof, (ii) the Social Security earnings record of employment in particular quarters, or (iii) other reliable evidence obtained from the participant. The Director's rules shall be subject to the approval of the Class Action Settlement Board ("CASB"), described below.

II. SETTLEMENT ADMINISTRATION STRUCTURE

As separately set forth in Articles XIV through XVIII, this Agreement shall be administered in the following manner:

The Class Action Settlement Board ("CASB") shall appoint a Settlement Director ("Director") based on the parties' joint recommendation. The Request for Proposal that shall be used to solicit bids from organizations wanting to serve as the Director shall be drafted by the Class Representatives, in consultation with the Settlement Consultant, and shall be subject to approval by PBGC. The Director shall be subject to removal by the parties acting jointly, or by the Court upon a showing of good cause by either party. The Director shall be responsible for identifying the plans and participants described in Article III, paying the Settlement Benefits described in Articles VI and VII and carrying out Articles VIII through XIII of the Agreement. The Director's performance shall conform with Articles XIV through XVIII of the Agreement, including the schedule for performance in Article XVIII.

III. CLASS MEMBERSHIP AND ELIGIBILITY FOR SETTLEMENT BENEFITS

3.1 Class Definition. The Class certified by the Court pursuant to Fed. R. Civ. P. 23(b)(2) shall be defined as all persons:

(a) Who were participants in pension plans covered by ERISA Title IV, 29 U.S.C. § 1301 et seq., that terminated between January 1, 1976 and December 31, 1981;

(b) Whose pension plans had not adopted vesting schedules for retirement benefits, effective as of the plan's termination, that satisfied the ERISA minimum vesting rules in 29 U.S.C. § 1053;

(c) Whose years of service with the companies sponsoring such terminated plans before the dates of termination satisfied one of the ERISA minimum vesting rules in 29 U.S.C. § 1053; and

(d) Whose pension benefits the PBGC declined to guarantee.

3.2 Identification of Unamended Plans. The Director shall identify the plans described in Section 3.1(a) and (b). For this purpose, the Director shall rely on plan Termination Dates as shown by case files and the PBGC's categorization in Rettig in the listing attached hereto as Exhibit 2, as to whether terminated pension plans were amended for ERISA vesting.

3.3 Identification of Participants with ERISA-Vested Rights. Participants in the plans identified in Section 3.1 who had ERISA-Vested Rights shall be eligible for Settlement Benefits under Article VI. Participants in the plans identified in Section 3.1 who had at least five but less than ten Years of Service shall be eligible for Settlement Benefits under Article VII. For both purposes, a participant's Years of Service shall be as defined in Section 1.41.

3.4 Ineligibility of Certain Class Members for Settlement Benefits. Class Members who meet one or more of the following characteristics shall not be eligible for Settlement Benefits:

(a) Participants Terminating Covered Service Pre-ERISA.

Participants whose employment ended or whose pension plan had a Termination Date before the first day of the Plan Year beginning on or after January 1, 1976;

(b) Participants Vested Pre-ERISA. Participants who were already 100 percent vested in an accrued benefit under the pension plan's vesting schedule in effect as of the Termination Date of the plan;
and

(c) Substantial Owners. Participants whom case files identify as "substantial owners" within the meaning of 29 U.S.C. § 1322(b)(5) or as having sufficient ownership interests to meet that definition. Where the identification is contained in the Notice of Intent to Terminate, Form 5310, substantial owner waiver, or other

submission by the plan, the employer, or the participant, such identification shall be conclusive. Where other evidence comes to the attention of the Director from the case file that a participant may be a substantial owner, the Director shall make written inquiry of the participant to obtain information from which such a determination can be made, which information shall be submitted under oath in such form as the Director may prescribe. The Director shall not have an independent obligation to search for other evidence that a participant is a substantial owner.

3.5 Identification of Plan Year. Where the case file contains a Form 5310, a Form 5500, or an Actuarial Valuation Report that includes a designation of a Plan Year, such designation shall be controlling under Section 3.4(a). In the absence of such a Form or Report in the case file, the beginning of the Plan Year shall be the calendar day (other than December 31) identified in the introductory or definitions article of the most recent plan document as the start of the "Plan Year."

If the Plan Year is not identified in this way, but both (i) the plan's "Effective Date" and (ii) its "Anniversary Date" or "Entry Date" are found in those articles and both identify the same calendar day, that day shall begin the Plan Year. If a plan's Effective Date and its Anniversary Date or Entry Date identify successive days, e.g., June 30 and July 1, the Director shall consider them to identify the same calendar day, which shall be the earlier of the two days. When a plan's definition of "Anniversary Date" or "Entry Date" specifies one day initially and another thereafter, the Anniversary Date or Entry Date for this purpose is the last Anniversary Date or Entry Date before the plan's Termination Date. If a plan defines both an Anniversary Date and an Entry Date using different, non-successive calendar days, the Plan Year shall not be considered to be identified by the above.

Whenever a Plan Year beginning after January 1 is not identified by the foregoing, the Director shall use January 1 as the start of the Plan Year under Section 3.4(a). For

plans with Termination Dates after December 31, 1976, the Director shall use January 1 as the start of the Plan Year in every case.

3.6 Bases for Ineligibility in Certain Cases.

(a) The Director shall rely on the case file's contents to identify the participants whose employment ended or whose plan had a Termination Date before the date specified in Section 3.4(a), or who were already 100 percent vested in an accrued benefit under Section 3.4(b). A participant shall be considered to have been 100 percent vested under the pension plan's pre-ERISA vesting schedule if he or she is listed as: (i) retired and receiving a pension benefit on the Termination Date (or as having received a pension benefit), (ii) eligible for normal or early retirement, or (iii) owning a deferred vested right to 100 percent of his or her monthly or annual accrued benefit. In addition, PBGC may mark, without comment, the case files of nontrusteed plans with 100 or more participants (excluding nontrusteed plans with "Vesting in the Assets"), to identify other evidence, apart from that listed above, showing that a participant was 100 percent vested under the plan's pre-ERISA vesting schedule. The Settlement Director shall give the evidence the weight it deems advisable. If the case file's record is inconclusive, a participant shall not be excluded under Sections 3.4(a) or (b). Participants in "Vesting in the Assets" plans shall not be determined to be ineligible under Section 3.4(b) as possessing a 100 percent vested right in an accrued benefit unless the case file shows the participant was retired and receiving a pension benefit. PBGC must deliver at least 50 percent of the case files this paragraph permits it to mark by the Effective Date of the Agreement and the other 50 percent within 60 days after the Effective Date. Any such case files that are not delivered by these dates shall be delivered without marking.

(b) Notwithstanding Section 3.4(b), any participant whose 100-percent vested right in an accrued benefit was not fully guaranteed or paid because PBGC or a Plan Administrator subjected it to the Phase-In Rule shall not be determined to be ineligible;

provided, however, that any participant who is entitled to a settlement benefit in Rettig shall not be entitled to a Settlement Benefit under this Agreement.

(c) Notwithstanding Section 3.4(b), any participant with a 100-percent vested right who was not distributed any plan assets (other than employee contributions with interest) from a nontrusteed plan shall not be determined to be ineligible under Section 3.4(b).

IV. SETTLEMENT BENEFITS OVERVIEW

Eligible Class Members shall be entitled to the Settlement Benefits provided hereunder. Such Settlement Benefits shall consist of:

4.1 In the case of a Class Member with an ERISA-Vested Right:

- (a) The amount determined under either Section 5.1(a), (b), or (c), whichever is applicable;
- (b) Limited by Section 5.3(a) and (b), if applicable; and
- (c) Adjusted in accordance with Section 6.1;
- (d) With interest as provided in Section 6.4.

4.2 In the case of a Class Member with at least five but fewer than ten Years of Service, the amount determined under Article VII.

V. GROSS SETTLEMENT BENEFITS

5.1 Gross Settlement Benefits For Eligible Class Members With ERISA-Vested Rights. The Gross Settlement Benefit of Eligible Class Members with ERISA-Vested Rights shall be calculated as follows:

(a) Use of Previously Calculated Benefits. The Gross Settlement Benefit for Eligible Class Members in all plans shall be the accrued benefit, if any, previously calculated for them in the case file, identified as provided in Section 5.2(a). If the case file for a plan with Vesting in the Assets contains a previously calculated normal retirement

benefit that does not appear to be the accrued benefit, the Gross Settlement Benefit for such a Class Member shall be the fraction of the normal retirement benefit determined by applying the Fractional Rule.

(b) Use of Abstracted Benefit Formulas In the Absence of Previously Calculated Benefits

(1) Plans with Unit Benefit Formulas. In the absence of a previously calculated benefit, the Gross Settlement Benefit for Eligible Class Members in a Unit Benefit plan shall be the benefit obtained by multiplying the unit benefit rate in the most recent plan document in the case file by their Years of Service.

(2) Pension Plans with "Salaried" Formulas. Subject to the rules in Section 5.2(b), in the absence of a previously calculated benefit, the Gross Settlement Benefit for Eligible Class Members in a Salaried plan shall be the benefit based on their Salary and Years of Service under the Salaried formula for the plan abstracted by the Director from the most recent plan document in the case file.

(3) Plans with "Vesting in the Assets." Subject to the rules in Section 5.2(b), in the absence of a previously calculated benefit, the Director shall determine an Eligible Class Member's Gross Settlement Benefit by abstracting the plan's benefit formula at normal retirement from the most recent plan document in the case file and applying the Class Member's Salary, Years of Service, and the fraction prescribed by the Fractional Rule. If the plan has a "Unit Benefit" formula, the Director shall compute the Gross Settlement Benefit by abstracting the benefit formula and applying the Class Member's Years of Service but not Salary or the Fractional Rule.

(4) Disregard of Certain Increases in Abstracted Benefit Formulas. In abstracting benefit formulas under Sections 5.1(b)(1), (2) and (3), the Director shall disregard any increase in a plan's benefit rate or formula under a plan amendment that the case file shows became effective, or was adopted, whichever is later, within twelve months before the plan's Termination Date.

(i) For trusted plans, the Director shall further limit the increase in a Class Member's Gross Settlement Benefit resulting from an increase in a plan's benefit rate or formula that the case file shows became effective, or was adopted, whichever is later, between twelve and twenty-four months before the plan's Termination Date. In these cases, the increase in the Gross Settlement Benefit shall be limited to a \$20 per month increase in benefits payable, after reduction for early retirement, at the plan's earliest retirement age. In cases where a Class Member's benefits are limited by this rule, the Director shall value the Class Member's Gross Settlement Benefit under Section 6.2 at the earliest retirement age using the same reduction factor.

(ii) The Director shall only apply the preceding limitations to increases in a plan's benefit rate or formula if the earlier plan document is in the case file. Furthermore, if the effective or adoption date of a benefit increase cannot be found in the plan document and amendments section of a case file, the Director shall use the date that can be found. If neither is found there, the Director shall assume the increase is not subject to these rules.

(5) Use of Years of Service and Salary under Abstracted Formulas. In abstracting benefit formulas, the Director shall use Salary and Years of Service as defined in Sections 1.30 and 1.41 in place of more detailed salary and service elements of benefit formulas.

(c) Use of Default Formulas Where the Director Does Not Abstract

(1) Plans with "Salaried" Formulas. Where the Director does not abstract a plan's Salaried formula under Section 5.2(b), the Gross Settlement Benefit for Eligible Class Members in the plan shall be an annual benefit equal to:

.0067 of Salary multiplied by Years of Service (i.e., .0067 x Salary x Years of Service).

To assure that Eligible Class Members subject to this formula shall receive no less on average than other similarly situated Eligible Class Members in Salaried plans, the coefficient of .0067 shall be increased, to the extent necessary, until it produces in the aggregate the amount computed by multiplying the number of Eligible Class Members in the Salaried plans subject to this formula who have ERISA-Vested Rights by the average per capita value under Section 6.2 of the Gross Settlement Benefits of Eligible Class Members in Salaried plans who have ERISA-Vested Rights and whose benefits were calculated under (a) or (b)(2) based on a previously calculated benefit or an abstract of the plan's formula.

(2) Plans with "Vesting in the Assets." Where the Director does not abstract a Vesting in the Assets plan's formula under Section 5.2(b), the Gross Settlement Benefit for Eligible Class Members in the plan shall be an annual accrued benefit equal to:

.12 of Salary, multiplied by the fraction prescribed by the Fractional Rule (i.e., $.12 \times \text{Salary} \times \text{Years of Service} / \text{Years of Service to Age 65}$).

To assure that Eligible Class Members subject to this formula shall receive no less on average than other similarly situated Eligible Class Members in Vesting in the Assets plans, the coefficient of .12 shall be increased, to the extent necessary, until it produces in the aggregate the amount computed by multiplying the number of Eligible Class Members in the plans subject to this formula who have ERISA-Vested Rights by the average per capita value under Section 6.2 of the Gross Settlement Benefit of Eligible Class Members in Vesting in the Assets plans who have ERISA-Vested Rights and whose benefits were calculated under (a) or (b)(3) based on a previously calculated benefit or an abstract of the plan's formula.

5.2 Other Rules for Determination of Gross Settlement Benefits.

(a) Previously Calculated Benefits. If the Director finds a spreadsheet or other listing with "previously calculated" benefits, the Director shall use the monthly or annual benefit that appears to be the accrued benefit (without adjustment for early retirement or any other reduction) as the Gross Settlement Benefit. The Director shall use a spreadsheet's listing of a participant's monthly or annual benefit only if the following conditions are met:

- (1) The spreadsheet lists the participant's benefit in the form of a monthly or annual benefit that is greater than zero;
- (2) If the plan is one that provided graded vesting before ERISA, the spreadsheet shows the monthly or annual benefit before application of the percentage vested.

A benefit shall not be considered to be "greater than zero" if the spreadsheet indicates that it consists only of benefits derived from employee contributions.

(b) When Abstracting Occurs. The Director shall abstract the benefit formulas of all trustee plans, nontrustee plans with Unit Benefit formulas, and nontrustee Salaried or Vesting in the Assets plans with fifty or more participants in which an Eligible Class Member's benefits have not been previously calculated. The Director shall not abstract the benefit formulas of nontrustee Salaried pension plans with five or fewer participants, or nontrustee Vesting in the Assets plans with twenty or fewer participants.

The Director shall abstract the benefit formulas of nontrustee Salaried plans with between five and fifty participants, and Vesting in the Assets plans with between twenty and fifty participants unless the Director finds that the benefit formula for a plan cannot be abstracted for less than \$1,500. The Director shall assure that at least 75% of the Eligible Class Members in plans with previously calculated benefits or plans that are eligible for abstracting are paid based on previously calculated benefits or abstracts of plan benefit formulas.

In abstracting, the Director shall to the extent feasible rely on the contemporaneous benefit formula summaries prepared by PBGC personnel as part of the case summary in the case file.

(c) Years of Service in Plans with Retroactive Termination Dates. Where an ERISA § 4041(a) Termination Date is used in place of a retroactive termination date established under ERISA § 4048 for a plan, a participant's Years of Service for purposes of computing the Gross Settlement Benefit shall include service to the ERISA § 4041(a) Termination Date; provided, however, that where the participant's benefits are previously calculated under Section 5.1(a), the participant's benefits will remain as previously calculated.

5.3 Other Limitations On Gross Settlement Benefits.

(a) Phase-In of Newly-Established Plans. If the case file demonstrates that a plan identified in Section 3.1 was established less than sixty months before the Termination Date of the plan, the Director shall reduce the Gross Settlement Benefits of Class Members under Article V by applying the Phase-in Rule as it applies to such plans. If the case file shows a Predecessor Plan, the months when the Predecessor Plan existed shall count in the period the plan has been established.

(b) Maximum Insurance Limitation. The Gross Settlement Benefit of a Class Member shall not exceed the actuarial present value of the maximum guaranteeable benefit (as in effect at the plan's Termination Date) prescribed by 29 U.S.C. § 1322(b)(3)(B) and 29 C.F.R. § 2621.4, as reflected by 29 C.F.R. 2621 Appendix A. That Appendix, as of the date of this Agreement, is attached hereto as Exhibit 3.

VI. SETTLEMENT BENEFITS

6.1 Settlement Benefits for Class Members with ERISA-Vested Rights. The Settlement Benefit of an Eligible Class Member with an ERISA-Vested Right shall be eighty (80) percent of the difference between:

- (a) The value of his or her Gross Settlement Benefits under Article V, as determined under Section 6.2; and
- (b) The pension benefits, if any, the Plan Administrator or PBGC previously distributed to the Class Member, as determined under Section 6.3.

6.2 Value of Gross Settlement Benefits.

(a) General Rule. For purposes of Section 6.1(a), if the benefit calculated under Article V is expressed in the form of a monthly or annual benefit, it shall be converted to its value as of the date the plan distributed its assets (or if no distribution occurred or the date of distribution is unknown, as of the plan's Termination Date) using an assumed normal retirement age of age 65, an assumed form of a single life annuity with a

seven-year term certain, and the PBGC interest and mortality assumptions under 29 C.F.R. Pt. 2619 as in effect on that date for an immediate or deferred annuity, as applicable. When a Class Member's benefits are calculated under the default formulas in Sections 5.1(c), no adjustment shall be made in the valuation for any form of benefits other than a single life annuity.

(b) Spreadsheet Valuations. If a Class Member's monthly or annual benefit is previously calculated as Section 5.1(a) describes, the Director shall use the plan's spreadsheet valuation of the Class Member's monthly or annual benefit in place of the valuation described above under three conditions:

- (1) The spreadsheet value is identified from the spreadsheet as the present value of the Class Member's monthly or annual accrued benefit and it appears to value the entire benefit;
- (2) The distribution the Class Member received was equal to or greater than the plan's spreadsheet value (as of the date of distribution); and
- (3) Either:
 - (i) The Distribution Data summary document (attached hereto as Exhibit 4) in the case file states the plan is one in which surplus assets reverted to the employer or were distributed pro rata among all participants after all accrued benefits, whether vested or nonvested, were paid; provided that the Director shall have no obligation to look for this document other than in the Distribution or Participant Data tabs or at the top of the case file;
 - (ii) A separate spreadsheet column with the Class Member's vested monthly or annual accrued benefit equals the spreadsheet's column with the Class Member's monthly or annual accrued benefit;

(iii) The plan has 21 or more participants and the spreadsheet has entries for years of service and age (or date of birth) that demonstrate that the Class Member was vested under the plan's pre-ERISA vesting schedule; or

(iv) The plan has 21 or more participants and the distributions received by three Eligible Class Members with ERISA-Vested Rights who have the latest dates of hire (or latest dates of birth, if service data is unavailable) are 85 percent or more of the value of the monthly or annual benefit computed as provided in Section 6.2(a) (except that the form of benefits used in the spreadsheet's valuation shall be used if it is specified in the spreadsheet).

Subsection (b)(3)(i), (ii), and (iii) shall not apply to any Vesting in the Assets plans. PBGC may transfer Distribution Data summary documents to the appropriate tab in the case files described in Section 3.6(a) (nontrusteed plans with 100 or more participants). Any such transfers shall be made within the same time limits as specified in that Section.

6.3 Rules for Determining Pension Benefits Previously Distributed to Class Members.

(a) The Director shall determine the pension benefits, if any, that the Plan Administrator or PBGC previously distributed to the Class Member from the case file. When a case file reveals distributions to some but not all participants, participants for whom the case file shows no distribution shall be deemed to have received no distribution.

(b) Distributions to participants include distributions of employee contributions with interest (except where the Gross Settlement Benefit excludes benefits derived from employee contributions).

(c) If pension benefits were distributed to a Class Member in the form of a monthly or annual annuity (including a deferred annuity) provided by an insurance

company, the Director shall compute the Settlement Benefit under Section 6.1 by subtracting the monthly or annual annuity from the monthly or annual Gross Settlement Benefit and calculating the present value of 80 percent of the remainder, as computed under Section 6.2.

(d) If PBGC is paying or scheduled to pay Guaranteed Benefits to a Class Member in a trustee plan, the Director shall compute the Settlement Benefit under Section 6.1 by subtracting the monthly or annual Guaranteed Benefit from the monthly or annual Gross Settlement Benefit and calculating the present value of 80 percent of the remainder, as computed under Section 6.2. Guaranteed Benefits shall include any additional benefits to which plan assets have been allocated pursuant to 29 U.S.C. § 1344 and 29 C.F.R. Pt. 2618, if the spreadsheet in the case file clearly shows the allocation to the Class Member.

6.4 Interest on Settlement Benefits. The Settlement Benefits calculated in Articles V and VI shall accrue interest from the valuation date used in Section 6.2(a) to the first of the month in which the Settlement Benefit is paid the Class Member, at the rate of 8.7 percent, reflecting PBGC immediate annuity rates during the relevant period.

6.5 Additional Discount for Class Members Who Vested Before ERISA § 4041(a) Termination Date But Not Before Retroactive Termination Date. The Settlement Benefit calculated under Section 6.1 shall be subject to an additional multiplier of .66 for Class Members who vested before a plan's ERISA § 4041(a) Termination Date but not before an earlier, retroactive termination date established by PBGC under ERISA § 4048. This reflects the additional defense to payment that PBGC has against such Class Members.

VII. LUMP SUM SETTLEMENT BENEFITS FOR ELIGIBLE CLASS MEMBERS WITH LESS THAN TEN YEARS' SERVICE

7.1 Lump Sum Settlement Benefit. If a Class Member has at least five but fewer than ten Years of Service in a plan identified in Section 3.1, is not excluded from

eligibility under Section 3.4(a) and (b), and was not a participant in a surplus asset plan identified in Section 6.2(b)(3), the Class Member shall be eligible to receive a lump sum Settlement Benefit, without interest, calculated by dividing \$6.0 million by the number of such Eligible Class Members, and multiplying that dividend by a fraction (which may be greater than one) the numerator of which is such Class Member's Years of Service, and the denominator of which is the mean Years of Service of all such Eligible Class Members. (For example, if there are 15,000 such Class Members, and the mean Years of Service of such Class Members is seven, the share of a Class Member with five Years of Service would be \$285.71, computed as follows: $\$6,000,000/15,000 \times 5/7$.)

7.2 Immediate Settlement Benefit. The Director shall advance a minimum Settlement Benefit of \$40 per Year of Service to Eligible Class Members with less than ten Years of Service as soon as reasonably practicable after such Class Member's Years of Service are determined; provided that no more than \$4.0 million shall be advanced pursuant to this provision. Funds advanced to any individual pursuant to this Section 7.2 shall be credited against the amount paid to that individual under Section 7.1.

7.3 Cap on Per Year of Service Benefit. In no event shall the Settlement Benefit paid to Eligible Class Members with less than ten Years of Service under Section 7.1 exceed \$60 for each Year of Service. If this cap causes the total Settlement Benefits paid to such Class Members to be less than \$6.0 million, the Director shall transfer the remaining funds for distribution as residue under Section 16.7.

VIII. PROCEDURES WHERE NAMES OF PARTICIPANTS MAY BE OMITTED

8.1 General Provisions. The Director shall review the case files for the plans identified in Article III for indications that the names of participants who vested under ERISA's 10-Year Cliff vesting schedule or who had at least five but fewer than ten Years of Service are omitted. The Director shall develop a checklist of indications that a case file's

census of participants may be incomplete, subject to the approval of the CASB. These indications shall include, but not be limited to:

- (a) The case file lists only vested or retired participants.
- (b) The case file indicates there were a number of non-vested participants but those participants' names are omitted.
- (c) The case file indicates that non-vested participants over a certain age received a distribution of plan assets and does not list the participants' names who fell short of that age.

The Director's checklist shall also take into account that the names of non-vested participants who separated from service before the plan's Termination Date may be omitted from some case files.

8.2 Director's Obligations. When the Director determines that a case file may omit potential Class Members' names, the Director shall take appropriate steps, which may, when feasible, include contacting the employer, plan administrator, plan service providers, any union, or other participants to obtain the names of participants who were potentially vested under ERISA, and may also include publishing newspaper and periodical notices reasonably calculated to reach those participants. As a part of this procedure, the Director shall take appropriate steps to secure the data needed to calculate Settlement Benefits for the potential Class Members' whose names have been omitted.

IX. PROCEDURE WHERE OTHER DATA ARE MISSING

9.1 Missing Addresses, Years of Employment, Salary, or Date of Birth. The Director shall determine if case files contain addresses or social security numbers and the information needed to compute Settlement Benefits (e.g., years of employment, salary, date of birth) for named participants who potentially are Class Members. If not, the Director shall take appropriate steps to obtain such information, including steps to find the plan's participant census.

9.2 Obtaining Information. If no address or social security number appears in the case file, the Director shall obtain addresses through tracing and letter forwarding services. When the Director locates some but not all participants in a pension plan, the Director shall, as appropriate, mail to those who have been located a list of unlocated participants from the same plan requesting their assistance in finding them. In the event that employment and salary records and verification of a participant's date of birth or participation are not otherwise readily available, the Director shall mail the claim form described in Section 10.1 to the participant.

X. CLAIMS PROCEDURE AND NOTICE OF SETTLEMENT BENEFITS OR DENIAL

10.1 Claims Procedure. Any person who believes he or she is entitled to a benefit under this Agreement shall have the right to file a claim on a form developed by the Director. The claim form shall be filed under oath and shall include a signed authorization for the Director to obtain the claimant's employment and salary records from the Social Security Administration (at the expense of the Settlement Administration Fund). The Director may require that the claimant furnish his or her date of birth and social security number and attest to having worked five years under one of the plans identified in Article III as a condition to transmitting the form to the Social Security Administration.

10.2 Notice of Settlement Benefits. Class Members determined to be entitled to Settlement Benefits shall receive notice of that determination, and the basis for that determination, before payment. The benefit determination letter shall include notice of any rollover and other options.

10.3 Notice of Denial. The Director shall also notify Class Members or claimants of the basis for denials, including a description of data that played a substantial role in the denial.

10.4 Persons Entitled to Notice. When a case file or other information indicates a person had five or more Years of Service in a Plan identified in Article III, the person shall

be entitled to a Notice of Settlement Benefits or Notice of Denial. A person with less than five Years of Service shall not be entitled to a Notice of Denial (unless such person has filed a claim).

10.5 Addresses. If the address for a Class Member that is in the case file is out of date, or if the case file only contains the Class Member's social security number, the Director shall obtain addresses as described in Section 9.2 to deliver the Notice described in this Article.

10.6 Fee to Compute Benefits Outside Default Formulas. If a Class Member who is subject to one of the default formulas in Section 5.1(c) pays a \$150 processing fee to the Settlement Administration Fund and supplies benefit records acceptable to the Director to compute benefits under the plan's formula within 30 days after the Notice of Settlement Benefits or Denial is mailed, the Director shall calculate his or her Settlement Benefits under Article VI on that basis. The Director shall advise the Class Member of the delay in processing if he or she opts out of the default calculation. The Class Member must waive the right to benefits under the default formula in the event the result is lower. Any such calculations shall have no effect on the per capita adjustments for other Class Members in Section 5.1(c).

XI. SURVIVING SPOUSES AND ESTATES

11.1 Surviving Spouses and Estates. When an Eligible Class Member has died before the date Settlement Benefits are distributed, the Settlement Benefit shall be payable to the Class Member's surviving spouse, but if the Class Member's estate submits the documentation described next, to the Class Member's estate. A person claiming to represent a Class Member's estate shall have the burden of filing a claim form, including such certification under oath as the Director may require, establishing his or her right to represent the estate. A surviving spouse shall also be required to file a claim under oath attesting that the marriage existed at the Termination Date of the plan or the date of the

Class Member's death. If the Class Member remarried between the Termination Date of the plan and his or her date of death and dual claims are received, the Settlement Benefit shall be payable to the surviving spouse at the date of death.

The Director shall take steps to find surviving spouses reasonably comparable to those described in Sections 8.2 and 9.2.

11.2 Extinguishment of Claim. Payment of the Settlement Benefit described in Section 11.1 to a surviving spouse or estate extinguishes any and all claims under this Settlement Agreement based on the claim of the deceased Class Member.

11.3 Designation of Beneficiary. Whenever Class Members or surviving spouses are sent a Notice of Settlement Benefits, they shall be asked to designate a beneficiary if they die before Settlement Benefits are distributed.

XII. PAYMENT AND TAX MATTERS

12.1 Settlement Benefits Fund. The CASB shall establish a segregated trust fund, to be held pursuant to a written trust agreement by a trustee mutually acceptable to the parties, for the payment of Settlement Benefits hereunder (the Settlement Benefits Fund). The PBGC shall transfer to the Fund sufficient moneys to enable the Director or another paying agent selected by the CASB to pay the Settlement Benefits due under this Agreement at reasonable intervals as may be agreed between the paying agent and the PBGC, based upon such supporting data as the PBGC may reasonably require.

The Settlement Benefits Fund shall be used solely for Settlement Benefits under this Agreement. Pending distributions, the Settlement Benefits Fund shall be invested in interest-bearing United States Treasury securities or securities of agencies of the United States backed by the full faith and credit of the United States. All earnings on such investments shall be credited to the Fund.

12.2 PBGC Responsibility. PBGC shall be responsible for transferring sufficient funds to the Settlement Benefits Fund to pay all Settlement Benefits due Class Members,

surviving spouses or estates under this Agreement, whatever their aggregate amount. The foregoing shall not affect the limitations of Article VII.

12.3 Payment by the Director. The Director shall effect payment to a Class Member, surviving spouse or estate as soon as reasonably practicable after his or her Settlement Benefits are calculated. All Settlement Benefits shall be paid in lump sum form. The Director may require a Class Member, surviving spouse or representative of an estate to return a form to confirm his or her identity and address and make any elections required by law before payment. Payment to a Class Member, surviving spouse or estate shall be deemed made on the date a check is mailed or transferred by wire.

12.4 Controls. The Director shall institute financial controls acceptable to the CASB to prevent fraudulent, duplicate, or erroneous payment of Settlement Benefits. The Director shall retain records supporting all Settlement Benefits payments in sufficient detail to permit audit to determine their conformity to their Agreement. The CASB shall subject the Director's determinations of entitlement and amount of Settlement Benefits, and his payments thereof to an independent audit by persons of its own choosing at reasonable intervals; provided, however, that no such audit shall unduly interfere with the proper payment of benefits. PBGC and the Named Plaintiffs shall have the right to examine the records of the Director to monitor compliance with the terms of this Agreement.

12.5 Tax Treatment of Settlement Benefits. The parties recognize that distributions may be from a qualified plan for tax purposes. The parties shall jointly or severally apply for a private letter ruling or information letter from the Internal Revenue Service that the distributions are from a tax-qualified plan and are eligible for rollover to an IRA. The parties recognize that there can be no assurance that a favorable ruling or letter will be obtained.

XIII. APPEALS PROCEDURES

13.1 Right to Arbitration. If a Class Member, surviving spouse or representative of an estate disagrees with the denial of a claim or the computation of the amount of a Settlement Benefit, or asserts that the facts pertaining to the claim differ from those found by the Director, he or she may appeal the determination to one of a panel of three arbitrators the CASB selects to hear and decide such appeals. The rights to Settlement Benefits of any Class Member, surviving spouse or estate representative shall be solely as defined in this Agreement. If the CASB is unable to agree to a panel of arbitrators, the Court shall select the panel from among the persons proposed by the parties. Any Class Member, surviving spouse or representative of an estate who appeals shall pay a user's fee of \$20 to the Settlement Administration Fund as a condition of proceeding with the appeal. Any appeal must be submitted in writing within 30 days of the postmark date of the denial, or it shall forever be barred. The Director's decision whether to abstract the benefit formula of a particular plan under Article V shall not be subject to review at the instance of a Class Member under this Section or otherwise.

13.2 Role of the CASB in Appeals. The CASB shall receive copies of all appeals. The plaintiffs' representatives on the CASB shall engage a person, who is not an attorney and who may be discharged by majority vote of the CASB, to answer participants' questions concerning their appeals. By unanimous vote, the CASB may take jurisdiction of an appeal that involves interpretation of this Agreement, and may by unanimous vote resolve the appeal, which resolution shall be final and binding.

13.3 Arbitration Procedures. The arbitrator shall conduct the arbitration on an expedited basis; ordinarily no more than 30 days shall elapse from submission of the dispute to the award. The arbitral record shall consist of the evidence on which the Director relied and any evidence the Class Member, surviving spouse or estate submits. Unless otherwise ordered by the arbitrator, any hearings will be held over the telephone and recorded on tape. Neither the parties to this Agreement nor the CASB shall have any right to intervene in any such arbitration. The arbitrator shall confine himself or herself to

issues raised by the appellant, and to interpretation of this Agreement, and shall have no authority to modify this Agreement. The arbitrator's decision shall be final and binding. The arbitrator's fee and costs of the arbitration shall be payable by the Settlement Administration Fund. The CASB shall receive copies of all denials and awards. The CASB shall promulgate any necessary supplemental rules to govern arbitration. If the CASB is unable to agree to such rules, the Court shall promulgate the rules.

XIV. PBGC COOPERATION WITH DIRECTOR

14.1 Disclosure of Files and Records. PBGC shall make all relevant case files available to the Director, as well as such other records the Director may reasonably request. The records to be transferred shall include any spreadsheets or abstracts created in PBGC's study of its potential liability in this litigation. The Order approving this Agreement shall contain a provision that:

- (a) such files and records may contain records that are subject to the Privacy Act, 5 U.S.C. § 552a;
- (b) authorizes the PBGC to disclose records that are subject to the Privacy Act to the Director to the extent necessary to carry out this Agreement;
- (c) the Director is authorized to redisclose records that are subject to the Privacy Act to persons hired by the Director to assist him in performing his duties hereunder, to members of the CASB, to Class Counsel, to any person conducting an audit hereunder, or to any arbitrator appointed to resolve appeals under this Agreement; and
- (d) persons receiving such records shall be required to execute an appropriate confidentiality agreement with the PBGC, which shall include provisions for safeguarding any confidential return information protected by 26 U.S.C. § 6103.

Nothing in this Agreement or in any disclosure under it shall be considered a waiver of the attorney-client, work-product, or deliberative process privilege, or any other applicable privilege.

14.2 Coordination with Other Agencies. PBGC shall use its best efforts to assist the Director in securing information from other government agencies to implement this Agreement, including but not limited to Social Security earnings records, promptly and efficiently. The parties recognize, however, that PBGC assistance in securing Social Security earnings records is currently the subject of discussions between the PBGC and the Social Security Administration and the Internal Revenue Service, and that a favorable outcome of such discussions cannot be assured. If PBGC may secure such records, the parties agree to amend this Agreement to include safeguarding and other provisions consistent with IRC § 6103 and applicable regulations, and to request any order of the Court as may be necessary or appropriate.

14.3 Retention of Records by Director and Return to PBGC. At the time the CASB deems reasonable, the Director shall return original case files to PBGC. The Director shall retain or cause to be retained all other records pertaining to the administration of this Agreement until three years after settlement administration is completed as specified in Section 18.2 and all appeals from Notices of Settlement Benefits or Denials have been exhausted. At that time, the records pertaining to the administration of this Agreement shall be transferred to PBGC.

XV. OVERSIGHT BY CLASS ACTION SETTLEMENT BOARD

15.1 Composition of CASB. Two representatives of the Class chosen by Class Counsel, two representatives chosen by the PBGC, and a neutral whom both parties select shall compose the Class Action Settlement Board ("CASB"). The neutral shall serve for a one-year term, subject to renewal, and subject to removal by the parties acting jointly, or by the Court upon a showing of good cause by either party. Should it become necessary,

the parties shall select a successor neutral. The members of the CASB shall be indemnified and reimbursed from the Settlement Administration Fund for liability and expenses resulting from their collective or authorized actions as members of the CASB.

15.2 Role of CASB. The CASB shall meet every two months with the Director. The Director shall be entitled to communicate with the CASB in writing, or orally if both parties' representatives are present (including by telephone conference), between regularly-scheduled meetings. The Director shall report to the CASB on the administration of the Settlement and bring significant administrative issues to the CASB's attention. The CASB shall at reasonable intervals subject the work of the Director and contractors it hires to assist in carrying out its duties to an independent audit to assure that they promptly, efficiently, and completely identify Class Members and calculate their Settlement Benefits.

15.3 Reports by Director to CASB and Court. The Director shall serve upon the parties and the CASB, and file with the Court, semi-annual reports concerning administration of this Agreement, beginning with the six-month anniversary of the Effective Date of Settlement. The Director shall file and serve a final report no later than 60 days following the date specified in Section 18.2.

15.4 Effect of CASB Decisions. The decisions of the CASB on the administration of this Agreement shall be final and binding, except that either party may seek judicial review pursuant to Section 22.2 on the ground that a decision violates an express term of this Agreement.

15.5 CASB Modifications to Settlement Agreement. The CASB is authorized by unanimous vote to modify this Agreement. The Director may propose modifications of the Agreement. Counsel for the parties shall file a stipulation apprising the Court of any such modification. Any such modification shall become effective ten days after filing unless the Court requires a hearing.

15.6 Settlement Consultants. After execution of this Agreement, the parties jointly or the CASB shall retain one or more management or claims administration

consultants to: (i) assist with the Requests for Proposal described in Article II, including soliciting bids and developing benchmarks, incentives and penalties for performance by the Director and contractors, and (ii) consult with the CASB on monitoring and management of implementation of the Settlement.

XVI. SETTLEMENT ADMINISTRATION BUDGET AND BENEFIT HOLDBACK

16.1 Director's Obligations. The Director shall agree to implement the Settlement for no more than \$16 million. The contract with the Director shall contain substantial incentives to complete performance for less than this amount.

16.2 Settlement Administration Fund. The CASB shall establish a segregated trust fund, to be held pursuant to a written trust agreement by a trustee mutually acceptable to the parties, for the payment of the costs of administering this Agreement (the Settlement Administration Fund). The PBGC shall transfer the amount specified in Section 16.1 to the Fund no later than the Effective Date of Settlement. If the Effective Date of Settlement occurs after January 1, 1996, the amount specified in Section 16.1 but not transferred shall earn interest from January 1, 1996 until the date the Effective Date at the rate equal to the highest yield on a Treasury bond or note maturing closest to January 1, 1998. If the Effective Date of Settlement occurs after July 1, 1996, this rate shall be increased prospectively by 25 basis points (0.25%).

Notwithstanding the above, PBGC shall transfer \$1 million of the amount specified in Section 16.1 to an operating account jointly established and controlled by the parties within thirty days of the signing of a letter confirming that PBGC's General Counsel and Executive Director will present and recommend the Agreement in its current form to PBGC's Board of Directors (provided that if PBGC's Board of Directors rejects the Agreement within this period, the transfer shall not occur). The account shall be used solely for the purpose of beginning implementation of this Agreement. The balance of the

account shall be transferred to the Settlement Administration Fund as soon as the Settlement Administration Fund is in place.

The CASB shall use the Settlement Administration Fund solely for purposes of administering this Agreement, and shall have the right to direct the trustee. Pending disbursements from the Settlement Administration Fund, the CASB shall invest the Fund in interest-bearing United States Treasury securities or securities of agencies of the United States. All earnings on such investments shall be credited to the Fund.

16.3 Controls. The Director shall agree to an Administrative Budget and Contract that offers the reasonably necessary services to implement this Agreement within the limits in Section 16.1. The Director shall also present Annual Budgets to the CASB for approval. The CASB shall disburse funds from the Fund to the Director and other persons only with adequate documentation. The CASB and the Director shall keep appropriate financial records. The CASB shall cause an independent certified public accountant to audit these records on an annual basis, as an expense of administration. The CASB and the Director shall make all such records available to either party, at reasonable times, and shall provide copies at cost.

16.4 Administrative Costs to Find and Process Claims of Persons with at Least Five but Fewer than Ten Years of Service. To the extent it is feasible to allocate costs, the Director shall not use more than 10 percent of its budget to find participants who have at least five but fewer than ten Years of Service, obtain related missing data and process claims under Article VII.

16.5 Contingent Distribution Fund. The CASB shall also establish a segregated trust fund (the Contingent Distribution Fund), to be held pursuant to a written trust agreement by a trustee mutually acceptable to the parties, with the purposes to:

- (a) Increase Settlement Benefits with a pro rata distribution as provided in Section 16.7;
- (b) Defray unforeseen administrative expenses;

- (c) Provide benefits to persons as to whom there is a question about eligibility for Settlement Benefits; or
- (d) Supplement benefits if there is a substantial question about the calculation of Settlement Benefits under the Settlement Agreement.

Expenditures from this Fund for the payment of Settlement Benefits under subsections (c) and (d) shall require the unanimous approval of the CASB. Funds may be distributed pursuant to subsection (a) only after provision has been made for all administrative expenses.

PBGC shall transfer \$8 million to this Fund no later than the Effective Date of Settlement. If the Effective Date of Settlement occurs after January 1, 1996, the amount transferred shall include interest from January 1, 1996 until the Effective Date at the rate equal to the highest yield on a Treasury bond or note maturing closest to January 1, 1998. If the Effective Date of Settlement occurs after July 1, 1996, this rate shall be increased prospectively by 25 basis points (0.25%). The Fund shall be invested in the same manner and shall be subject to the same controls as Sections 16.2 and 16.3 specify.

16.6 Holdback from Settlement Benefits. The Director shall hold back 10 percent of each Settlement Benefit otherwise due under Article VI of this Agreement from the initial distribution of Settlement Benefits and shall transfer the holdback to the Contingent Distribution Fund. The CASB shall retain this money in a separate account to cover administrative costs in excess of the limit under Section 16.1. To the extent this fund is not needed, it shall become part of the residue described below.

16.7 Distribution of Residue. The Contingent Distribution Fund not expended for other purposes permitted under Sections 16.5 and 16.6 shall be part of the residue. In the event the costs of administration are less than the limit in Section 16.1, the remaining Settlement Administration Fund shall also become part of the residue.

If the residue exceeds \$100,000, the Director shall distribute the funds to Eligible Class Members, surviving spouses and estates in proportion to their Settlement Benefits

under Article VI (excluding Eligible Class Members whose Settlement Benefits are determined under Article VII). If the residue is less than \$100,000, the CASB shall decide whether it is cost-effective to distribute it or whether, instead, to donate it to Habitat for Humanity for elderly housing or to a similar charitable cause dedicated to the low-income elderly.

16.8 Other Administrative Costs. PBGC shall pay one-half the costs of the CASB, with the other half borne by the Settlement Administration Fund, and reasonable post-settlement attorneys' fees and expenses for representation of the Class. The Court will resolve any dispute over the reasonableness of post-settlement attorneys' fees and expenses.

16.9 No Further Administrative Liability for PBGC. PBGC shall have no liability for administrative costs except as set forth in this Agreement.

XVII. ENGAGEMENT OF SERVICE PROVIDERS

17.1 General. The Director shall engage one or more class action/claims administrators, third-party benefit administrators, actuaries, accounting firms, attorneys, or other persons who the Director needs to carry out its duties under this Agreement. All such contracts shall be subject to the approval of the CASB, and shall provide incentives and penalties to motivate the service providers promptly, efficiently and fully to perform their assignments.

17.2 Finding Class Members and Obtaining Missing Data. The contracts to find Class Members and obtain missing data shall be let separately from those for computing Class Members' Settlement Benefits. The contracts shall offer reasonable incentives based on the contractors' performance in locating Class Members and obtaining missing data.

17.3 Conflicts of Interest. The Director shall use separate service contracts where needed to avoid conflicts of interest and offer reasonable incentives to prompt and full performance.

XVIII. SCHEDULE FOR SETTLEMENT IMPLEMENTATION

18.1 Schedule for Settlement Implementation. The Director shall complete Settlement administration according to the following schedule:

- (a) Identifying the unamended pension plans under Section 3.1 shall be complete by 90 days after the Effective Date of Settlement.
- (b) Steps to obtain the names of omitted Class Members under Article VIII and steps to obtain missing data under Article IX shall be complete by 24 months after the Effective Date of Settlement.
- (c) Computing Settlement Benefits under Articles VI and VII and the issuance of Notices of Settlement Benefits and Notices of Denials shall be complete by 32 months after the Effective Date of Settlement.

18.2 Completion. The Director shall completely implement the Settlement by 36 months after the Effective Date of Settlement.

18.3 Incentives and Penalties. The Director's contract, and all subcontracts with service providers, shall contain penalties for failure to perform in a manner that satisfies these deadlines, plus incentives for earlier performance.

XIX. NAMED PLAINTIFFS

All Class Members, including the Named Plaintiffs, who were in the plans in which the Named Plaintiffs participated shall be paid the difference between one hundred (100) percent of the value of their ERISA-Vested benefits and the benefits, if any, they were previously distributed, as computed under Article VI. These sums shall be paid on the Effective Date of Settlement and shall be in place of any other Settlement Benefits due under Article VI of this Agreement. In addition, the Named Plaintiffs shall receive \$5,000 each in recognition of their efforts on behalf of the Class, including their investment of time and energy in the litigation of these Actions.

XX. ATTORNEYS' FEES AND EXPENSES

Class Counsel shall petition the Court for an order awarding reasonable attorneys' fees and expenses in conjunction with Court approval of the Settlement. Payments under this Agreement shall be subject to any deduction the Court orders to award attorneys' fees and expenses. The parties shall not otherwise negotiate attorneys' fees until they agree on all other elements of the Settlement. Any additional agreement on attorneys' fees may become a supplement to this Agreement.

XXI. RELEASE AND DISCHARGE

21.1 Release. On the Effective Date of Settlement, the Named Plaintiffs shall on behalf of the Class and every other person claiming by or through any member of the Class unconditionally release and forever discharge PBGC and each of its past, present, and future officers, directors, employees, agents, assigns, attorneys, and each of them ("Affiliated Individuals"), from all claims, demands, losses, causes of action, costs, expenses, attorneys' fees, liabilities, and indemnities of all and any nature, whether known or unknown, suspected or unsuspected, whether or not concealed or hidden, that now exist or existed at any time in the past ("Claims"), that arise out of or are in any way based upon, connected with, or related to any facts giving rise or allegedly giving rise to the Actions or to any Claims to Guaranteed Benefits arising from PBGC's failure to guarantee retirement benefits because formal plan documents had not been conformed to ERISA's vesting rules; provided further, that any Class Member in a nontrusteed plan who is entitled to receive Settlement Benefits shall, upon receipt and endorsement of the Settlement Benefit payment, release and forever discharge PBGC and Affiliated Individuals from any Claims for guaranteed benefits that arise out of or are related to the terminations of the plans described in Section 3.1. For purposes of the preceding sentence, authorizing a wire transfer or authorizing a direct rollover to an individual retirement account shall constitute

an endorsement. The Named Plaintiffs on behalf of the Class agree and acknowledge that they may hereafter discover facts additional to or different from those they know or believe to be true with respect to the subject matter of this Agreement, but they intend to, and do hereby fully, finally, and forever settle and release any and all claims described in this subsection without regard to any subsequent discovery of the existence of such additional or different facts.

21.2 Anti-Deficiency Act. PBGC obligations are subject to the Anti-Deficiency Act, 31 U.S.C. § 1341. If PBGC's obligations under this Agreement are not fulfilled due to the Anti-Deficiency Act, the Class-wide release described in Section 21.1 shall be void to the extent an Eligible Class Member, surviving spouse or estate has not received all consideration for the release established hereunder.

21.3 Finality. No other default by any person in the performance of this Settlement Agreement shall affect the res judicata effect of the order approving this Agreement; provided, however, that all other legal and equitable remedies for violation of a court order or breach of this Agreement shall remain available to both parties to this Agreement.

XXII. RETENTION OF JURISDICTION AND DISMISSAL

22.1 Dismissal. Within ten days after the Effective Date of Settlement, the Named Plaintiffs shall on behalf of the Class dismiss the Actions with prejudice.

22.2 Retention of Jurisdiction. Notwithstanding Section 22.1, the Court shall retain jurisdiction to supervise and enforce this Agreement until implementation is complete. The parties appoint their undersigned counsel as agents for service of process in connection therewith.

XXIII. NOTICE OF TENTATIVE SETTLEMENT APPROVAL

23.1 Publication of Notice. No later than 45 days before the hearing on final approval of the Settlement Agreement, notice of the proposed Settlement Agreement shall be published nationwide in newspapers and periodicals Class Members are likely to read, as selected by the parties, subject to Court approval, at a cost not in excess of \$1 million. Mail notice shall be given as the parties deem appropriate but in no event later than 45 days before the hearing on final approval. The parties shall request that the Court schedule the hearing on final approval no later than June 3, 1996. PBGC shall pay the costs of publication and mailing.

23.2 Contents of Notice. The parties shall agree on the content of the notice within 15 days of execution of this Agreement. In the event they cannot agree, the Court shall order the content of the notice. At a minimum, the notice shall describe the Class' claim and the principal terms of the settlement, give potential Class Members the opportunity to comment on the settlement's fairness and adequacy and appear at the hearing on final Court approval, and invite those who believe they are affected to file their name, address, the name of their plan and other information.

XXIV. CONDITIONS PRECEDENT TO EFFECTIVENESS OF AGREEMENT

24.1 Agency Approval. In the case of the PBGC, this Agreement is subject to the approval of the PBGC's Board of Directors. The Agency's General Counsel shall confirm in writing that all necessary approvals have been obtained.

24.2 Court Approval. This Agreement is subject to the approval of the Court. The parties agree to recommend its approval by the Court, and to take all steps and to execute all documents contemplated by this Agreement.

24.3 Effective Date. This Agreement shall take effect as prescribed in the definition of the Effective Date of Settlement.

24.4 Court Disapproval. This Agreement shall be null and void if the Court does not approve it in its entirety, unless within thirty (30) days of such disapproval the parties agree in writing to proceed with all or part of the Agreement as modified by the Court or by the parties.

XXV. ADDITIONAL TERMS

25.1 No Assignment. No Class Member shall have the right to assign or transfer a claim under this Agreement, and any purported assignment shall be void ab initio.

25.2 Entire Agreement. This Agreement constitutes the entire agreement and understanding respecting the subject matter. No prior statement, representation, agreement, or understanding, oral or written, exists except as expressly set forth herein, and this Agreement supersedes any previous understandings related to the subject matter hereof.

25.3 Non-admissibility. Each party acknowledges that this Agreement is proposed and entered into in settlement of ongoing litigation. Therefore, whether or not the conditions precedent to effectiveness of this Agreement are satisfied, neither this Agreement nor any evidence concerning negotiation of this Agreement shall be admissible in any proceeding, except to enforce this Agreement or to defend against the prosecution or continuation of any proceeding inconsistent with this Agreement. This provision shall survive any termination of this Agreement.

25.4 No Third-party Beneficiaries. Nothing in this Agreement is intended to confer any third-party beneficiary rights.

25.5 No Other Parties Bound. PBGC enters into this Agreement solely on its own behalf, and this Agreement creates no obligation on the part of any other agency of the United States.

25.6 No Admission. This Agreement is entered into to settle the Actions, and is without admission of liability, responsibility, or wrongdoing, at any time or for any purpose.

25.7 No Waiver. The failure of any party to this Agreement to enforce at any time any of the provisions of this Agreement or to exercise any option under this Agreement shall in no way be construed as a waiver of such provision or option, and shall in no way affect the validity of this Agreement or the right of any party to enforce each and every one of its provisions. Any remedies hereunder for breach or default in any party's obligations are cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other under this Agreement or otherwise.

25.8 Advice of Counsel. Each party has obtained the advice of counsel, has reviewed the Agreement in its entirety with its counsel, has made its own judgment on the reasonableness and adequacy of its terms and provisions, and voluntarily consents to the terms and provisions thereof.

25.9 Counterparts. This Agreement may be executed in any number of identical counterparts, each of which shall be an original against the party who signed it, and all of which shall constitute one and the same instrument. Neither party shall be bound until a counterpart has been executed by each party hereto.

25.10 Additional Agreements. The parties agree to execute such further agreements and other documents as may be necessary to effectuate this Agreement.

25.11 Notices. Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be given by personal delivery, by a recognized express delivery service or by telecopier, to the following addresses:

James J. Keightley
Office of the General Counsel
Pension Benefit Guaranty Corporation
1200 K Street, N.W.
Washington, D.C. 20005
(202) 326-4116
(202) 326-4112 (telecopy)

Stephen R. Bruce
727 15th St., NW, 9th Floor
Washington, D.C. 20005
(202) 371-8013
(202) 789-1818 (telecopy)

Daniel P. McIntyre
P.O. Box 10437
Portland, ME 04104
(207) 780-6201
(207) 773-3309 (telecopy)

or to such other address as either party may designate to the other.

25.12 Drafting. The rule of construction that any ambiguities are to be resolved against the drafting party shall have no application under this Agreement.

25.13 Captions. The Article and Section captions used herein are for reference purposes only, and shall not in any way affect the meaning or interpretation of this Agreement.

25.14 Amendments. This Agreement may not be amended or modified except by an agreement in writing signed by both parties. The parties shall use their best efforts to resolve any disputes arising under this Agreement consensually. If the parties agree that any such amendment, modification, or resolution of a dispute does not materially affect substantive rights, they shall file a stipulation with the Court to that effect. Any such amendment, modification, or resolution shall become effective ten days after filing unless the Court requires a hearing. The CASB may modify this Agreement as provided in Section 15.5.

25.15 Expenses. Except as other provided herein, each party shall bear its own costs, expenses and professional fees.

25.16 Governing Law. To the extent the laws of the United States do not govern any matter set forth herein, this Agreement shall be governed and construed in accordance with the laws of the District of Columbia without giving effect to its conflict of laws rules.
FOR PAGE AND COLLINS PLAINTIFFS:

Stephen R. Bruce

Mark A. Borenstein

Daniel P. McIntyre

Ann Curry Thompson

Attorneys for Plaintiffs

FOR PENSION BENEFIT GUARANTY CORPORATION:

Martin Slate, Executive Director

James J. Keightley, General Counsel

DATED: November 1, 1995