

PLAN DOCUMENT

Texas Employees Disability Income Benefits Plan

The Trustees of the Employees Retirement System of Texas adopt the attached Disability Income Benefits Plan in accordance with Section 5(a) of Article 3.50-2 of the *Texas Insurance Code*, cited as the Texas Employees Uniform Group Insurance Benefits Act (the "Act"). Employees, as defined by the Act, to be eligible for coverage, shall make election for disability income benefits coverage in accordance with the Rules of the ERS Board of Trustees ("Rules") and the attached Master Benefit Plan Document for the Disability Income Benefits Plan. In the event of a conflict between the attached Master Benefit Plan Document for the Disability Income Benefits Plan and such Rules, the Rules shall control.

The Trustees of the Employees Retirement System of Texas have selected Fort Dearborn Life Insurance Company ("FDL") to administer the Disability Income Benefits Plan and the benefits provided thereby.

BOARD OF TRUSTEES OF THE EMPLOYEES  
RETIREMENT SYSTEM OF TEXAS

By: \_\_\_\_\_

Name: Sheila W. Beckett

Title: Executive Director

**MASTER BENEFIT PLAN DOCUMENT**

**FOR THE**

**DISABILITY INCOME BENEFITS PLAN**

**ESTABLISHED BY**

**THE BOARD OF TRUSTEES OF THE EMPLOYEES  
RETIREMENT SYSTEM OF TEXAS (“ERS”)**

**PLAN EFFECTIVE DATE: SEPTEMBER 1, 1995**

**RESTATED SEPTEMBER 1, 2001**

**Disability Income Benefits Plan**

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## Article I — Definitions

Article I sets forth certain definitions of terms which are used in the Plan Document. Other capitalized terms which may appear elsewhere in this Plan Document and which are defined terms shall have such meanings as are ascribed to such terms when and as such terms are introduced and defined in this Plan Document.

### As used in this Plan:

- A. **Act** means the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2 of the *Texas Insurance Code*).
- B. **Active Employee** means an Employee as defined in the Act.
- C. **Actively at Work, Active Work, Active Service or Active Duty** means the active expenditure of time and energy in the service of the Employer, except for elected officials of the State who qualify under the Act. An Employee will be considered to be on Active Duty on each day of a regular paid vacation or regular paid sick leave, or on a regular nonworking day, provided he or she was Actively at Work on the last preceding working day. For purposes of this document only, an Employee will be considered Actively at Work even though the Employee is on Leave Without Pay status, if the Employee has kept disability coverage in force by the payment of premiums.
- D. **Approved Practitioner** means a person who provides medical service and care within the scope of his or her licensure and training which is consistent with the national and community medical practice standards and when acting within the scope of his or her license, (other than a hospital resident or intern), who is a Doctor of Medicine or Doctor of Osteopathy. The term Approved Practitioner shall not be deemed to include a Doctor of Chiropractic, a Doctor of Dentistry, a Doctor of Optometry, a Doctor in Psychology, a Licensed Audiologist, a Licensed Master Social Worker-Advanced Clinical Practitioner, a Licensed Chemical Dependency Counselor, a Licensed Hearing Instrument Fitter and Dispenser, a Licensed Dietitian, a Licensed Marriage and Family Therapist, a Licensed Professional Counselor, a Licensed Speech-Language Pathologist, a Doctor of Podiatry, an Advanced Practice Nurse, a Physician Assistant, a Licensed Occupational Therapist, a Licensed Physical Therapist, a Licensed Acupuncturist, a Licensed Psychological Associate or a Licensed Surgical Assistant. An acute and temporary Total Disability may be certified or attested to by a Doctor of Podiatry licensed by the Texas State Board of Podiatric Medical Examiners if the acute and temporary Total Disability is caused by a sickness or injury that may be treated within the scope of the license of such Doctor of Podiatry. Such terms as used herein shall have the meaning assigned to them by the *Texas Insurance Code*.
- E. **Claims Administrator** means Fort Dearborn Life Insurance Company or any successor named by the Trustee.
- F. **Department** means a commission, board, agency, division, department of the State of Texas, or institution of higher education created as such by the constitution or statutes of the State of Texas.
- G. **Employee** means any appointive or elective State officer or employee in the service of the State of Texas, including an employee of an institution of higher education, as defined in the Act.

- H. **Employer** means the State of Texas and the particular Department that a participant serves by appointment or election.
- I. **Employing Office** means the Employee's employing Department.
- J. **Evidence of Insurability** means such evidence, including medical records and a physical examination, as may be required under the Plan to determine that an Employee is an acceptable risk for issuance of new coverage or for changes in existing coverage pursuant to Section 81.7(h)(4) of the Rules of the Board of Trustees of the Employees Retirement System of Texas.
- K. **Full-Time Employee** means an Employee as defined by Sections 3(a)(5) and 3(a)(15) of the Act.
- L. **Fund** means the Employee's Life, Accident and Health Insurance and Benefits Fund created by the Act which is administered by the Trustee.
- M. **Injury** means bodily injury caused by an accident occurring, while both this Plan and the coverage of the Employee under this Plan are in force, as to the Employee whose bodily injury is the basis of a Total Disability claim, except as limited or excluded by the provisions of this Plan.
- N. **Leave Without Pay** means the status of an Employee who is certified by a Department administrator to be absent from duty for an entire calendar month, who does not receive any compensation for that month, and who has not received a refund of retirement contributions based upon the most recent term of employment. Such leave is limited to 12 months except for educational reasons in which case it is limited to 24 months.
- O. **Long Term Disability** is referenced in this Plan Document as Election II.
- P. **Monthly Salary** means the monthly earnings, including longevity, hazardous duty pay or benefit replacement pay, payable to an Employee, excluding overtime, bonuses, and any other extra compensation, as of the Employee's first day of Active Duty, or previous September 1 if continuously employed on and since that date, up to the maximum for the Short-Term Disability Plan or the Long-Term Disability Plan. The maximum Monthly Salary for the Short-Term Disability Plan shall be \$3,000.00. The maximum Monthly Salary for the Long-Term Disability Plan shall be \$10,000.00. Nonsalaried elective or appointive officials and members of the legislature may use the Monthly Salary of a state district judge or their actual Monthly Salary as of September 1 of each year.
- Q. **Part-Time Employee** means an Employee as defined by Sections 3(a)(5) and 3(a)(14) in the Act.
- R. **Plan** means the Disability Income Benefits Plan.
- S. **Plan Anniversary** means the month, day and year specified in the Schedule of Specifications, and the corresponding date in each year thereafter for as long as the Plan is in force.
- T. **Plan Month** means each succeeding monthly period beginning on the Plan Effective Date.
- U. **Plan Year** means September 1 through August 31 and each succeeding 12-month period beginning on the Plan Effective Date.

- V. **Program** means the Texas Employees Uniform Group Insurance Program as established by the Board of Trustees of the Employees Retirement System of Texas.
- W. **Rule or Rules** means those rules adopted by the Board of Trustees of the Employees Retirement System of Texas pursuant to the Act.
- X. **Schedule of Specifications** means the Schedule of Specifications attached hereto as the same may be amended from time to time.
- Y. **Short Term Disability** is referenced in this Plan Document as Election I.
- Z. **Sickness** means illness, disease, or mental infirmity which causes Total Disability, commencing while both this Plan and the coverage of the Employee under the Plan are in force, as to the Employee whose Sickness is the basis of a Total Disability claim, except as limited or excluded by the provisions of this Plan.
- AA. **Total Disability** means, for the first 24 months for which disability income benefits are payable hereunder, the inability of a covered Employee, because of an Injury or Sickness established by medical evidence based on objective clinical findings using current American Medical Association guidelines and certified by an Approved Practitioner operating in the scope of his licensure and practice, to perform the usual tasks of his or her occupation in such a way as to procure and retain employment. After benefits have been paid for 24 months of continuous disability, Total Disability shall mean the inability of the covered Employee, because of an Injury or Sickness certified by an Approved Practitioner, to perform the usual tasks of any gainful occupation for which the covered Employee is reasonably suited by training, education or experience, in such a way as to procure and retain employment. Inability to pass a periodic physical examination required for flight personnel or having a temporary impairment does not constitute a Total Disability. The Employee will be conclusively deemed not to be disabled if gainfully employed in any manner.
- BB. **Trustee** means the Board of Trustees of the Employees Retirement System of Texas.
- CC. **Waiting Period** means the number of consecutive days of Total Disability at the beginning of any one period of disability during which no benefits are payable hereunder. The Waiting Period begins with the date the Total Disability is established by medical proof which must include but not be limited to a certification by an Approved Practitioner. The Waiting Periods for Election I and Election II are described in the Schedule of Specifications below.

**Article II — Eligibility for Disability Income Coverage;  
Effective Dates**

**A. Eligibility for Coverage**

- 1. Any Employee shall, upon the date he becomes an Employee, become eligible to apply for coverage under the Plan in accordance with Eligibility Rule No. 81.5 and Enrollment and Participation Rule No. 81.7 of the Rules of the Board of Trustees of the Employees Retirement System of Texas in effect on September 1, 2001, which are hereinafter called "the Rules," incorporated herein by reference. An Employee must be enrolled in HealthSelect, HealthSelect Plus or an HMO contracting with the Trustee in order to be eligible to participate in this Plan.

2. Employees who were covered for Election I and/or Election II group disability income benefits in this Program under the previous group insurance policy in force immediately prior to the Plan Effective Date, who do not select a different election will be deemed to have applied for the same election under this Plan as in effect immediately prior to the Plan Effective Date.
3. Evidence of Insurability, obtained at the Employee's expense, and acceptance of such Evidence of Insurability by the Claims Administrator, shall be required for any Active Employee who (a) does not elect to enroll within 31 days following the date of eligibility, but remains eligible for coverage under this Plan, (b) specifically declines participation when initially eligible and remains eligible for coverage under this Plan, or (c) elects to increase coverage hereunder by adding an election; or (d) elects to add or reenroll for coverage in Election III or Election IV upon returning to Active Duty from termination of employment in another fiscal year.

**B. Application for Coverage**

Coverage under the Plan for each eligible Employee shall be contingent upon the Employee making application in accordance with the Rules; thereupon, subject to acceptance by the Claims Administrator, coverage shall become effective in accordance with the Rules.

**C. Effective Dates for Disability Income Coverage— Timely Applications**

1. If an Employee is eligible on the Plan Effective Date and is covered under the group disability income insurance policy in force immediately prior thereto, and such Employee elects to continue coverage hereunder, such coverage shall be continued.
2. If an application is for the initial coverage of an Employee, and if the application is received by the Employing Office Benefits Coordinator within the first 31 days following the date the Employee first becomes eligible, the coverage will become effective on the first day of the Plan Month following the date of application. If the application is received on or before the first day of eligibility, coverage will become effective on the first day of eligibility.
3. If an application is submitted in accordance with Section A, Subsection 3, above, and Evidence of Insurability acceptable to the Plan is required, the coverage shall become effective, if at all, on the date the benefits coordinator receives notice from the Plan that the Evidence of Insurability for the Employee is satisfactory.

**D. Effective Dates for Disability Income Coverage— Late Applications**

If an application for coverage is received by the Employing Office benefits coordinator more than 31 days after the date such Employee first becomes eligible, no coverage shall become effective until the Claims Administrator provides written notice of acceptance. A condition for such acceptance of coverage shall be the submission by the Employee, without expense to the Plan, of Evidence of Insurability satisfactory to the Claims Administrator. If the Claims Administrator determines such evidence to be satisfactory and agrees in writing to accept the application, the coverage shall become effective on the first day of the Plan Month following the date the

Employing Office benefits coordinator receives notice of the Claims Administrator's acceptance of the application.

**E. Actively At Work Requirement**

Notwithstanding the provisions of Sections C and D, above, the effective date of disability income coverage of any Employee who is not Actively at Work on the date his or her coverage would otherwise become effective shall be delayed and become effective on the first day such Employee is Actively at Work in accordance with the Rules.

**F. Effective Date of Changes**

The effective date of any change in elections or in amounts of disability income coverage provided for in this Plan shall be as follows:

1. Any increase in the amount of disability income coverage of an Employee due to (a) a change in salary or class on the Plan Anniversary date shall become effective on that date, or (b) a change in salary or class after the Plan Anniversary date shall become effective on the next Plan Anniversary date after such change; except that, in any case, if the Employee is not Actively at Work on the day the amount of his or her disability income coverage would otherwise be increased, such increase shall become effective on the first day the Employee is again Actively at Work in accordance with the Rules;
2. Any change in the amount of disability income coverage due to adding an election shall be subject to Evidence of Insurability satisfactory to the Claims Administrator, furnished at the Employee's expense. If such evidence is so submitted, the coverage shall become effective on the first day of the Plan Month following the date the Employing Office benefits coordinator receives approval of the Evidence of Insurability from the Claims Administrator;
3. Any decrease in the amount of disability income coverage of an Employee due to: (a) a change in salary or class on the Plan Anniversary date shall become effective on that date; or (b) a change in salary or class after the Plan Anniversary date shall become effective on the next Plan Anniversary date after such change;
4. Any change in the amount of disability income coverage due to deleting an election within a class shall become effective on the first day of the Plan Month following notification in writing to the Employing Office Benefits Coordinator.

**G. Evidence of Insurability - Eligibility for Coverage**

Any person who is eligible for coverage under the Plan and who would have been required to furnish satisfactory Evidence of Insurability to the Plan as a condition to obtaining such coverage and whose eligibility hereunder ceases either without the submission of Evidence of Insurability or with such evidence not having been accepted in writing by the Plan, shall be subject to the same requirement if he or she subsequently regains eligibility for coverage.

**H. In the event of any conflict between this Article II and the Rules, the Rules shall prevail.**

### Article III — Contributions

- A. Continuance of the disability income coverage under this Plan shall be contingent upon payment of required contributions by the Employer and/or Employee to the Plan, in accordance with the following provisions: the first contribution is due on the Plan Effective Date; subsequent contributions are, during the continuance of coverage under the Plan, payable in advance on the first day of each Plan Month following the Plan Effective Date.
- B. Contribution Rates**
- The Table of Rates in the Schedule of Specifications attached hereto, as the same may be amended from time to time, shall be the basis for computing the amount of contributions payable for disability income coverage under the Plan, subject to the condition that the Trustee may, on any Plan Anniversary, change the contribution rate basis upon which the amount of further contributions, including the one then due, shall be computed.
- C. For disability income coverage on Employees other than those covered as of the Plan Effective Date and on increases in the coverage of any Employee, the contribution charge will commence on the first day of the Plan Month coinciding with or next following the date such coverage is effective. For coverage terminating, the contribution charge will cease on the first day of the Plan Month coinciding with or next following the date such termination is effective.
- D. If disability income benefits become payable under this Plan for disability of a covered Employee, the Trustee will waive the payment of each contribution which becomes due for such Employee for the election under which benefits become payable and only during the period for which benefits are paid. Following a period of disability during which the Trustee has waived premiums, the Employee shall have the obligation to resume payment of contributions as they become due.

### Article IV — Benefits and Payments

- A. Each Employee may be covered under Election I or Election II, or under both Election I and Election II. When an Employee is covered under both Elections during the period disability income benefits are payable under both Elections, benefits payable under Election II will be reduced by the amount of benefits payable under Election I.
- B.** The following provisions shall govern, where applicable, in any interpretation of the remaining sections of this Article IV:
1. Reference to Schedule - When reference is made to "Monthly Income," such term shall mean the amount of monthly income calculated by the formula shown for this term in the Schedule of Specifications for each Election and when reference is made to "Waiting Period" or "Maximum Benefit Period," such terms shall mean the number of consecutive days or months specified for each Election in the Schedule of Specifications;
  2. Benefit Calculation, Monthly Income - Monthly Income benefits accruing hereunder shall be paid on a monthly basis; provided that any amounts payable for a fractional part of a month shall be computed at the rate of 1/30th of the Monthly Income for each day in such fractional part;

3. Successive Disabilities - Successive periods of Total Disability separated by less than 90 consecutive days of full-time, Active Work shall be considered one period of Total Disability unless the subsequent Total Disability is due to an Injury or Sickness entirely unrelated to the cause of the previous Total Disability and commences after return to full-time, Active Work.
4. Leave Without Pay Status – Disability income coverage may be continued while an Employee is on Leave Without Pay status for up to 12 months, as long as premiums are paid. An Employee may cancel his or her disability income coverage and no premiums will be due for such coverage beginning in the month in which the Employee enters a Leave Without Pay status unless the Employee elects to continue coverage and arranges to make premium payments. Any disability income coverage will be reinstated the beginning of the month in which the Employee returns to active employment, provided that the Employee’s HealthSelect, HealthSelect Plus or HMO coverage has not been cancelled due to non-payment of premiums.

C. Monthly Income for Election I for Total Disability Due to Injury or Sickness - Subject to all other provisions of this Plan Document, if accidental Injury or Sickness or any combination of them results in Total Disability requiring and receiving the appropriate and regular care which meets the national and community medical standards by an Approved Practitioner commencing while the Employee is covered hereunder, the Plan will pay to the Employee the applicable Monthly Income for Election I for the period of such Total Disability (one or more full days), beginning on the day following the Waiting Period, but not exceeding the Maximum Benefit Period for Election I.

The amount of monthly income thus obtained for a Total Disability under Election I shall be reduced by any amount paid or payable for such disability under:

1. Any applicable Workers' Compensation Act or Occupational and Nonoccupational Disability Retirement law; and
2. The amount of remuneration provided or available under any group insurance plan of an employer providing disability income benefits, and further reduced by any amount actually paid under the Employees Retirement System of Texas and/or Teacher Retirement System of Texas disability retirement benefits.

In the event the disability income benefits provided by Election I are decreased by the above sources, the Monthly Income amount will be increased from 60% of Monthly Salary to not more than 70% of Monthly Salary while such reductions are being made; provided further that (a) when such reductions cease, such percentage shall be decreased again to 60%, and (b) in no event will the monthly income benefits actually payable under this Plan exceed 60% of Monthly Salary.

D. Monthly Income for Election II for Total Disability Due to Injury or Sickness -Subject to all other provisions of this Plan Document, if accidental Injury or Sickness or any combination of them results in Total Disability requiring and receiving the appropriate and regular care which meets the national and community medical standards by an Approved Practitioner, commencing while the Employee is covered hereunder, the Plan will pay to the Employee the applicable Monthly Income for Election II for the period of such Total Disability (one or more full days), beginning on the day following the Waiting Period, but not exceeding the Maximum Benefit Period for Election II.

The amount of monthly income thus obtained for a Total Disability payable under Election II shall be reduced by any amount paid or payable for such loss under:

1. Any applicable Workers' Compensation Act or Occupational and Nonoccupational Disability Retirement law; and
2. The full Social Security benefit to which an Employee and/or any of his or her Dependents are (or upon making timely and proper request and submitting due proof would be) entitled by reason of his Total Disability at the time of its commencement (this reduction applies to any and all Social Security benefits). If the Employee has not received a determination of the exact Social Security disability benefit amount available by the sixth month following the date Total Disability commenced, the Plan may estimate any Social Security disability benefit to which the Employee and/or his or her Dependents may be entitled; and
3. The amount of remuneration provided or available under any group insurance plan of an employer providing disability income benefits, and further reduced by any amount actually paid under the Employees Retirement System of Texas and/or Teacher Retirement System of Texas disability retirement benefits; and
4. The amount payable under Section C, above, during the same period of time.

In the event the disability income benefits provided by Election II are decreased by the above sources, the Monthly Income amount will be increased from 60% of Monthly Salary to not more than 70% of Monthly Salary while such reductions are being made; provided further that (a) when such reductions cease, such percentage shall be decreased again to 60%, and (b) in no event will the monthly income benefits actually payable under this Plan exceed 60% of Monthly Salary.

- E.** If a lump sum payment is made for Total Disability under any state or federal act or law, the amount of such payment shall be divided by the number of months in the period of time which was the time factor in computing such payment and the result shall be considered as the monthly amount to be deducted from the monthly income amount that would otherwise have been paid in any month for which monthly income is payable under this Plan.

In no case will the amount of benefits provided under this Plan be reduced because of:

1. For Election I, any subsequent benefit increase under the Workers' Compensation Act or Employees Retirement System of Texas and/or Teacher Retirement System of Texas disability retirement occurring during the period of Total Disability of such Employee.

Notwithstanding, benefits payable under Section C, above, when combined with all benefits payable under: (1) any applicable Workers' Compensation Act or Occupational and Nonoccupational Disability Retirement Law; and (2) the amount of remuneration provided or available under any group insurance plan of an employer providing disability income benefits and further reduced by any amounts actually paid under the Employees Retirement System of Texas and/or Teacher Retirement System of Texas disability retirement benefits, shall not exceed 70% of the Employee's Monthly Salary, nor be less than 10% of the Employee's Monthly Salary when combined with all specified sources.

2. For Election II, any subsequent benefit increase under the Federal Social Security Program, Workers' Compensation Act, or Employees Retirement System of Texas and/or Teacher Retirement System of Texas disability retirement occurring during the period of Total Disability of such Employee.

Notwithstanding, benefits payable under Section D, above, when combined with all benefits payable under: (1) any applicable Workers' Compensation Act or Occupational and Nonoccupational Disability Retirement Law; (2) the full Social Security benefit to which an Employee and/or any of his Dependents are (or upon making timely and proper request and submitting due proof would be) entitled by reason of his Total Disability at the time of its commencement (this reduction applies to any and all Social Security benefits); and (3) the amount of remuneration provided or available under any group insurance plan of an employer providing disability income benefits and further reduced by any amounts actually paid under the Employees Retirement System of Texas and/or Teacher Retirement System of Texas disability retirement benefits, shall not exceed 70% of the Employee's Monthly Salary, nor be less than 10% of the Employee's Monthly Salary when combined with all specific sources. The 10% minimum is applicable for a maximum period of one year. At the expiration of the one-year period, benefits will reduce to 70% of the Employee's Monthly Salary less all other disability benefits available, but no minimum will be applicable.

- F. Any disability income benefits hereunder remaining payable at the time of an Employee's death shall be paid upon the establishment of a valid claim to the person or persons surviving at the date of the Employee's death, in the following order of precedence:

**First**, to the beneficiary or beneficiaries designated by the Employee in a signed and witnessed writing received before death in the Employing Office. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed has no force or effect.

**Second**, if there is no designated beneficiary, to the widow or widower of the Employee.

**Third**, if none of the above, to the child or children of the Employee and descendants of deceased children by representation.

**Fourth**, if none of the above, to the parents of the Employee or the surviving parent.

**Fifth**, if none of the above, to the duly appointed executor or administrator of the estate of the Employee.

**Sixth**, if none of the above, to other kin of the Employee entitled under the laws of the domicile of the Employee at the date of death.

If, within one year after the death of the Employee, no claim for payment has been filed by a person entitled under the order of precedence named above, or if payment to the person within that period is prohibited by any statute or regulation, payment may be made in the order of precedence

as if the person had predeceased the Employee, and such payment bars recovery by any other person.

If, within two years after the death of the Employee, no claim for payment has been filed by a person entitled under the order of precedence named above, and neither the Trustee nor the Plan has received notice that such a claim will be made, payment may be to the claimant who, in the judgment of the Trustee, is equitably entitled thereto, and such payment bars recovery by any other person.

If, within four years after the death of the Employee, payment has not been made under this Section F and no claim for payment by a person entitled under this Section F is pending, the amount payable escheats to the credit of the Fund as defined in the Act.

**G.** If an Employee designated his or her spouse as beneficiary of any benefits payable under this Plan in the event of his or her death, and if:

1. The marriage ended in divorce after such designation was made; and
2. The Employee dies before a new designation is made,

any benefits available under this Plan shall be paid as set forth in the *Texas Family Code* Section 9.301.

**H.** Notwithstanding any Plan provisions above to the contrary, Total Disability benefits under this Article IV are not payable for any period of time during which the Employee is receiving, or is eligible to receive, benefits under sick leave and/or extended sick leave, whether such leave is accrued prior to or subsequent to the onset of such Total Disability.

**I.** In determining the reduction for any and all Social Security benefits as described in Section D, and in Section E, Subsection 2, above, the attorney's fees awarded and paid out of Social Security benefits or Workers' Compensation benefits shall be disregarded. The Employee shall appeal claims for Social Security disability benefits through the Administrative Law Judge level. If the Employee fails or refuses to apply for Social Security disability benefits and Workers' Compensation or to appeal his or her claim through the Administrative Law Judge level, the Claims Administrator will in its discretion determine the amount by which to reduce benefits.

#### **Article V - Limitations and Exclusions**

Benefits shall not be payable for:

**A.** Any Total Disability of an Employee whose coverage is first effective on or after the Plan Effective Date, which commences during the first six months that the Employee's coverage is in force, if the Total Disability is caused or contributed to by, or is a consequence of, an Injury or Sickness for which the Employee received medical treatment, or services, or took prescribed drugs or medicines during the three-month period immediately prior to the effective date of such coverage. If the Employee was required to provide Evidence of Insurability as described in Section G of Article II above, the three-month period will be the three months immediately prior to the date the Employee's application for coverage was signed. This exclusion shall also apply to any election for increase in coverage beginning on the first day such increase is in effect.

This exclusion shall not be applicable:

1. After the Employee has been Actively at Work for six consecutive months;
  2. After the Employee's coverage has been continuously in force for 12 months; or
  3. Unless an Employee elected to continue coverage during Leave Without Pay status by direct payment of premiums, upon reinstatement of an Employee's coverage which was suspended due to a Leave Without Pay status, provided that immediately prior to the effective date of such suspension the Employee had been Actively at Work for six consecutive months or the Employee's coverage had been continuously in force for 12 months. If immediately prior to the effective date of such suspension either the Employee had not been Actively at Work for six consecutive months or the Employee's coverage had not been continuously in force for 12 months, following reinstatement of coverage the Employee must complete the balance of any such period not previously satisfied before this exclusion will not be applicable.
- B.** Any Total Disability during which the Employee is not under the regular care and attendance of an Approved Practitioner and is not receiving appropriate care which meets national and community medical standards or is not following the treatment prescribed by an Approved Practitioner which would be expected to restore the Employee's ability to engage in gainful employment;
- C.** Any Total Disability resulting from war or any act of war, declared or not;
- D.** Any Total Disability resulting from injuries sustained or sickness occurring while the Employee is in the service of the armed forces of any country or international authority;
- E.** Any Total Disability resulting from intentionally self-inflicted injuries (occurring while the Employee is sane or insane);
- F.** Any Total Disability in excess of: (1) For Election I, five months, or (2) For Election II, 24 months, if such Total Disability is due to neuroses, psychoneuroses, psychopathies, psychoses, or any other mental and emotional diseases or disorders of any type unless the Employee is confined due to the foregoing cause or causes in a hospital or institution licensed to provide care and treatment for such cause or causes, in which case benefits will continue until release from such hospital or institution, subject to the Maximum Benefit Period;
- G.** Any disability income benefit provided by an Election for which the Employee has not applied or is not making his or her required contribution at the time of his or her Total Disability;
- H.** Any Total Disability of an Employee who is working or employed in any capacity;
- I.** Any Total Disability resulting from or contributed to by any Sickness or Injury which occurs while the Employee is engaged in, or which results from, arises out of or is related to, any type of felonious activity.
- J.** Any Total Disability caused by, resulting from or substantially contributed to by the Employee being intoxicated by reason of alcohol or drug use, or a combination thereof. "Intoxication" shall

have the meaning assigned in Section 49.01, Texas Penal Code, as may be amended. Conviction of a crime related to intoxication is not necessary for a determination of Total Disability resulting from intoxication. This exclusion is applicable whether or not the Total Disability is related to the operation of a motor vehicle.

- K.** Any Total Disability resulting from Sickness or Injury which results from the Employee's being an organ donor.
- L.** Any Total Disability in excess of 24 months unless the Employee is Totally Disabled from performing the usual tasks of any gainful occupation as certified by an Approved Practitioner.

#### **Article VI — Termination of Disability Income Coverage**

- A.** This entire Plan may be terminated by the Trustee at any time.
- B.** The coverage of any Employee under the Plan shall automatically terminate immediately upon the earliest of the following dates:
  - 1. The end of the Plan month in which the Employee's employment terminates with the Employer, or the date of termination of his or her membership within the eligible classes;
  - 2. The date of termination of the Plan;
  - 3. The date of expiration of the last period for which the Employee has made any required contribution for his or her coverage, except as provided under Article III, Section D;
  - 4. The last day of the Plan month in which an Employee is placed on Leave Without Pay status;
  - 5. The end of the Plan Month in which the Employee retires;
  - 6. On the last day of the month in which the Employee is no longer covered through HealthSelect, HealthSelect Plus or an HMO contracting with the Trustee; or
  - 7. The date the Employee is expelled from the Texas Employees Uniform Group Insurance Program for fraud or attempted fraud.

#### **Article VII - General Provisions**

- A.** **Claim Forms:** The Employer, upon receipt of notice of a claim, will furnish to the Participant such forms as are usually furnished by it for filing proof of Total Disability. If such forms are not furnished within 15 days after the receipt of such notice, the Participant shall be deemed to have complied with the requirements of this Plan Document as to proof of Total Disability upon submitting, within the time fixed in the Plan Document for filing such proof, written proof covering the occurrence, character and extent of the disability for which a claim is made.

## **B. Contract; Amendments and Termination**

1. As used in this Plan Document, "herein," "hereof," and "hereunder" refer to the Plan Document in its entirety. Whenever a personal pronoun in the masculine gender is used, it shall be deemed to include the feminine also, unless the context clearly indicates the contrary.
2. The Trustee expressly reserves the right to terminate, modify or amend the Plan at any time and from time to time, in its discretion and without the consent of the Employees covered hereunder or their beneficiaries.

**C. Disclosure Authorization:** Before coverage may become effective, each Employee applying for coverage that requires the submission of Evidence of Insurability must execute express written authorization to permit any employer, Approved Practitioner, other medical practitioner, medical facility, hospital or insurance company to furnish the Plan full information and records or copies of records relating to the diagnosis, treatment or care relating to his or her disability. Before any claim for benefits may be processed for any covered Employee, such Employee must execute express written authorization to permit any employer, Approved Practitioner, other medical practitioner, medical facility, hospital or insurance company to furnish the Plan full information and records or copies of records relating to the diagnosis, treatment or care relating to his or her disability.

**D. Incontestability:** The coverage provided by the Plan shall be incontestable after it has been in force for two years from the effective date of coverage except for nonpayment of contributions and except if coverage has been obtained through fraud, attempted fraud or misrepresentation. In the absence of fraud, attempted fraud or misrepresentation, no statement made by any person covered under this Plan relating to his or her insurability shall be used in contesting the validity of the coverage with respect to which such statement was made after such coverage has been in force prior to the contest for a period of two years during such person's lifetime nor unless it is contained in a written instrument signed by him or her; provided, however, this provision shall not limit any defense of such claim based on provisions in the Plan (a) relating to eligibility for coverage, (b) relating to relation of earnings to coverage, or (c) limiting the amounts of recovery from all sources to no more than 100% of the total actual losses incurred.

**E. Individual Certificate:** The Claims Administrator will issue to each covered Employee a certificate book setting forth a statement as to the coverage to which he or she is entitled and to whom benefits are payable.

**F. Legal Actions:** No action at law or in equity may be brought to recover under this Plan prior to the expiration of 60 days after written proof of Total Disability has been filed in accordance with the requirements herein, and no such action shall be brought at all unless brought within three years from the expiration of the time within which written proof of disability is required to be furnished by this Plan.

**G. Misstatement of Age:** In the event the age of any person covered under this Plan has been misstated, the amount of coverage for such Employee shall be that determined in accordance with the terms of this Plan, based on the true age of the Employee, and there shall be an equitable adjustment of contributions made so that the Employee shall pay to the Plan the actual contributions payable at the Employee's true age.

**H. Nonassignability:** The coverage and any benefits provided hereunder are not assignable.

- I. **Notice of Claim:** Written notice of claim must be given to the Claims Administrator within 90 days after the occurrence of any disability covered by this Plan or as soon thereafter as is reasonably possible.
- J. **Physical Examination and Autopsy:** The Claims Administrator, at its own expense, shall have the right and opportunity to have the person of an Employee examined by an Approved Practitioner when and as often as it may be reasonably required during the pendency of a claim hereunder and to make an autopsy in case of death, where it is not forbidden by law.
- K. **Proofs of Total Disability:** Written proof of Total Disability must be furnished to the Claims Administrator within the 12 months after the date of Total Disability, and subsequent written proofs of the continuance of Total Disability must be furnished to the Plan at such intervals as the Plan may reasonably require. Failure to furnish proof of Total Disability within the time required shall not invalidate or reduce any claim if it was not reasonably possible to furnish such proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity of the Employee, later than one year from the time such proof is otherwise required.
- L. **Subrogation:** The Plan shall be subrogated to all rights of recovery which any Employee may acquire against any person or organization for negligence or any willful act resulting in Sickness or Injury for which benefits are provided hereunder, but only to the extent of the benefits so provided. Any Employee, by receiving benefits hereunder in such case, shall be deemed to have assigned such rights of recovery to the Plan and to have agreed to do whatever may be necessary to secure the recovery, including execution of all appropriate papers.
- M. **Time of Payment of Claims:** Subject to due written proof of Total Disability, all accrued Monthly Income benefits for which this Plan provides periodic payment will be paid monthly as applicable under the Schedule of Specifications and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof of Total Disability.

DISABILITY INCOME BENEFITS PLAN  
SCHEDULE OF SPECIFICATIONS

The effective date of this Schedule of Specifications is September 1, 2001, and the first Plan Anniversary shall be September 1, 2002.

Schedule of Specifications

Description

All eligible Active Employees who enroll in the Plan shall be eligible to elect either one or both of the following coverages for disability income benefits:

Election I  
(Short Term Disability)

Monthly Income: 60% of Monthly Salary up to a maximum benefit of \$1,800.00 per month, with a minimum monthly benefit of not less than 10% of covered Monthly Salary.

Waiting Period: The greater of 30 consecutive days or the number of days the Employee is entitled to sick leave and extended sick leave, if any, at the onset of Total Disability.

Maximum Benefit Period: 5 months

Election II  
(Long Term Disability)

Monthly Income: 60% of Monthly Salary up to a maximum benefit of \$6,000.00 per month, with a minimum monthly benefit of not less than 10% of covered Monthly Salary for a maximum period of one year.

Waiting Period: The greater of 90 consecutive days or the number of days the Employee is entitled to sick leave and extended sick leave, if any, at the onset of Total Disability.

Maximum Benefit Period:	<u>Age at Disability</u>	<u>Maximum Benefit Duration</u>
	Under age 60	To age 65*
	60 - 64	60 months
	65 - 69	To age 70, or for 12 months, whichever is greater*
	70 and over	12 months

\*Benefits cease the first day of the Plan Month following attainment of the limiting age.

Limitations for Mental and Emotional Diseases and Disorders: See Article V, Section F, for a description of the limitations on the benefit periods applicable to any Total Disability resulting from mental and emotional diseases or disorders.

