

Late-Day Trading Addendum

1. This Addendum supplements the following agreements entered into between The University of North Carolina as Principal or Plan Sponsor ("UNC") and Wilmington Trust Company as Custodian or Trustee ("WTC"): the 403(b)(7) Custodial Account Agreement, the 415(m) Custodial Account Agreement for The University of North Carolina Qualified Governmental Excess Benefit Arrangement which is an Appendix to the Optional Retirement Program of the University of North Carolina, and the Optional Retirement Program of the University of North Carolina 401(a) Trust Agreement (collectively, the "Agreements"). This Addendum sets forth the mutual understanding of the late day trade processing requirements for each plan which is the subject of the Agreements (each, a "Plan" and collectively, the "Plans"). In the event of any inconsistency with the Agreements, the provisions of this Addendum shall control. Capitalized terms used herein and not otherwise defined shall have the meaning assigned to them in one or more of the Agreements.
2. The Recordkeeper shall be responsible for providing WTC with all information associated with "late-day trading" of mutual funds held under the Agreements; and UNC acknowledges that the "late-day trading" of such securities shall be executed by WTC based on information provided by the Recordkeeper/AMG. The method, timing and processing of this trading shall be as specified below, as amended in writing from time to time by the parties. WTC shall execute directed trades in accordance with the standards specified below, and any processing of mutual fund trades which does not comply with the terms specified below shall be undertaken by WTC on a best efforts basis only, which may include the next business day.

By:

3:00 p.m. CT/4:00 p.m. ET	Recordkeeper/AMG edits/updates any incoming transactions received since 3 p.m. CT/4:00 p.m. ET of the previous day. Any trade requests made on the voice response system after 3 p.m. CT/4:00 p.m. ET will be processed with the next business day's transactions.
8:00 p.m. CT/9:00 p.m. ET	WTC will make all reasonable efforts to receive NAV prices for mutual funds and provide such prices to Recordkeeper/AMG by electronic transmission.
10:00 p.m. CT/11:00 p.m. ET	Recordkeeper/AMG provides purchases and sales detail to WTC by electronic transmission and in a mutually agreed upon file format. If there is no activity, a zero file transmission will be sent.
1:00 a.m. CT/2:00 a.m. ET	WTC processes the late-day trade file on its trust accounting system; and WTC creates a Computer-to-Computer (CCF) Fund/SERV late trade file, which will be transmitted to DTCC within the DTCC required timeframes.
10:00 a.m. CT/11:00 a.m. ET	WTC receives confirmations for the previous day's trades electronically through DTCC.
Noon CT/1 p.m. ET	WTC will notify Recordkeeper/AMG of any reconciling differences from the previous day's activity. WTC will promptly notify Recordkeeper/AMG of subsequent adjustments made by the fund family, upon a responsible officer of WTC having actual knowledge of said adjustments.

The above processes assume that all required information, including pricing information, is received timely and through automated pricing services, and each step is dependent on the timely performance of the preceding steps. Pricing data for mutual funds will be obtained from sources believed to be reliable, but WTC shall not be liable for the accuracy of such prices. Recordkeeper/AMG will independently obtain pricing data from sources believed by it to be reliable, and will use the prices provided by WTC as an additional check on pricing accuracy prior to transmitting Recordkeeper/AMG's trade file to WTC.

3. The Recordkeeper (and not WTC) shall be responsible at all times to maintain records sufficient to identify the date and time of receipt of all investor/participant-level transactions involving a fund, including, without limitation, all purchases, redemptions and exchanges. At the written request of any mutual fund family or complex, the Recordkeeper will make

available copies of all records of investor/participant-level transactions maintained by the Recordkeeper as may be reasonably requested by any mutual fund family or complex to ensure compliance with applicable law. The Recordkeeper also agrees that such records will be made available to the Securities and Exchange Commission in accordance with requirements of Rule 17Ad-7(g) under the Securities Exchange Act of 1934, as amended, or any other applicable law. The Recordkeeper represents and warrants that its internal control structure over the processing and transmission of participant instructions is and will continue to be suitably designed to prevent or detect on a timely basis instructions received after the applicable cut off times for non-late day trading or late day trading, as the case may be, established by the NSCC or the Funds, if earlier (collectively, "Cut Off Times"), from being aggregated with participant instructions received prior to the applicable Cut Off Times, and to minimize errors that could result in late transmission of any instructions to any mutual fund family or complex. The Recordkeeper agrees to grant to any mutual fund family or complex the right, upon reasonable written notice, to audit such control functions. Further, the Recordkeeper will not accept orders or otherwise act in a manner that is contrary to NSCC requirements for trading any Plan on the "late-day trading" platform.

4. In no event shall WTC or the Recordkeeper be liable or responsible for any losses arising out of events beyond their control which prevent or delay the late-day trading of any mutual funds including, without limitation, any unavailability or delay in obtaining pricing information, any interruption or delay in electronic transmissions, any action of any utility, and any mechanical or other malfunction or electronic interruption or any other event which prevents or interrupts normal processing; and neither WTC nor the Recordkeeper shall be liable or responsible for any loss to UNC, the Plans and/or Plan participants that results from fluctuation(s) of market value(s) during any such period.

PRINCIPAL AND PLAN SPONSOR:

[Seal]

THE UNIVERSITY OF NORTH CAROLINA

Attest: _____
(Assistant) Secretary

By: _____
Robert Nelson
Vice President For Finance

Address:
P.O. Box 2688
Chapel Hill, NC 27515-2688
Attention: Kitty McCollum

CUSTODIAN AND TRUSTEE:

[Corporate Seal]

WILMINGTON TRUST COMPANY

Attest: _____
Assistant Secretary

By: _____
Vice President

Address:
Rodney Square North

1100 North Market Street
Wilmington, Delaware 19890-0001
Attention: Employee Benefits
Administration
Telecopier No.: (302) _____

ACKNOWLEDGED AND AGREED TO
BY THE RECORDKEEPER/AMG:

By:

Title:

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**SECOND AMENDMENT TO TRUST AGREEMENT
BETWEEN FIDELITY MANAGEMENT TRUST COMPANY AND
UNIVERSITY OF NORTH CAROLINA**

THIS AMENDMENT, dated and effective as of the 1st day of September, 2006, by and between Fidelity Management Trust Company (the "Trustee") and University of North Carolina (the "Sponsor");

WITNESSETH:

WHEREAS, the Trustee and the Sponsor heretofore entered into a trust agreement, dated October 1, 1999, with regard to the University of North Carolina Optional Retirement Program (the "Plan"); and

WHEREAS, the Trustee and the Sponsor now desire to amend said trust agreement as provided for in Section 13 thereof;

Now therefore, in consideration of the above premises the Trustee and the Sponsor hereby amend the trust agreement by:

1. Restating Section 4(b) as follows:

- (b) Available Investment Options. The Fiduciary shall direct the Trustee as to what investment options: (i) the Trust shall be invested in during the period beginning on the date of the initial transfer of assets to the Trust and ending on the date of the completion of the reconciliation of participant records ("participant recordkeeping reconciliation period"), and (ii) the investment options in which Plan participants may invest, subject to the following limitations. The Fiduciary may determine to offer as investment options only (i) securities issued by the investment companies advised by Fidelity Management & Research Company ("Mutual Funds"), (ii) certain securities issued by investment companies not advised by Fidelity Management & Research Company ("Non-Fidelity Mutual Funds"), (collectively "Mutual Funds"), and (iii) collective investment funds managed by the Trustee. The investment options initially selected by the Fiduciary are identified on Schedules "A" and "C" attached hereto. The Fiduciary may add additional investment options with the consent of the Trustee and upon mutual amendment of this Trust Agreement and the Schedules thereto to reflect such additions.

2. Adding a new Section 4(f) as follows and re-lettering all subsequent subsections accordingly:

(f) Collective Investment Funds Managed by the Trustee

To the extent that the Fiduciary selects as an investment option the Managed Income Portfolio of the Fidelity Group Trust for Employee Benefit Plans for qualified plans, a group trust established and maintained by Fidelity

Management Trust Company pursuant to IRS Revenue Ruling 81-100 ("Group Trust") the Sponsor hereby (A) acknowledges that it has received from the Trustee a copy of the Group Trust, the Participation Agreement and the declaration of separate fund for each fund of the Group Trust ("Declaration of Separate Fund", and (B) adopts the terms of the Group Trust, the Participation Agreement and the Declaration of Separate Fund as part of this Agreement. The Trustee shall be considered a fiduciary with investment discretion only with respect to Plan assets (including the proceeds from any Existing Investment Contracts) that are invested in investment contracts chosen by the Trustee or in collective investment funds maintained by the Trustee for qualified plans.

The parties agree that the language in Section 6, "Liability," of the Participation Agreement does not excuse Fidelity Management Trust Company from legal responsibility and liability for its negligent acts or omissions as Manager or Trustee. Also the parties acknowledge that, as an entity of the State of North Carolina, the Sponsor is bound by state law, including the public records laws, N.C.G.S. 132-1 et seq., which make most of its records public. Fidelity Management Trust Company agrees that the Sponsor will be limited by state law in its ability to comply with Section 11, "Confidentiality," of the Participation Agreement.

3. Amending Schedules "A" and "C" by adding the following as paragraph "c":

c. Managed Income Portfolio

The Managed Income Portfolio is a commingled pool of the Fidelity Group Trust for Employee Benefit Plans. It is an open-end commingled pool managed by Fidelity Management Trust Company. It is not a mutual fund.

4. Amending Schedule "G", Telephone Exchange Procedures, by adding the following to the end thereof:

Exceptions or Other Restrictions

Competing Fund Restriction:

Participants will not be permitted to make direct transfers between the Managed Income Portfolio into a competing fund. Participants who wish to exchange from the Managed Income Portfolio into a competing fund must first exchange into a non-competing fund for a period of 90 days.

IN WITNESS WHEREOF, the Trustee and the Sponsor have caused this Second Amendment to be executed by their duly authorized officers effective as of the day and year first above written. By signing below, the undersigned represent that they are authorized to execute this document on behalf of the respective parties. Notwithstanding any contradictory provision of the agreement that this document amends, each party may rely without duty of inquiry on the foregoing representation.

UNIVERSITY OF NORTH
CAROLINA

FIDELITY MANAGEMENT
TRUST COMPANY

By _____
its authorized officer

By _____
its authorized signatory

Name _____

Name _____

Title _____

Title _____

Date _____

Date _____

MANAGED INCOME PORTFOLIO

DOCUMENTATION FOR TRUSTEED CLIENTS

Please read this material and keep a copy on file. The trust agreement between your plan and Fidelity Management Trust Company authorizes participation in the Managed Income Portfolio. This material is for disclosure purposes and does not require any action on your part.

MANAGED INCOME PORTFOLIO
DOCUMENTATION FOR TRUSTEED CLIENTS

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I. PARTICIPATION AGREEMENT FOR THE FIDELITY GROUP TRUST

The Participation Agreement for the Fidelity Group Trust sets forth the terms under which Fidelity Management Trust Company manages plan assets invested in the separate commingled pools of the Group Trust. The Participation Agreement is incorporated by reference under the trust agreement between Fidelity Management Trust Company and your plan's Named Fiduciary.

II. DECLARATION OF TRUST FOR FIDELITY GROUP TRUST FOR EMPLOYEE BENEFIT PLANS AS AMENDED

The Declaration of Trust establishes the Fidelity Group Trust for Employee Benefit Plans and sets forth the terms of the Group Trust, which consists of a number of separate commingled pools dedicated exclusively to the management of assets of employee benefit plans.

III. DECLARATION OF SEPARATE FUND: MANAGED INCOME PORTFOLIO

The Declaration of Separate Fund establishes the Managed Income Portfolio, which is one of the commingled pools mentioned above.

IV. COPY OF FMTC'S IRS DETERMINATION LETTER

The IRS Determination Letter verifies the exempt status of the Fidelity Group Trust for Employee Benefit Plans as a pooled fund arrangement for qualified plans, as described in Revenue Ruling 81-100, 81-13 I.R.B. 32.

SECTION I

**PARTICIPATION AGREEMENT FOR
THE FIDELITY GROUP TRUST**

THE FIDELITY GROUP TRUST FOR EMPLOYEE BENEFIT PLANS

This AGREEMENT entered into as of this ____ day of _____, 20____, by and between the fiduciary designated below (the "Applicable Fiduciary"), on behalf of the _____ (the "Plan"), sponsored by the Applicable Fiduciary and FIDELITY MANAGEMENT TRUST COMPANY (the "Manager"), a Massachusetts Trust Company.

For purposes of this Agreement, the Applicable Fiduciary shall be (select one only and type in the full legal name):

- ☐ County: _____
- ☐ State : _____
- ☐ City : _____
- ☐ Other Governmental Entity _____

W I T N E S S E T H:

WHEREAS, the Applicable Fiduciary has established and continues to maintain the Plan and a related trust (the "Trust") for the purpose of providing retirement and other benefits to certain of its employees,;

WHEREAS, the Plan and Trust provide for the appointment by the Applicable Fiduciary of an investment manager; and

WHEREAS, the Applicable Fiduciary desires that the Manager serve as investment manager with respect to certain of the assets held by the Trust,

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, the Applicable Fiduciary and the Investment Manager do hereby agree as follows:

1. Appointment of Investment Manager: Effective as of the date first above written, the Applicable Fiduciary pursuant to the power granted by the Trust, hereby appoints the Manager as investment manager with respect to those Trust assets transferred by the Applicable Fiduciary to the Manager subject to this Agreement (hereby collectively referred to as the "Account").

2. Investment Authority: The Manager's authority hereunder to manage the assets in the Account shall be limited to making investments in the Portfolio(s) of the Fidelity Group Trust for Employee Benefit Plans ("Group Trust") listed on Schedule A on behalf of the Account. The Applicable Fiduciary acknowledges that it has received from the Manager a copy of the terms of the Group Trust and the terms of the Declaration of Separate Fund for each Portfolio listed on Schedule A. Notwithstanding any other provision of this Agreement to the contrary, the powers and duties of the Manager under this Agreement shall be governed by the terms of the applicable Declaration(s) of Separate Fund listed on Schedule A and by the terms of the Group Trust.

3. Performance of Duties - Standard of Care: The Manager shall comply with those laws and regulations issued from time to time by any governmental or administrative or other body which relate to the discharge of its duties under this Agreement and shall discharge such duties (i) solely in the interest of the participants and beneficiaries and for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expense of administering the Plan; (ii) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; (iii) by diversifying the investments in the Account so as to minimize the risk of large losses to the extent consistent with the Applicable Fiduciary's direction in Section 2 of this Agreement; (iv) by investing the assets of the Account in the Group Trust maintained by the Manager; provided, however, that the Applicable Fiduciary or other fiduciary of the Plan shall remain responsible for the diversification of the assets of the Plan as a whole; and (v) in accordance with the documents and instruments governing the Plan, as communicated to the Manager, insofar as such documents and instruments are consistent with the provisions of Applicable Law and this Agreement.

4. Account Instructions: The Manager shall transmit to the trustee(s) of the Trust such cash and/or other assets of the Account as the Applicable Fiduciary may direct in writing, subject to the restrictions set forth in the applicable Declaration(s) of Separate Fund. The Applicable Fiduciary shall notify the Manager in writing of any individual at the Sponsor other than the Applicable Fiduciary who is authorized to give instruction to the Manager regarding the Account as set forth in Schedule C.

5. Fees: For services under this Agreement, the Manager shall be entitled to receive a fee in accordance with the schedule of fees attached hereto as Schedule A. Fees shall be withdrawn from the Account on a monthly basis; provided that the Manager may change the withdrawal frequency upon notification to the Applicable Fiduciary in writing no less than sixty (60) days prior to such change. The Portfolio(s) of the Group Trust will pay normal operating expenses, including custodian and servicing and operating fees, insurance expenses, auditor fees and legal fees, for establishing and maintaining the Portfolio(s).

6. Liability: The Manager shall be responsible only for managing the Account in accordance with the limited authority described in Section 2. The Manager shall have no responsibility whatsoever for and shall incur no liability on account of (i) the selection by the Applicable Fiduciary of such limited investment objectives for the Account or (ii) the management of any other asset of the Trust. The Manager shall have no responsibility for (i) the acts or omissions of the Applicable Fiduciary or the Trustee or (ii) any loss that results from taking any action(s), or refraining from taking any action(s), in good faith reliance on any written instructions from the Applicable Fiduciary or any authorized representative thereof.

7. Acknowledgment of Fiduciary Status: The Manager hereby acknowledges that it is a fiduciary with respect to the Plan within the meaning of Section 3 (21)(A) of the Employee Retirement Income Security Act of 1974 as amended ("ERISA") and represents that it is a bank within the meaning of Section 202 (a)(2) of the Investment Advisors Act of 1940.

8. Plan Information and Qualified Status: Identifying plan information is attached hereto as Schedule B. The Applicable Fiduciary shall provide the Manager with a confirmation of the current qualified status of the Plan prior to execution of this Agreement.

9. Representations: The Applicable Fiduciary hereby represents that the Plan and Trust: (i) authorize the investment of the Plan assets in a group trust fund and (ii) provides that the group trust shall constitute part of the Plan to the extent of such investment as required by Revenue Ruling 81-100. The Applicable Fiduciary also represents that (i) it has full power and authority to enter into this agreement with respect to and on behalf of the Plan for which it is acting hereunder and (ii) the Applicable Fiduciary has authorized the Plan to participate in the Portfolio(s) listed on Schedule A. The Applicable Fiduciary shall be responsible for any cost, liability or expense that the Manager may incur as a result of the Applicable Fiduciary's failure to comply with the representations provided in this Section 9.

10. Accounting: At least once during each period of twelve months, but not more frequently than monthly as agreed upon by the Manager and the Applicable Fiduciary, the Manager shall deliver a written statement to the Applicable Fiduciary showing all investments in the Account, their fair value or market value, as applicable, all additions to and withdrawals from the Account and such other information as the Manager and the Applicable Fiduciary shall agree.

11. Confidentiality: Any information or recommendations supplied by the Manager, which are not otherwise in the public domain or previously known to the Applicable Fiduciary in connection with the performance of the Manager's obligations hereunder, are to be regarded as confidential and for use only by the Applicable Fiduciary on behalf of the Plan.

12. Assignability: Neither the Manager nor the Applicable Fiduciary may assign this Agreement in whole or in part without first obtaining the written consent of the other party and any attempted assignment or delegation without such prior written consent shall be void.

13. Termination: This Agreement may be terminated by either party hereto upon thirty (30) days written notice to the other party. Upon any such termination, the Manager shall deliver to the trustee(s) of the Trust all assets in the Account, subject to any withdrawal conditions set forth in any applicable Declaration of Separate Fund or the Group Trust.

14. Applicable Law: This Agreement shall be administered and construed according to the laws of the Commonwealth of Massachusetts except as superseded and preempted by applicable laws of the United States.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their authorized representative on the date first above written.

APPLICABLE FIDUCIARY

FIDELITY MANAGEMENT TRUST
COMPANY

BY _____

BY _____

SCHEDULE A

FEE SCHEDULE

Fidelity Management Trust Company will be compensated from each Plan participating in each Portfolio as set forth below. All fees shall be withdrawn from the Portfolios on a monthly basis. The Manager reserves the right to change the fee for any Portfolio upon at least 60 days notice to the Applicable Fiduciary.

PORTFOLIOS

FEES

Managed Income Portfolio

Fidelity Management Trust Company will be compensated from each Plan participating in the Managed Income Portfolio at an annualized rate of .55% of the Portfolio's average daily book value and accrued interest.

APPLICABLE FIDUCIARY

FIDELITY MANAGEMENT TRUST
COMPANY

BY _____

BY _____

DATE _____

DATE _____

EXHIBIT B**PLAN INFORMATION****PLAN NAME:** _____**TAXPAYER IDENTIFICATION NUMBER:** _____**THREE DIGIT PLAN IDENTIFICATION NUMBER:** _____**FISCAL YEAR END:** _____**ESTIMATED INITIAL DEPOSITS \$** _____**EXPECTED DATE OF DEPOSIT** _____

(For Informational Purposes Only)

SCHEDULE C

LIST OF AUTHORIZED PERSONS

Until otherwise notified by the Sponsor in writing, each of the following person(s) is authorized to provide instructions to Fidelity Management Trust Company regarding the Account:

NAME

Signature: _____

Title: _____

Signature: _____

Title: _____

Signature: _____

Title: _____

Signature: _____

Title: _____

SECTION II

**DECLARATION OF TRUST FOR FIDELITY GROUP TRUST
FOR EMPLOYEE BENEFIT PLANS AS AMENDED**

DECLARATION OF TRUST

**FIDELITY GROUP TRUST FOR EMPLOYEE BENEFIT PLANS
AS AMENDED AND RESTATED EFFECTIVE
AS OF OCTOBER 1, 2004**

**Fidelity Management Trust Company
82 Devonshire Street
Boston, Massachusetts 02109**

DECLARATION OF TRUST

**FIDELITY GROUP TRUST FOR EMPLOYEE BENEFIT PLANS
AS AMENDED AND RESTATED EFFECTIVE
OCTOBER 1, 2004**

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DECLARATION OF TRUST

Fidelity Management Trust Company (hereinafter referred to as the "Trustee"), hereby amends and restates as of October 1, 2004, the Fidelity Group Trust for Employee Benefit Plans (hereinafter referred to as the "Trust"), a trust established April 23, 1981 and as amended from time to time thereafter. The Trustee declares and agrees that it will hold, administer and deal with all money and property received or purchased by it as Trustee hereunder upon the following terms and conditions:

ARTICLE I

Definitions

Whenever used in the Declaration of Trust, unless the context otherwise clearly requires, the masculine gender shall include both sexes, the singular shall include the plural, the plural shall include the singular, and the following words shall have the meanings set forth below:

- 1.1 "Code" shall mean the Internal Revenue Code of 1986, as amended.
- 1.2 "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended.
- 1.3 "Fiscal Year" shall mean the fiscal year of the Trust and each Fund, as established from time to time by the Trustee.
- 1.4 "Fund" shall mean the one or more investment funds established pursuant to Article III.
- 1.5 "Participating Plan" shall mean a Qualified Investor which, with the consent of the Trustee, has made a deposit in a Fund and has a beneficial interest in a Fund.
- 1.6 "Plan Fiduciary" shall mean the fiduciary who has been appointed by the plan sponsor to control the investment of assets of a Participating Plan.
- 1.7 Qualified Investor shall mean:

(a) A pension, profit sharing, stock bonus or other employee benefit plan which (i) either (A) is a qualified plan within the meaning of Section 401(a) of the Code and for which there is maintained a trust fund which is tax-exempt pursuant to Section 501(a) of the Code, or (B) is a governmental plan as defined in Sections 401(a)(24) and 818(a)(6) of the Code which has been established by the employer for the exclusive benefit of its employees or their beneficiaries for the purpose of distributing to such employees or beneficiaries the corpus and income of the funds accumulated under such plan, and pursuant to which plan it is impossible, prior to the satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees or beneficiaries or; (ii) is administered under one or more documents that (A) authorize part or all of the assets of the plan to be commingled for investment purposes with the assets of other plans in a collective investment trust and (B) provide that such trust, to the extent of the plan's interest therein, shall constitute a part of the plan.

(b) A trust for the collective investment of assets of any investor otherwise described in this Section 1.7, which trust qualifies as a "group trust" under Internal Revenue Service Revenue

Ruling 81-100 or any successor ruling. Each Fund, as defined in Section 1.4, shall be a group trust for all purposes, including this Section 1.7(b).

(c) A segregated asset account maintained by a life insurance company (i) consisting exclusively of assets of investors described in subsections (a) and/or (b) of this Section 1.7, and (ii) which is administered under one or more documents which authorize part or all of the assets of the trust to be commingled for investment purposes with the assets of other such trusts in a collective investment trust and whose constituent trusts adopt each such collective investment trust as a part of their respective plans.

- 1.8 "Trustee" shall mean Fidelity Management Trust Company in its capacity as trustee under this Declaration of Trust.
- 1.9 "Valuation Date" shall mean the last business day of each calendar month and such other dates as are designated by the Trustee.

ARTICLE II

Deposits by Participating Plans; Non-Diversion of Assets

- 2.1 **Acceptance of Deposits.** The Trustee shall accept deposits for any Fund under this Trust only from Qualified Investors. At no time, prior to the satisfaction of all liabilities with respect to the individual or employees or their beneficiaries entitled to benefits under any Participating Plan, shall that part of the principal or income of any Fund which equitably belongs to a Participating Plan be used for or diverted to any purposes other than for the exclusive benefit of the individual or the employees or their beneficiaries who are entitled to benefits under such Participating Plan.
- 2.2 **Non-Diversion of Assets.** The beneficial interest of a Participating Plan in a Fund shall not be assignable nor subject to attachment or receivership, nor shall it pass to any trustee in bankruptcy or be reached or applied by any legal process for the payment of any obligations of the Participating Plan.
- 2.3 **Qualification as Group Trusts.** It is intended that the Funds be exempt from taxation under Code Section 501(a) and qualify as "group trusts" under Internal Revenue Service Revenue Ruling 81-100 and other applicable Internal Revenue Service rules and regulations. In furtherance of this intent, each investor which seeks to invest in a Fund shall represent and warrant that such investor is a Qualified Investor as defined in Section 1.7.
- 2.4 **Governing Law.** This Trust shall be governed by the laws of the United States of America, to the extent applicable to the subject matter hereof, and otherwise by the laws of the Commonwealth of Massachusetts. This Trust shall at all times be maintained as a domestic trust in the United States.

ARTICLE III

Investments; Establishment of Funds

- 3.1 **Investments.** The Trustee shall be responsible for the investment and reinvestment of the principal and income of the Trust and shall keep the same invested, without distinction between principal and income, in any property and in such proportions as the Trustee, in its sole

discretion, shall deem appropriate, subject only to the terms and conditions of this Declaration of Trust. In the carrying out of its responsibilities, the Trustee may retain such consultants and investment advisors as it deems appropriate. Assets comprising any Fund shall be managed for the exclusive purpose of providing benefits to employees and their beneficiaries entitled to benefits under the Participating Plans and defraying the reasonable expenses of administering the Participating Plans.

- 3.2 Management of the Funds. The Trustee is authorized to exercise all of the powers of an owner with respect to the asset of every Fund in whatever manner the Trustee considers for the best interest of the Fund. Without limiting the generality of the foregoing, but subject to the requirements of applicable law, the Trustee is authorized and empowered in its discretion from time to time to invest and reinvest each Fund and keep it invested, without distinction between principal and income, in such common or capital stocks, preferred stocks, bonds, notes, debentures, securities convertible into common or capital stocks, derivative instruments (including, but not limited to, futures contracts, option contracts, swap agreements and currency forward contracts), mortgages, equipment trust certificates, investment trust certificates, shares of investment companies, certificates of indebtedness, acceptances, bills of exchange, treasury bills, bank savings deposits, commercial paper (including participations in pooled commercial paper accounts), cash, real and personal property either tangible or intangible or wherever situated, and in such other property, investments and securities of any kind, class or character, whether domestic or foreign, including securities issued by or the property of, any employer or governmental unit maintaining a Participating Plan, and in making such investments or reinvestments, the Trustee shall not be restricted to securities or property of the character authorized for investment by trustees under any present or future laws of the Commonwealth of Massachusetts. Without limiting the foregoing, the Trustee is authorized and empowered in its discretion from time to time to invest and reinvest any assets of a Fund in one or more collective investment trusts which are exempt from tax under Internal Revenue Service Revenue Ruling 81-100 or any successor ruling (including, without limitation, any such collective investment trust maintained by the Trustee or any of its affiliates for the collective investment of the assets of Qualified Investors whether such collective investment trust is established and maintained pursuant to this Declaration of Trust or another instrument) and while the assets of any Fund are so invested, such collective investment trust shall constitute a part of this Trust with respect to such Fund.
- 3.3 Foreign Investments. The Trustee may invest the assets of any Fund in any property the indicia of ownership for which is maintained outside the jurisdiction of the District Courts of the United States, but only to the extent authorized by regulations promulgated by the Secretary of Labor pursuant to Section 404(b) of ERISA. To the extent permitted by such regulations, the Trustee may enter into custodian agreements with one or more banks or other entities located outside the United States (a "Foreign Entity") pursuant to which all or any portion of the assets of one or more of the Funds shall be held in custody of such Foreign Entity; provided, however, that the Trustee shall retain control of the investment of such assets. The Trustee is authorized to enter into arrangements with one or more Foreign Entities pursuant to which the Foreign Entity will, in addition to serving as custodian, provide brokerage services with respect to the assets held in custody.
- 3.4 Establishment of Funds. The Trustee, pursuant to an instrument which shall incorporate the terms of this Declaration of Trust and shall be part thereof upon execution by the Trustee, may from time to time establish one or more separate Funds, the assets of which shall be invested and reinvested in such class or classes of property and with such investment objectives and

restrictions ("Characteristics") as the Trustee may specify upon the establishment of such Fund or Funds, subject, however, to the following restrictions and provisions:

- (a) The Trustee shall not invest the assets of any Participating Plan in any such Fund until the Trustee has provided a description of the Characteristics of such Fund to the Plan Fiduciary.
- (b) The Trustees shall not change the Characteristics of any Fund unless it shall first provide at least sixty (60) days prior notice and a description of such change of Characteristics to the Plan Fiduciary of each Participating Plan having an interest in such Fund.
- (c) The determination by the Trustee as to whether or not an investment is within the category of investments permissible for any Fund shall be conclusive.
- (d) The assets received by the Trustee from a Participating Plan shall be placed entirely or partially in any or all of the Funds, as the Plan Fiduciary or agent of the Plan Fiduciary shall, from time to time, in its sole discretion, determine and direct.
- (e) Notwithstanding the Characteristics of any Fund established hereunder, the Trustee may invest all or any portion of the assets of any Fund in government securities, commercial paper, repurchase agreements, bankers acceptances, time deposits, certificates of deposit (including those issued by domestic and foreign banks and their branches) or savings accounts (including those maintained by the Trustee), short term collective investment funds, and other short term debt obligations. Pending the selection and purchase of suitable investments, the Trustee may retain in cash, without liability for interest, such portion of the Fund as it shall deem reasonable under the circumstances.
- (f) Each Fund shall be independent of each other Fund and shall be separately held, managed, administered, valued, invested, reinvested, distributed, accounted for and otherwise dealt with. No Fund shall be answerable for any obligation assumed or liability incurred by any other Fund. All persons extending credit to, contracting with, or having any claim of any type against any Fund (including, without limitation, contract, tort and statutory claims) shall look only to the assets of such Fund for payment under such credit, contract or claim. No Participating Plan, nor any participant, beneficiary, trustee, employee or agent thereof, nor the Trustee, nor any of its officers, directors, shareholders, partners, employees or agents shall be personally liable for any obligation of any Fund.
- (g) Any income or distributions earned or received on assets of a Fund shall be added to the principal of that Fund and invested and reinvested as part thereof. Profits or losses of a Fund shall be credited to or charged against that Fund.
- (h) The assets of each Fund shall be owned exclusively by the Trustee and no Participating Plan shall have any individual ownership of such assets.

ARTICLE IV

Units of Participation

- 4.1 **Recording of Beneficial Interests.** The beneficial interest of each Participating Plan in a Fund shall be represented by "Units", each one of which shall be of equal value to every other, and the total number of which may be from time to time diminished or increased as hereinafter provided.

Each Unit shall represent an undivided proportionate interest in all assets and liabilities of such Fund and all income, profits, losses and expenses shall be allocated equally to all Units. The Trustee or its agent shall keep books in which shall be recorded the number of Units standing to the credit of each Participating Plan. From time to time the Units of a Fund may be divided into a greater number of Units of lesser value, or combined into a lesser number of Units of greater value, provided that the proportionate interest of each Participating Plan in the Fund shall not thereby be changed.

- 4.2 Valuation of Units. At the inception of a Fund the value of each unit shall be \$10.00, or such other amount as the Board of Directors of the Trustee shall determine at the time it establishes a Fund. As of each Valuation Date after the inception of such Fund, the Trustee or its agent shall determine the then value of each Unit of such Fund by dividing the then Fair Value of such Fund by the number of Units of such Fund then allocated to Participating Plans. Each valuation shall be completed within a reasonable period following each Valuation Date. For purposes of valuation, the "Fair Value" of the Fund shall equal the aggregate Fair Value of assets of the Fund. Unless stated otherwise in the Declaration establishing a particular Fund, the Fair Value of any asset of a Fund shall be the fair value as determined by the Trustee in reference to such valuation standards as the Trustee, in good faith, deems applicable in the circumstances including, but not limited to: (i) with respect to securities for which market quotations are readily available, the market value of such securities; and (ii) with respect to other assets, the value as determined in such manner as is described in the instrument creating such Fund.
- 4.3 Suspension of Valuations. Notwithstanding any provision herein to the contrary, the Trustee, in its sole discretion, may suspend the valuation of the assets or Units of any Fund pursuant to this Article IV for the whole or any part of any period when (i) any market or stock exchange on which a significant portion of the investments of such Fund are quoted is closed (other than for ordinary holidays) or during which dealings therein are restricted or suspended; (ii) there exists any state of affairs which, in the opinion of the Trustee, constitutes a situation or an emergency as a result of which investment or disposition of the assets of such Fund would not be reasonably practicable or would be seriously prejudicial to the Participating Plans therein (including, but not limited to, adverse market costs, market timing and excessive/disruptive trading); (iii) there has been a breakdown in the means of communication normally employed in determining the price or value of any of the investments of such Fund, or of current prices on any stock exchange on which a significant portion of the investments of such Fund are quoted, or when for any reason the prices or values of any investments owned by such Fund cannot reasonably be promptly and accurately ascertained; or (iv) the transfer of funds involved in the realization or acquisition of any investment cannot, in the opinion of the Trustee, be effected at normal rates of exchange.

ARTICLE V

Deposits and Withdrawals

- 5.1 Deposits. Deposits to and withdrawals from a Fund may be made only as of a Valuation Date and only with the authorization of the Plan Fiduciary. Such authorization shall not be canceled or countermanded after the Valuation Date on which such deposit or withdrawal is made.
- 5.2 Acceptance of Deposits. Deposits may be made only with the consent of the Trustee and shall consist only of cash or such other property as the Trustee shall, in its sole discretion, deem to be a suitable and permissible investment for any of the Funds on such Valuation Date. Assets other

than money shall be valued at their Fair Value as of the Valuation Date of the deposit. The Trustee shall credit to the account of the Participating Plan which makes a deposit that number of Units of the Fund which the deposit will purchase at the then value of the Units.

- 5.3 Withdrawals. Unless determined otherwise by the Board of Directors of the Trustee at the time that it establishes a Fund, withdrawals from any Fund may be made upon at least fifteen (15) business days advance written notice to the Trustee or such lesser period to which the Trustee may agree. Any withdrawal shall be as of the Valuation Date on or next succeeding the expiration of the notice period and shall be effected within a reasonable time following such Valuation Date, except that such withdrawal may be delayed if the Trustee determines that it cannot reasonably make such distribution on account of any order, directive or other interference by an official or agency of any government or any other cause reasonably beyond its control. The Trustee may, in its sole discretion, effect such withdrawal in cash or in property or in a combination of both. Without limiting the right of the Trustee to make any other charges or adjustments, it shall have the right to charge back to and collect from each Participating Plan that part of the amount withdrawn by such Participating Plan which represented a payment of accrued income that was not subsequently collected by the Trustee at the time fixed for its payment. Upon withdrawal of Units from a Fund, the Trustee shall distribute to the Participating Plan making such withdrawal an amount equal to the number of Units withdrawn multiplied by the value of each such Unit as of the Valuation Date.

- 5.4 Suspension of Deposit or Withdrawal Rights. Notwithstanding any provision herein to the contrary, the Trustee, in its sole discretion, may suspend the right to make deposits or withdrawals to or from any Fund in accordance with this Article V for the whole or any part of any period when (i) any market or stock exchange on which a significant portion of the investments of such Fund are quoted is closed (other than for ordinary holidays) or during which dealings therein are restricted or suspended; (ii) there exists any state of affairs which, in the opinion of the Trustee, constitutes a situation or emergency as a result of which investment or disposition of the assets of such Fund would not be reasonably practicable or would be seriously prejudicial to the Participating Plans therein (including, but not limited to, adverse market costs, market timing and excessive/disruptive trading); (iii) there has been a breakdown in the means of communication normally employed in determining the price or value of any of the investments of such Fund, or of current prices on any stock exchange on which a significant portion of the investments of such Fund are quoted, or when for any reason the prices or values of any investments owned by such Fund cannot reasonably be promptly and accurately ascertained; or (iv) the transfer of funds involved in the realization or acquisition of any investment cannot, in the opinion of the Trustee, be effected at normal rates of exchange.

- 5.5 Distribution Upon Disqualification. Notwithstanding any provision herein to the contrary, if the Trustee receives notice that a Participating Plan has lost its status as a Qualified Investor if the Trustee resigns or is removed as Trustee, or if, for any reason, the Trustee determines that a Participating Plan should withdraw from the Trust, the Trustee may, in its discretion, (i) immediately withdraw all Units attributable to the Participating Plan from the Trust as of the first Valuation Date following receipt of such notice or determination and (ii) distribute such Units in the same manner as provided in this Article V.

ARTICLE VI

Fees and Expenses

- 6.1 Fees and Expenses of the Trust. The Trustee shall not charge any fee for the management of the Trust or any Fund in addition to such fees as the Trustee shall be entitled to charge to and receive from, or with respect to, each Participating Plan for the management and other services it undertakes to provide each such Participating Plan in accordance with such fee schedules as the Trustee may, from time to time establish. Any expenses incurred by the Trustee in the performance of its duties, including but not limited to fees for legal and auditing services rendered to the Trustee, fees and other expenses incurred in connection with custody services provided by a depository referred to in Section 7.1 hereof and all other proper charges and disbursements of the Trustee shall be paid from each Fund in such equitable proportion as may be determined by the Trustee. All taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws upon or in respect of each Fund or the income thereof shall be a charge against such Fund. Any expenses incurred by the Trustee for pricing, bookkeeping or any other related recordkeeping fees for a Fund may, in the discretion of the Trustee, be paid from such Fund. Fees and Expenses incurred by Liquidating Accounts and Transition Accounts shall be determined and charged as set forth in Section 8.6.
- 6.2 Fees and Expenses Chargeable to Participating Plans. Notwithstanding any provision herein to the contrary, the Trustee may, in its sole discretion, charge a Participating Plan with (i) any brokerage fees and other fees and expenses (including, but not limited to, settlement, stamp taxes, duty, stock listing, attorneys' fees, auditing fees and related expenses and expenses such as market impact and market timing costs as may be determined by the Trustee) incurred in connection with the purchase or sale of securities relating to or arising out of the deposit of assets in a Fund or the withdrawal of assets from a Fund by a Participating Plan or (ii) any fee charged for the management of any Fund. Such charge may be effected either by a corresponding adjustment in the number of Units of such Fund credited to such Participating Plan or by a direct assessment against such Participating Plan.
- 6.3 Fees and Expenses Chargeable to Participants. Notwithstanding any provision herein to the contrary, the Trustee may, in its sole discretion, charge a fee, in an amount determined by the Trustee, against the interest in any Fund of any participant or beneficiary in a Participating Plan, to the extent that the Trustee, in its sole discretion, determines that any adverse market impact, market timing or excessive/disruptive trading costs, as may be determined by the Trustee, may be incurred by the Fund in connection with the purchase or sale of securities relating to or arising out of the deposit of assets in a Fund or the withdrawal of assets from a Fund by such participant or beneficiary. Such fee or charge shall be effected by a corresponding adjustment in the number of Units of such Fund credited to the account of such participant or beneficiary or by a direct assessment against the account of such participant or beneficiary.

ARTICLE VII

Powers and Duties of Trustee

- 7.1 Powers of the Trustee. In furtherance and not in limitation of the powers otherwise specified herein, the Trustee shall have the following powers:

- (a) To sell, exchange, convey, transfer or otherwise dispose of and grant options with respect to any property held in the Trust from time to time, by private contract or at public auction, for cash or on credit, and no person dealing with the Trustee shall be bound to see to the application of the money or other property delivered to it or to inquire into the validity, expediency or propriety of any such sale or other disposition.
- (b) To vote upon any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights or other options and to make any payments incidental thereto; to consent to or otherwise participate in corporate reorganizations or other changes affecting corporate securities and to pay any assessments or charges in connection therewith.
- (c) To make commitments either alone or in company with others to purchase at any future date any property permitted under Article III hereof.
- (d) To purchase part interests in real property or in mortgages on real property, wherever such real property may be situated, with the right to take title in its name individually, in its fiduciary capacity, or in the name of a nominee either alone or jointly with the holder or holders of other part interests therein or their nominees.
- (e) To lease to others for any term without regard to the duration of the Trust any real property or part interest in real property held by it.
- (f) To delegate to a manager or the holder or holders of a majority interest in any real property or mortgage on real property the management and operation of any part interest in such real property or mortgage held by the Trustee and the authority to sell such real property or mortgage or otherwise carry out the decisions of such manager or holder or holders of such majority interest.
- (g) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein-granted.
- (h) To register any securities held in the Trust in its own name or in the name of a nominee and hold any security in bearer form, and to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities or to deposit or to arrange for the deposit of such securities in any qualified central depository which is a national, state or, subject to the requirements of Section 3.3 hereof, chartered bank or trust company even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by any other person, but the books and records of the Trustee shall, at all times, show that all such securities are part of the Trust.
- (i) To employ suitable agents, consultants, custodians (including foreign custodians), and counsel and, subject to applicable law, to pay their reasonable compensation and expenses out of the Funds.
- (j) Generally to exercise any of the power of an owner with respect to stocks, bonds, securities or other property held in the Trust.

- (k) To organize and own one or more corporations for the exclusive purpose of holding title to any property of this Trust, collecting income therefrom, and turning over the entire amount thereof, less expenses, to the Trustee.
- (l) To settle, compromise or abandon all claims and demands in favor of or against the Trust or any Fund.
- (m) To purchase, sell, hold and generally trade and deal in and with all derivative instruments, including, but not limited to, futures contracts, option contracts, swap agreements and currency forward contracts and, in connection therewith, to deposit any property as collateral with any agent.
- (n) To grant, purchase, offset, exercise, permit to expire, permit to be held in escrow, and otherwise to acquire, dispose of, hold and generally trade and deal in any manner with all forms of options in any combination, and in connection therewith to deposit any property as collateral with any agent.
- (o) To loan securities held by any Fund in accordance with such regulations or exemptions with respect to such activity as may be promulgated from time to time by the Secretary of Labor pursuant to ERISA.
- (p) To do all other acts which in its judgment are reasonably necessary or desirable for the proper administration of the Trust and each of the Funds even though the power to do such acts is not specifically set forth herein.

7.2 Audits and Reports. As of the close of each Fiscal Year, the Trustee shall cause independent certified public accountants responsible only to the Board of Directors of the Trustee to audit the operations of the Funds for such Fiscal Year. The report of such audit shall be available for inspection during regular business hours by any current or former Plan Fiduciary or, by any person designated by any current or former Plan Fiduciary. The expenses of such audit shall be paid from each Fund in such equitable proportion as may be determined by the Trustee.

7.3 Records and Accounts. Annually, within a reasonable period after the close of each Fiscal Year, and within ninety (90) days after removal or resignation of the Trustee, the Trustee shall furnish a written account of the operation of each Fund for the preceding Fiscal Year, or for the period from the close of the last Fiscal Year to the date of such removal or resignation, to the Plan Fiduciary of each Participating Plan having an interest in the Fund to which the account relates and to any other party with which the Trustee must file an accounting with respect to a Participating Plan. Any person to whom such an account of the Trustee is furnished may approve such account by an instrument in writing delivered to the Trustee. If objections to specific items in such account are filed with the Trustee within sixty (60) days after the account has been furnished and the Trustee believes such objections to be valid, the Trustee may adjust the account in such manner as it deems equitable under the circumstances. Each person to whom the Trustee furnishes an account shall be notified by the Trustee of any adjustments so made. If:

- (a) all persons to whom such account is furnished approve such account, or
- (b) no objections to specific items in such account are filed with the Trustee within sixty (60) days after the account has been furnished, or

- (c) the Trustee shall give notice of an adjustment of the account and no objections to specific items in such account, as adjusted, are filed with the Trustee within sixty (60) days after notice of such adjustment has been furnished, then and in any said events, the account of the Trustee with respect to all matters contained therein (as originally furnished if no adjustment was made, or as adjusted if an adjustment was made), shall be deemed to have been approved with the same effect as though judicially approved by a court of competent jurisdiction in a proceeding in which all persons interested were made parties and were properly represented before such court. The Trustee, nevertheless, shall have the right to have its accounts settled by judicial proceeding if it so elects, in which case the only necessary parties shall be the Trustee and each person to whom the Trustee furnishes an account.

ARTICLE VIII

Liquidating Accounts and Transition Accounts

- 8.1 Establishment. The Trustee may in its discretion, from time to time, transfer any illiquid, impaired, or defaulted investment of any Fund to a Liquidating Account. Each such Liquidating Account shall be maintained and administered solely for the ratable benefit of the Participating Plans interested in the Fund from which such asset is transferred at the time such Liquidating Account is established. The primary purpose of Liquidating Accounts shall be to provide a method of liquidation of the assets contained therein, but the period during which the Trustee may continue to hold any such assets shall rest in its discretion. In addition, the Trustee may in its discretion, from time to time, establish one or more Transition Accounts related to a Fund to hold cash, securities, or other assets received from, and other investments made for the benefit of, one or more specific Participating Plans, pending the investment of such deposits in securities or other investments which the Trustee considers suitable for such Fund, or in connection with the distribution or withdrawal of cash, securities, or other investments held for the benefit of the Participating Plans having an interest in such Transition Account, or for such other purposes as the Trustee shall deem appropriate. Each Transition Account shall be maintained solely for the ratable benefit of the Participating Plans whose cash, securities, or other assets has been deposited therein.
- 8.2 Additional Powers and Duties of Trustee. The Trustee shall have, in addition to all of the powers granted to it by law and by the terms of this Declaration of Trust, each and every discretionary power of management of the assets contained in a Liquidating Account or a Transition Account (and of all proceeds of such assets) which the Trustee shall deem necessary or convenient to accomplish the purposes of such Liquidating Account or Transition Account. At the time of the establishment of a Liquidating Account or a Transition Account, and upon each deposit of additional money to such Transition Account, the Trustee shall prepare a schedule showing the interest of each Participating Plan therein. When the assets of such Liquidating Account or Transition Account shall have been completely distributed, such schedule shall be thereafter held as part of the permanent records of the Fund to which the Liquidating Account or Transition Account relates. The Trustee shall include in any report of audit for a Fund a report for each related Liquidating Account and Transition Account established hereunder. For purposes hereof, the value of assets transferred to or held in a Liquidating Account or Transition Account (and the beneficial interest of any Participating Plan therein) may be based upon value as provided in Section 4.2, or amortized cost, or book value, as determined by the Trustee in its discretion.

- 8.3 Limitation on Investment of Additional Money. No additional money shall be invested in any Liquidating Account, except that the Trustee shall have the power and authority, if in the Trustee's reasonable opinion such action is advisable for the protection of any asset held therein, to borrow money from others to be secured by the assets held in such Liquidating Account and to give and renew such note or notes therefore as the Trustee may determine.
- 8.4 Distributions. The Trustee may make distributions from a Liquidating Account in cash or in kind or partly in cash and partly in kind, and, except as otherwise provided in the Declaration of Separate Fund for the Fund to which such Liquidating Account relates, the time and manner of making all such distributions shall rest in the sole discretion of the Trustee; provided that all such distributions as of any one time shall be made ratably and on the same basis among the Participating Plans beneficially interested in such Liquidating Account. Income, gains, and losses attributable to a Transition Account shall be allocated among the Participating Plans having an interest therein, in proportion to the beneficial interest of each such Participating Plan in such Transition Account. Notwithstanding anything to the contrary elsewhere herein, with respect to a Transition Account established to pay the Participating Plan for the withdrawal of Units from the Fund pursuant to Section 5.3 hereof, the Trustee shall have satisfied its obligation to the Participating Plan to pay the amount due upon redemption as long as (i) the Trustee has transferred to the Transition Account, as soon as reasonably practicable after the applicable Valuation Date which has established the value of the Units of the Fund so redeemed, securities and other assets with a fair value as of the applicable Valuation Date before consideration of applicable transaction costs (as described in Section 87.6) equal to the value of the Units so redeemed, and (ii) the Trustee pays out to the Participating Plans, on a pro rata basis in accordance with the number of Units owned by such Participating Trusts, the net proceeds realized upon the sale, disposition, or liquidation of the securities and assets in such Transition Account as provided in this Section within a reasonable time after the transfer of such securities and other assets to such Transition Account.
- 8.5 Effect of Establishing Liquidating Accounts and Transition Accounts. After an asset of a Fund has been set apart in a Liquidating Account or when assets of one or more Participating Plans are held in a Transition Account, such assets shall be subject to the provisions of this Article, but such assets shall also be subject to all other provisions of this Declaration of Trust insofar as the same shall be applicable thereto and not inconsistent with the provisions of this Article. For the purpose of deposits to and withdrawals from a Fund, and for purposes of determining the value of the Units of a Fund and the income, gains, or losses of a Fund that are allocated among Participating Plans pursuant to the other provisions of this Declaration of Trust, the value, income, gains, or losses of any assets held in any Liquidating Account or Transition Account shall be excluded. As of any subsequent Valuation Date selected by the Trustee in its sole discretion, any assets held in a Transition Account may be valued in accordance with Section 4.2 and transferred by the Trustee to the appropriate Fund, in which event the Participating Plans with an interest in such Transition Account shall, on a pro rata basis, be allocated such number of Units with respect to such Fund as shall be determined, as of such Valuation Date, in accordance with the applicable provisions of Article IV.
- 8.6 Fees and Expenses. Each Liquidating Account and Transition Account shall be charged with the fees and expenses attributable to the administration and management of such account (including, without limitation, brokerage fees, settlement charges, stamp taxes, duty, stock listing and related expenses, attorneys' fees and auditing fees) and any other fees and expenses such as market impact and market timing costs as may be determined by the Trustee. Such Liquidating Accounts and Transition Accounts shall remain as part of the assets of the applicable Fund for

purposes of determining the fee payable to the Trustee in accordance with such fee schedule as may apply from time to time.

ARTICLE IX

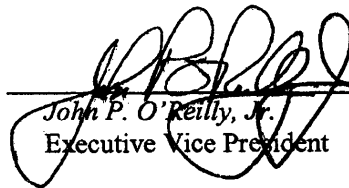
Amendment and Termination

- 9.1 Amendment. This Declaration of Trust may be amended from time to time by a resolution of the Board of Directors of the Trustee. No amendment shall become effective until the day following a Valuation Date which is not less than sixty (60) days after a copy of such amendment shall have been furnished to the Plan Fiduciary of each Participating Plan; provided, however, that any amendment which is adopted for the purpose of complying with any restriction imposed, or using any latitude granted, by any applicable statute or regulation, or any amendment thereof, may be declared to take effect as of the effective date of such amendment, including retroactively. In no event shall any amendment either directly or indirectly operate to deprive any Participating Plan of its beneficial interest under the Trust as it is then constituted.
- 9.2 Termination. The Trustee may terminate any Fund or this Trust, as of any Valuation Date, without advance notice, by withdrawal from the Fund or all of the Funds and distribution of Units from such Fund or Funds in the same manner as provided in Article V.
- 9.3 Merger. Any corporation or trust company into which the Trustee may merge, or with which it may be consolidated, or to which substantially all of its assets may be transferred, shall be the successor trustee of this Trust and shall have all the powers and duties herein conferred upon the Trustee without the execution or filing of any additional instrument or the performance of any additional act.

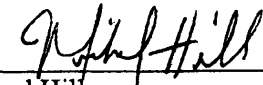
IN WITNESS WHEREOF, this instrument has been executed at Boston, Massachusetts, this 1st day of October, 2004, Fidelity Management Trust Company, as Trustee of the Fidelity Group Trust for Employee Benefit Plans and its seal affixed and attested, by its duly authorized officers.

FIDELITY MANAGEMENT TRUST COMPANY

By: _____


John P. O'Reilly, Jr.
Executive Vice President

ATTEST:



Michael Hill
Assistant Clerk

SECTION III

**DECLARATION OF SEPARATE FUND:
MANAGED INCOME PORTFOLIO**

Declaration of Separate Fund

Managed Income Portfolio

Amended and Restated as of August 18, 2004

Fidelity Management Trust Company (the "Trustee") hereby establishes a separate Fund (the "Separate Fund") pursuant to Section 3.4 of Article III of the Declaration of Trust for the Fidelity Group Trust for Employee Benefit Plans (the "Trust") established by the Trustee on April 23, 1981 and as amended from time to time thereafter.

The Trustee declares and agrees that this instrument incorporates the terms of the Trust and shall upon its execution constitute a part thereof.

The Separate Fund shall be known as the Managed Income Portfolio (the "Portfolio"). The Portfolio is a commingled pool, dedicated exclusively to the active management of the assets of employee benefit plans (the "Participating Plans"). The Portfolio has the following investment objectives and guidelines:

I. Investment Objectives

The primary investment objective of the Portfolio is to seek the preservation of capital, as well as to provide a competitive level of income over time consistent with the preservation of capital.

II. Eligible Investments

The Portfolio will be primarily invested in the following types of fixed income securities:

- A. Conventional and synthetic investment contracts issued by insurance companies, banks, and other financial institutions.
- B. Debt obligations issued or guaranteed by the U.S. government, U.S. government agencies or U.S. government-sponsored corporations or agencies.
- C. Debt obligations of domestic and non-U.S. corporations, foreign governmental issuers, and supranationals.
- D. Mortgage-backed securities, including collateralized mortgage obligations and commercial mortgage-backed securities, and other debt instruments backed by mortgage-backed securities.

- E. Asset-backed securities.
- F. Obligations issued or guaranteed by U.S. local, city and state governments and agencies.
- G. Private placements, including securities defined under Rule 144A.
- H. Derivative instruments, including futures contracts, option contracts, and swap agreements.
- I. Other securities including, but not limited to, zero coupon bonds, medium-term notes, preferred securities, structured notes, floating-rate debt, and Treasury inflation protected securities.
- J. Cash or short-term debt obligations including, but not limited to, government securities, commercial paper, certificates of deposit, time deposits, bankers acceptances, and repurchase agreements.
- K. Collective investment vehicles or shares of investment companies that invest primarily in fixed income securities; provided, however, that any investments in collective investment vehicles or shares of investment companies which are managed by the Trustee or its affiliates shall be made in accordance with the Employee Retirement Income Security Act of 1974, as amended ("ERISA").

The Trustee may lend Portfolio securities through its securities lending operations.

III. Investment Restrictions

Under normal circumstances, the Portfolio will follow the guidelines listed below:

- A) At the time of purchase, fixed income securities and investment contracts must meet the credit and diversification as determined by the Trustee.
- B) Investments of the Portfolio shall include features (e.g., investment contracts) that allow the Trustee to apply contract (book) value accounting.

IV. Valuations

The Portfolio is valued daily. It is the policy of the Trustee to use its best efforts to maintain a stable net asset value of \$1.00 per unit. Neither the Portfolio nor the Trustee can guarantee that the unit value shall always remain at \$1.00. Investment contracts (including synthetic investment contracts and their underlying securities) are valued at their contract value (i.e., invested principal plus accrued interest thereon). These investment contracts provide for benefit responsive withdrawals and investment

exchanges at contract value; however, withdrawals or investment exchanges prompted by an employer-initiated event, such as withdrawals resulting from the sale of a division of the Sponsor, a corporate layoff or change(s) in the Plan investment options, may be paid at the contract's market value, which may be less than contract value, or may be subject to a contract charge or penalty.

V. Eligible Investors

The Portfolio shall only be made available to 401(k), profit sharing and other qualified or governmental defined contribution plans. Monies may be invested in the Portfolio as a result of participant investment directions under a plan or as a result of Plan Sponsor investment directions with respect to some or all of a participant's account or with respect to forfeitures or other amounts temporarily held on an unallocated basis under a Plan.

VI. Limitations On Withdrawals and Exchanges

A. Participant-Directed Withdrawals and Exchanges

Withdrawals made in order to accommodate distribution to participants under a Plan, whether in-service or following termination of employment may be made on any business day. Withdrawals made in order to accommodate a participant-directed exchange to another investment option under a Plan may be made on any business day, provided that the exchange is not directed into a competing fund (money market funds or certain other types of funds). Transferred amounts must be held in a non-competing investment option for 90 days before subsequent transfers to a competing fund can occur.

B. Non-Participant Directed Withdrawals

Withdrawals directed by a Plan Sponsor must be preceded by twelve (12) months written notice to the Trustee; provided, however, that the Trustee may, in its discretion complete any such plan-level withdrawals before the expiration of such twelve (12) month period.

C. General

The Trustee may defer completing any withdrawal under A or B above where doing so immediately might adversely affect the Portfolio. The Trustee shall make the payments(s) available as quickly as cash flows and prudent portfolio management permit.

VII. Changes in Portfolio Investment Objectives and Guidelines

The Trustee in its discretion may make changes from time to time in the Portfolio's investment objectives and guidelines. Sixty (60) days prior notice of any such change must be provided to the Plan trustee of each Participating Plan having an interest in the Portfolio.

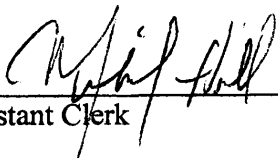
IN WITNESS WHEREOF, this instrument has been executed at Boston, Massachusetts as of August 18, 2004, by Fidelity Management Trust Company as Trustee of the Fidelity Group Trust for Employee Benefit Plans and its seal affixed and attested, by its duly authorized officers.

FIDELITY MANAGEMENT TRUST COMPANY

By: 

Executive Vice President

Attest:


Assistant Clerk

SECTION IV

**COPY OF FMTC'S IRS
DETERMINATION LETTER**

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: JUL 29 2005

Employer Identification Number:
04-3022712

DLN:

17007147003005

FIDELITY MANAGEMENT TRUST COMPANY
C/O LISA A MENELLY, ESQ
82 DEVONSHIRE ST
BOSTON, MA 02109-3614

Person to Contact:

RYAN P MCDONALD

ID# 31469

Contact Telephone Number:

(877) 829-5500

Name of Trust:

THE FIDELITY GROUP TRUST FOR
EMPLOYEE BENEFIT PLANS

Date Trust Was Executed:

9/23/04

Dear Applicant:

Based on the information you gave us, we have determined that this trust is a group trust arrangement as described in Revenue Ruling 81-100, 1981-1 C.B. 326. This means that the trust is exempt from federal income tax under Internal Revenue Code section 501(a) for the funds that equitably belong to its participating trusts that qualify under section 401(a). The trust is also tax exempt under section 408(e) for the funds that equitably belong to its participating individual retirement accounts that qualify under section 408.

Participation in the group trust is limited to the pooling of assets of trusts that are parts of:

- * pension, profit-sharing and stock bonus plans that qualify under section 401(a) and are tax exempt under section 501(a),
- * government plans described in section 401(a)(24), and
- * individual retirement accounts that qualify under section 408 and are tax exempt under section 408(e).

The trust is also subject to the provisions of:

- * section 502, relating to feeder organizations,
- * section 503 or 4975, relating to prohibited transactions, and
- * sections 511 to 515, relating to tax on unrelated business income.

The trustee of the group trust is governed by the fiduciary responsibility provisions of the Employment Retirement Income Security Act of 1974 (ERISA) and has full responsibility for investing the assets held by the trust (subject to the exceptions explained in the Act).

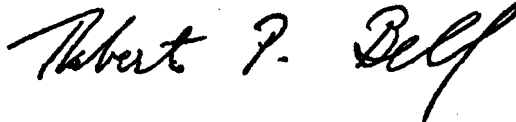
Letter 1520 (DO/CG)

FIDELITY MANAGEMENT TRUST COMPANY

The information in this letter relates only to the status of the group trust under the Internal Revenue Code. It does not apply to any other federal or local statutes.

Please keep a copy of this letter in your permanent records. If you have any questions about this matter, please contact the person whose name and telephone number are shown at the top of the letter.

Sincerely yours,

A handwritten signature in cursive script, reading "Robert P. Belf". The signature is written in dark ink and is positioned above the typed name.

Manager, EP Determinations