

COUNCIL WORKSHOP ITEM

ITEM: Update – Employee Flexible Benefit Plan

DATE: June 4, 2003

PREPARED BY: Dave Van Vooren, Deputy Village Manager – Administration and Finance

PURPOSE: Update Plan Document

DISCUSSION:

Periodically, the Village is required to update our existing flexible benefit plan, or section 125 plan, to maintain compliance with IRS regulations. The Village has offered the flexible benefit plan option to our employees for several years with a number of employees taking advantage of paying for their health insurance premiums, child care expenses and other miscellaneous health expenses with pre tax dollars.

The Village currently contracts with Incentus, Inc to administer those reimbursable components of the plan for our employees. Incentus's contract was previously approved at the time of the renewal of all the existing health insurance components in April of this year.

ATTACHMENT:

Village of Downers Grove Employee Flexible Benefits Plan

RECOMMENDATION:

Staff recommends that the Village Council approve the resolution for the 2004 Employee Flexible Benefits Plan as presented.

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING
THE VILLAGE OF DOWNERS GROVE
EMPLOYEE FLEXIBLE BENEFITS PLAN**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois,
as follows:

1. That the form and substance of a Plan (the "Plan") establishing flexible benefits program policies and procedures for the Village of Downers Grove effective June 17, 2003, as set forth in the form of the Plan submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Mayor and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Plan, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Proposal.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____
Village Clerk

**VILLAGE OF DOWNERS GROVE
EMPLOYEE FLEXIBLE BENEFITS PLAN**

ARTICLE I – INTRODUCTION

- 1.1 Purpose of Plan. The purpose of this Plan is to provide all regularly employed certified personnel of the Village of Downers Grove choice between full compensation and benefits under the dependent care, medical insurance and medical reimbursement plans maintained by the Employer.
- 1.2 Plan Status. This Plan is intended to qualify under Section 125 of the *Internal Revenue Code of 1986*, as amended, and is to be interpreted in a manner consistent with the requirements of the *Internal Revenue Code of 1986*, as amended.

ARTICLE II – DEFINITIONS

- 2.1 “Administrator” means the Employer or such other person or committee as may be appointed from time to time by the employer to supervise the administration of the Plan.
- 2.2 “Base Salary” means the rate of compensation payable to an employee for services rendered to the Employer, exclusive of bonuses and overtime earnings.
- 2.3 “Code” means the *Internal Revenue Code of 1986*, as amended from time to time. Reference to any section or subsection of the Code includes reference to any comparable or succeeding provisions of any legislation, which amends supplements or replaces such section or subsection.
- 2.4 “Dependent” means any individual who is (a) a dependent of the Participant who is under the age of 19 and with respect to whom the Participant is entitled to an

exemption under Section 151(e) of the Code, (b) a dependent or spouse of the Participant who is physically or mentally incapable of caring for himself/herself, or (c) any other person defined as a dependent under the Code.

2.5 “Dependent Care Assistance Account” means the account described in the Article VIII hereof.

2.6 “Dependent Care Assistance Plan” means the Employer’s Dependent Care Assistance Plan, as amended, said Plan being incorporated herein by reference.

2.7 “Dependent Care Expenses” means expenses incurred by a Participant which (a) are incurred for the case of a Dependent of the Participant or for related household services, (b) are paid or payable to a Dependent Care Service Provider, and (c) are incurred to enable the Participant to be gainfully employed for any period for which the Participant has one or more Dependents. Dependent Care Expenses shall be deemed to be incurred at the time the services to which the expenses relate are rendered.

2.8 “Dependent Care Service Provider” means a person who provides care or other services described in Section 2.6 above, but shall not include (a) a dependent care center (as defined in Section 21(b)(2)(D) of the Code), unless the requirements of Code Section 21(b)(2)(D) are satisfied, or (b) a related individual described in Section 129(c) of the Code.

2.9 “Effective Date” means June 17, 2003.

2.10 “Employee” means any person regularly employed by the Employer for at least 20 hours per week.

- 2.11 “ERISA” means the *Employee Retirement Income Security Act of 1974*, as amended.
- 2.12 “Key Employee” means any person who is a key employee as defined in Section 416(I)(l) of the Code.
- 2.13 “Medical Care Plans” means the group health, life, medical, and accident insurance policies, if any, which may be maintained by the Employer from time to time. Provided, however, that nothing in this definition shall be construed to impose a requirement upon the Employer to maintain any of the foregoing group insurance plans in full force and effect, the Employer expressly reserving the right to amend, cancel or otherwise modify any or all of said insurance plans.
- 2.14 “Medical Reimbursement Account” means the account described in Article XI hereof.
- 2.15 “Medical Reimbursement Plan” means the Employer’s Medical Reimbursement Plan, as amended from time to time, said Plan being incorporated herein by reference.
- 2.16 “Participant” means any individual who participates in the Plan in accordance with Article III.
- 2.17 “Plan” means the Employer’s Salary Reduction Plan as set forth herein, together with any and all amendments and supplements hereto.
- 2.18 “Plan Anniversary Date” means June 17, 2004.
- 2.19 “Plan Year” means the period beginning on the Effective Date and ending on December 31, 2003, and the 12-month period ending on each December 31st, thereafter.

2. 20 “Qualifying Medical Care Expense” means an expense incurred by a Participant, or by the spouse or Dependent of such Participant, for medical care as defined in Section 213 of the Code (including without limitation amounts paid for hospital bills, doctor and dental bills and drugs), but only to the extent that Participant or other person incurring the expense is not reimbursed for the expense through insurance or otherwise (other than under the Plan).

ARTICLE III – PARTICIPATION

- 3.1 Commencement of Participation. Each Employee who has completed at least thirty days (30) of service with the Employer will be eligible to participate in the Plan. An Employee will become a Participant on the later of (a) the Effective Date or (b) the first day of the month following the date he becomes eligible to participate under the preceding sentence.
- 3.2 Cessation of Participation. A Participant will cease to be a Participant as of the earlier of (a) the date on which the Plan terminates or (b) the date on which he ceases to be an Employee eligible to participate under Section 3.1; or, (c) upon election to discontinue participation in the Plan.
- 3.3 Reinstatement of Former Participant. A former Participant will become a Participant again if and when he meets the eligibility requirements of Section 3.1 on the first day of the Plan Year beginning after he meets said eligibility requirements.

ARTICLE IV – OPTIONAL BENEFITS

4.1 Benefits Options. A Participant may choose under this Plan to receive his full base salary for a Plan Year in cash or to have a portion of it applied by the Employer toward the cost of one or more of the following optional benefits:

- (a) Benefits available to the Participant under the Dependent Care Assistance Plan;
- (b) Benefits available to the Participant under any or all of the Medical Care Plan which may be maintained by the Employer; and
- (c) Benefits available to the Participant under the Medical Reimbursement Plan.

4.2 Description of Benefits. While the election to receive one or more of the optional benefits described in Section 4.1 may be made under this Plan, the benefits will be provided not by this Plan but by the Dependent Care Assistance Plan, Medical Care Plans and the Medical Reimbursement Plan. The types and amounts of benefits available under each option described in Section 4.1, the requirements for participating in such option, and the other terms and conditions of coverage and benefits under such options are as set forth from time to time in the Dependent Care Assistance Plan, Medical Care Plans and the Medical Reimbursement Plan, and in the group insurance contracts and prepaid health plan contracts that constitute (or are incorporated by reference in) certain of those Plans. The benefits descriptions in such Plans and contracts, as in effect from time to time, are hereby incorporated by reference into this Plan.

- 4.3 Election of Optional Benefits. A Participant may elect under this Plan to receive one or more of the optional benefits described in Section 4.1 in accordance with the procedure described in Section 4.4. If a Participant elects the optional benefit described in Section 4.1 (a), the Participant's base salary will be reduced, and an amount equal to the reduction will be credited by the Employer to a reimbursement account in accordance with the Dependent Care Assistance Plan. If a Participant elects the optional benefits described in Section 4.1(b), the Participant's base salary will be reduced, and an amount equal to the reduction will be contributed by the Employer under the Medical Care Plans to cover the Participant's share of the cost of the benefits as determined by the Employer. The balance of the cost of the benefits shall be paid by the Employer under this Plan with non-elective Employer contributions. If a Participant elects the optional benefit described in Section 4.1(c), the Participant's Base Salary will be reduced, and an amount equal to the reduction will be credited by the Employer to a reimbursement account in accordance with the Medical Reimbursement Plan.
- 4.4 Election Procedure. Approximately 30 days prior to the commencement of each Plan Year, the Administrator shall provide one or more written election forms and compensation reduction agreements to each Participant and to each other Employee who is expected to become a Participant at the beginning of the Plan Year. The election forms shall be effective as of the first day of the Plan Year. Each Participant who desires one or more optional benefit coverages described in Section 4.1 for the Plan Year shall so specify on the appropriate election form or forms and shall agree to a reduction in his base salary. The amount of the

reduction in the Participant's base salary for the Plan Year for each optional benefit described in Section 4.1(b) that is elected by the Participant shall equal the Participant's share of the cost of such optional benefit, and shall be adjusted automatically in the event of a change in such cost. The amount of the reduction in the Participant's base salary for the Plan Year for each optional benefit described in Section 4.1(a) or Section 4.1(c) shall be the amount elected by the Participant, subject to the limitations of the Medical Reimbursement Plan or the Dependent Care Assistance Plan. Each election form must be completed and returned to the Administrator on or before such date as the Administrator shall specify, which date shall be no later than the beginning of the first pay period for which the Participant's compensation reduction agreement will apply.

- 4.5 New Participants. As soon as practicable before an Employee becomes an eligible Participant under Section 3.1 or 3.3, the Administrator shall provide the written election form or forms and compensation reduction agreement or agreements described in Section 4.4 to the Employee. If the Employee desires one or more optional benefit coverages described in Section 4.1 for the balance of the Plan Year, he shall so specify on the election form and forms and shall to a reduction in his base salary as provided in Section 4.4. The election form or forms must be completed and returned to the Administrator on or before such date as the Administrator shall specify, which date shall be no later than the beginning of the first pay period for which the Participant's compensation reduction agreement or agreements will apply.

- 4.6 Failure to Elect. A Participant failing to return a completed election form to the Administrator on or before the specified due date for the initial Plan Year of the Plan, or for the Plan Year in which he became a Participant, shall be deemed to have elected to receive his full base salary in cash. A Participant failing to return a completed election form to the Administrator on or before the specified due date for any subsequent Plan Year shall be deemed to have made the same election as was in effect as to such optional benefits just prior to the end of the proceeding Plan Year. The Participant shall also be deemed to have agreed to a reduction in his base salary for the subsequent Plan Year equal to the Participant's share of the cost from time to time during such Plan Year of each optional benefit he is deemed to have elected for such Plan Year.
- 4.7 Changes by Administrator. If the Administrator determines, before or during any Plan Year, that the Plan may fail to satisfy, for such Plan Year, any nondiscrimination requirement imposed by the Code or any limitation on benefits provided to Key Employees, the Administrator shall take such action as the Administrator deems appropriate, under rules uniformly applicable to similarly situated participants, to assure compliance with such requirement or limitation. Any new election under this Section 4.7 shall be effective at such time as the Administrator shall prescribe.
- 4.8 Irrevocability of Election by the Participant During the Plan Year. Elections made under the Plan (or deemed to be made under Section 4.6) shall be irrevocable by the Participant during the Plan Year, except in the case of a change in family status. A Participant may revoke a benefit election for the balance of a Plan Year

and file a new election only if both the revocation and the new election are on account of and consistent with a change in family status. A change in family status for this purpose includes marriage, divorce, legal separation, death of a spouse or child, birth or adoption of a child, termination of employment of a spouse, a change in work schedule, residence or worksite, cases where a dependent satisfies or ceases to satisfy the requirements for coverage of unmarried dependents, cases where the election conforms with the participant's enrollment rights under the *Health Insurance Portability and Accountability Act of 1996*, and such other events that the Administrator determines affects eligibility of coverage. If the election change corresponds with the effect on eligibility, the Administrator will permit a change or revocation of an election during a Plan Year under regulations and rulings of the Internal Revenue Service. Any new election under this Section 4.8 shall be effective at such time as the Administrator shall prescribe, but not earlier than the first pay period beginning after the election form is completed and returned to the Administrator.

4.9 Automatic Termination of Election. Elections made under this Plan (or deemed to be made under Section 4.6) shall automatically terminate on the date on which the Participant ceases to be a Participant in the Plan, although coverage or benefits under any of the benefits options described in this Plan may continue if so provided by the terms of such benefit or option.

4.10 Maximum Employer Contributions. The maximum amount of employer contributions under the Plan for any Participant shall be the sum of (a) the maximum amounts which the Participant may receive in the form of dependent

care assistance under the Dependent Care Assistance Plan (as set forth in said Plan and in Section 7.2 below), (b) the costs from time to time of the most expensive benefits available to the Participant under the Medical Care Plans (including the portion of such costs payable with non-elective Employer contributions) and (c) the maximum amounts which the Participant may receive in the form of medical reimbursements under the Medical Reimbursement Plan (as set forth in said Plan and in Section 10.2 below).

ARTICLE V – ADMINISTRATION OF PLAN

5.1 Plan Administrator. The administrator of the Plan shall be under the supervision of the Administrator. It shall be a principal duty of the Administrator to see that the Plan is carried out, in accordance with its terms, for the exclusive benefit of persons entitled to participate in the Plan without discrimination among them. The Administrator will have full power to administer the Plan in all of its details, subject to applicable requirements of law. For this purpose, the Administrator's powers will include, but will not be limited to, the following authority, in addition to all powers provided by this Plan:

- (a) To make and enforce such rules and regulations as it deems necessary or proper for the efficient administration of the Plan, including the establishment of any claims procedures that may be required by applicable provisions of law;
- (b) To interpret the Plan, its interpretation thereof in good faith to be final and conclusive on all persons claiming benefits under the Plan;

- (c) To decide all questions concerning the Plan and the eligibility of any person to participate in the Plan, its decisions in good faith to be final and conclusive on all persons claiming benefits or eligibility under the Plan;
- (d) To appoint such agents, counsel, accountants, consultants and other persons as may be required to assist in administering the Plan; and
- (e) To allocate and delegate its responsibilities under the Plan and to designate other persons to carry out any of its responsibilities under the Plan, any such allocation, delegation or designation to be in writing. Any such allocation or delegation may be rescinded at any time, and/or may allow further allocation or delegation by the person or entity to whom the initial allocation or delegation is made.

Notwithstanding the foregoing, any claim which arises under the administration of the various benefit plans available as benefit options through this Plan shall not be subject to review benefits under this Plan, and the Administrator's authority under this Section 5.01 shall not extend to any matter as to which an administrator under any such other plan is empowered to make determinations.

5.2 Examination of Records. The Administrator will make available to each Participant such of his records under the Plan as pertain to him, for examination at reasonable times during normal business hours.

5.3 Reliance on Tables, Etc. In administering the Plan, the Administrator will be entitled to the extent permitted by law to rely conclusively on all tables, valuations, certificates, opinions and reports which are furnished by, or in accordance with the instructions of, the administrators of the various benefit plans

available as benefits options through this Plan, or by accountants, counsel or other experts employed or engaged by the Administrator.

5.4 Nondiscriminatory Exercise of Authority. Whenever, in the administration of the Plan, any discretionary action by the Administrator is required, the Administrator shall exercise its authority in a nondiscriminatory manner so that all persons similarly situated will receive substantially the same treatment.

5.5 Indemnification of Administrator. The Employer agrees to indemnify and to defend to the fullest extent permitted by law any Employee serving as the Administrator or as a member of a committee designated as Administrator (including any Employee or former Employee who formerly served as Administrator or as a member of such committee) against all liabilities, damages, costs and expenses (including attorneys' fees and amounts paid in settlement of any claims approved by the Employer) occasioned by any act or omission to act in connection with the Plan, if such act or omission is in good faith.

ARTICLE VI – AMENDMENT AND TERMINATION OF PLAN

6.1 Plan Amendment.

(a) The Employer shall retain the right, in its sole and final discretion, to amend the Plan at any time and to any extent it may deem advisable.

(b) The Plan shall be amended in a manner and effective as of the date set forth by the Employer. The Employees, participants and all other having any interest under the Plan shall be bound thereby.

- (c) Notwithstanding (b) above, no amendment shall affect the nontaxable benefits of any Participant until the Plan Anniversary Date coincident with or next following the effective date of the amendment.

6.2 Plan Termination.

- (a) The Employer shall have the right to terminate this Plan at any time.
- (b) The Plan shall automatically terminate upon cessation of operations by the Employer unless a successor employer adopts and continues the Plan.

ARTICLE VII – ELECTION TO RECEIVE DEPENDENT CARE ASSISTANCE

7.1 Election Procedure. A Participant may elect to receive dependent care assistance under this Plan by filing an election and compensation reduction agreement in accordance with the procedures established under the Salary Reduction Plan. Such an election shall be irrevocable during the Plan Year, subject to a change in family status, as provided in Section 4.8.

7.2 Maximum Dependent Care Assistance. The maximum amount which the Participant may receive in any Plan Year in the form of dependent care assistance under this Plan shall be Five Thousand Dollars (\$5,000.00), not to exceed limitations under the Code.

ARTICLE VIII – DEPENDENT CARE ASSISTANCE ACCOUNTS

8.1 Establishment of Accounts. The Employer will establish and maintain on its books a Dependent Care Assistance Account for each Plan Year with

respect to each Participant who has elected to receive dependent care assistance for the Plan Year.

8.2 Crediting of Accounts. There shall be credited to a Participant's Dependent Care Assistance Account for each Plan Year, an amount equal to the reduction, if any, to be made from base salary in accordance with the Participant's election and compensation reduction agreement under the Salary Reduction Plan. All amounts credited to each Account shall be the property of the Employer until paid out pursuant to this Plan and the Dependent Care Assistance Plan.

8.3 Debiting of Accounts. A Participant's Dependent Care Assistance Account for each Plan Year shall be debited from time to time in the amount of any payment to or for the benefit of the Participant for Dependent Care Expenses. Amounts debited to each Account shall be treated as payments of the earliest amounts credited to the Account and not yet treated as paid under this Section, under a "first-in/first-out" approach.

8.4 Forfeiture of Accounts. The amount credited to a Participant's Dependent Care Assistance Account for any Plan Year shall be used only to reimburse the Participant for Dependent Care Expenses incurred during such Plan Year, and only if the Participant applies for reimbursement on or before the 90th day following the close of the Plan Year. If any balance remains in the Participant's Dependent Care Assistance Account for any Plan Year after all reimbursements hereunder, such balance shall not be

carried over to reimburse the Participant for Dependent Care Expenses incurred during a subsequent Plan Year, and shall not be available to the Participant in any form or manner, but shall remain the property of the Employer, and the Participant shall forfeit all rights with respect to such balance.

ARTICLE IX – PAYMENT OF DEPENDENT CARE ASSISTANCE

9.1 Claims for Reimbursement. A Participant who has elected to receive dependent care assistance may apply to the Administrator for reimbursement of Dependent Care Expenses incurred by the Participant during the Plan Year by submitting an application in writing to the Administrator, in such form as the Employer may prescribe, setting forth:

- (a) the amount, date and nature of the expense with respect to which a benefit is requested;
- (b) the name of the person, organization or entity to which the expense was or is to be paid; and
- (c) such other information as the Employer may from time to time require. Such application shall be accompanied by itemized bills, itemized invoices, receipts, or other statements showing the amounts of such expenses, together with any additional documentation which the Administrator may request.

9.2 Reimbursement or Payment of Expenses. The Employer shall reimburse the Participant from the Participant's Dependent Care Assistance Account for expenses incurred during the Plan Year for which the Participant

submits documentation in accordance with Section 9.1. The Administrator may, at its option, pay any such Dependent Care Expenses directly to the Dependent Care Service Provider in lieu of reimbursing the Participant. No reimbursement or payment under this Section 9.2 of expenses incurred during a Plan Year shall at any time exceed the balance of the Participant's Dependent Care Assistance Account.

9.3 Payment of Reimbursements. All Dependent Care Assistance Account reimbursements shall be accumulated and paid weekly by the Administrator in accordance with Section 9.2.

9.4 Termination of Dependent Care Assistance Reimbursements. In the event that a Participant ceases to be a Participant in this Plan for any reason, the Participant's compensation reduction agreement relating to dependent care assistance shall terminate. The Participant (or his estate) shall be entitled to reimbursement only for expenses incurred within the same Plan Year and prior to the 90th day after the date participation is terminated, and only if the Participant (or his estate) applies for such reimbursement in accordance with Section 9.1 on or before the earlier of (1) the 90th day following the date participation is terminated, or (2) the 90th day after the close of the Plan Year.

ARTICLE X – ELECTION TO RECEIVE MEDICAL CARE EXPENSE REIMBURSEMENTS

10.1 Election Procedure. A Participant may elect to receive reimbursements of his Qualifying Medical Care Expenses under this Plan by filing an election

and compensation reduction agreement in accordance with the procedures established under the Salary Reduction Plan. Such an election shall be irrevocable during the Plan Year, subject to a change in family status, as provided in Section 4.8.

- 10.2 Maximum Reimbursements. The maximum amount which the Participant may receive under this Plan in the form of reimbursements for Qualifying Medical Care Expenses incurred in any Plan Year shall be Ten Thousand Dollars (\$10,000.00) not to exceed limitations under the Code.

ARTICLE XI – MEDICAL REIMBURSEMENT ACCOUNTS

- 11.1 Establishment of Accounts. The Employer will establish and maintain on its books a Medical Reimbursement Account for each Plan Year with respect to each Participant who has elected to receive medical reimbursement for the Plan Year.
- 11.2 Crediting of Accounts. There shall be credited to a Participant's Medical Reimbursement Account for each Plan Year, an amount equal to the reduction, if any, to be made from base salary in accordance with the Participant's election and compensation reduction agreement under the Salary Reduction Plan. All amounts credited to that Account shall be the property of the Employer until paid out pursuant to the Salary Reduction Plan and the Medical reimbursement Plan.
- 11.3 Debiting of Accounts. A Participant's Medical Reimbursement Account for each Plan Year shall be debited from time to time in the amount of any payment to or for the benefit of the Participant for Qualifying Medical

Care Expenses. Amounts debited to each Account shall be treated as payments of the earliest amounts credited to the Account and not yet treated as paid under this Section, under a “first-in/first-out” approach.

- 11.4 Forfeiture of Accounts. The amount credited to a Participant’s Medical Reimbursement Account for any Plan Year shall be used only to reimburse the Participant for Qualifying Medical Care Expenses incurred during such Plan Year, and only if the Participant applies for reimbursement on or before the 90th day following the close of the Plan Year. If any balance remains in the Participant’s Medical Reimbursement Account for any Plan Year after all reimbursements hereunder, such balance shall not be carried over to reimburse the Participant for Qualified Medical Care Expenses incurred during a subsequent Plan Year, and shall not be available to the Participant in any other form or manner, but shall remain the property of the Employer, and the Participant shall forfeit all rights with respect to such balance.

ARTICLE XII – PAYMENT OF MEDICAL CARE EXPENSE REIMBURSEMENTS

- 12.1 Claims for Reimbursement. A Participant who has elected to receive medical care reimbursements may apply the Employer for reimbursement of Qualified Medical Care Expenses incurred by the Participant during the Plan Year by submitting an application in writing to the Employer, in such form as the Employer may prescribe, setting forth:

- (a) the amount, date and nature of the expense with respect to which a benefit is requested;
- (b) the name of the person, organization or entity to which the expense was or is to be paid; and
- (c) such other information as the Employer may from time to time require. Such application shall be accompanied by itemized bills, itemized invoices, receipts, or other statements showing the amounts of such expenses, together with any additional documentation which the Employer may request.

12.2 Reimbursement or Payment of Expenses. The Employer shall reimburse the Participant from the Participant's Medical Reimbursement Account for Expenses incurred during the Plan Year for which the Participant submits documentation in accordance with Section 12.1. The Employer may, at its option, pay any such Qualifying Medical Care Expenses directly to the person providing or supplying medical care in lieu of reimbursing the Participant. No reimbursement or payment under this Section 12.2 of expenses incurred during a Plan Year shall at any time exceed the maximum amount of the Participant's medical reimbursement coverage for the Plan Year.

12.3 Time of Payments. All Medical Reimbursement Account reimbursements shall be accumulated and paid in accordance with Section 12.2 at the end of each week by the Employer.

12.4 Run-out Period. In the event that a Participant ceases to be a Participant in this Plan for any reason, the Participant (or his estate) shall be entitled to reimbursement only for expenses incurred within the same Plan Year and prior to the 90th day after the date participation is terminated, and only if the Participant (or his estate) applies for such reimbursement in accordance with Section 12.1 on or before the earlier of (1) 90th day following the date participation is terminated, or (2) the 90th day after the close of the Plan Year.

ARTICLE XIII – MISCELLANEOUS PROVISIONS

13.1 Information to be Furnished. Participants shall provide the Employer and Administrator with such information and evidence, and shall sign such documents, as may reasonably be requested from time to time for the purpose of administration of the Plan.

13.2 Named Fiduciary. The Administrator will be a “named fiduciary” for purposes of Section 402(a)(1) of ERISA with authority to control and manage the operation and administration of the Plan, and will be responsible for complying with all of the reporting and disclosure requirements of Part 1 of Subtitle B of Title I of ERISA, insofar as same may be applicable.

13.3 Communication to Employees. Promptly after the Plan is adopted, the Employer will notify all Employees of the availability and terms of the Plan.

- 13.4 Benefits Solely from General Assets. The benefits provided hereunder will be paid solely from the general assets of the Employer. Nothing herein will be construed to require the Employer or the Administrator to maintain any fund or segregate any amount for the benefit of any Participant, and no Participant or other person shall have any claim against, right to, or security or other interest in, any fund, account or asset of the Employer from which any payment under the Plan may be made.
- 13.5 Non-assignability of Rights. The right of any Participant to receive any reimbursement under the Plan shall not be alienable by the Participant by assignment or any other method, and will not be subject to be taken by his credited by any process whatsoever, and any attempt to cause such right to be so subjected will not be recognized, except to such extent as may be required by law.
- 13.6 No Guarantee of Tax Consequences. Neither the Administrator nor the Employer makes any commitment or guarantee that any amounts paid to or for the benefit of a Participant hereunder will be excludable from the Participant's gross income for federal or state income tax purposes, or that any other federal or state tax treatment will apply to be available to any Participant. It shall be the obligation of each Participant to determine whether each payment hereunder is excludable from the Participant's gross income for federal and state income tax purposes, and to notify the Employer if the Participant has reason to believe that any such payment is not so excludable.

- 13.7 Limitation of Rights. Neither the establishment of the Plan nor any amendment thereof, nor the payment of any benefits, will be construed as giving to any Participant or other person any legal or equitable right against the Employer or Administrator, except as may be provided herein.
- 13.8 Governing Law. This Plan shall be constructed, administered and enforced according to the laws of Illinois.
- 13.9 Construction. A pronoun or adjective in the masculine gender includes the feminine gender, and the singular includes the plural, unless the context clearly indicates otherwise.

IN WITNESS WHEREOF, Village of Downers Grove authorizes this Plan to be executed in its name and on its behalf this 17th day of June, 2003 by its duly authorized Mayor and Village Clerk.

Village of Downers Grove

By: _____

Mayor

ATTEST:

By: _____

Village Clerk

