

**SPORTS, HOSPITALITY AND ENTERTAINMENT 401(k) PLAN**  
**NOTICE REGARDING CHANGES TO HARDSHIP WITHDRAWAL RULES**

The purpose of this notice is to inform you of changes to the administration of hardship withdrawal under the Sports, Hospitality and Entertainment 401(k) Plan (the “*Plan*”) that became effective January 1, 2019. Please review it carefully, as it could impact your decisions regarding whether to apply for a hardship withdrawal.

**Hardship Withdrawal Overview.**

The Plan allows you to withdraw all or part of your account balance under the Plan in the event that you incur an immediate and heavy financial need. There are specific categories of financial need that will qualify you to receive a hardship withdrawal (*e.g.*, certain medical expenses; purchase of your principal residence; or funeral or burial expenses for a deceased parent, spouse, child, or other dependent). For more information on the categories of financial need, please consult your Summary Plan Description.

Generally, to be eligible to receive a hardship withdrawal you must meet the following requirements: (i) the withdrawal amount does not exceed the amount you need to meet your financial need; and (ii) you must obtain all other distributions and all non-taxable loans available to you from any plan maintained by the Plan sponsor or any related company. In addition, prior to January 1, 2019, the Plan required you to suspend your 401(k) contributions (including both pre-tax and Roth 401(k) contributions) to the Plan (and any other plan maintained by the Plan sponsor or any related company) for at least six months after the receipt of the hardship withdrawal.

**Changes to Hardship Withdrawal Rules.**

The Bipartisan Budget Act of 2018 (the “*BBA*”) has modified the rules regarding how hardship withdrawals are administered under the Plan, effective January 1, 2019. Specifically, the BBA has eliminated the required six-month suspension of elective deferrals following a hardship withdrawal. As a result, effective January 1, 2019, the Plan will no longer suspend your 401(k) contributions following your receipt of a hardship withdrawal.

For more information or if you have any questions, please contact the Plan Sponsor.

**January 1, 2019**  
**SUMMARY PLAN DESCRIPTION**  
**FOR**  
**SPORTS, HOSPITALITY AND ENTERTAINMENT 401(K) PLAN**

**Employer Identification Number: 27-3287832**  
**Plan Number: 001**

This is only a summary intended to familiarize you with the major provisions of the Plan. You should read this summary closely. If you have any questions and before you make any important decisions based on your understanding of the Plan from this summary, you should contact the Plan Administrator. Please note that if there are any discrepancies between this summary and the official Plan document, the terms of the official Plan document will govern.

## **HOW TO USE THIS SUMMARY**

### **TABLE OF CONTENTS**

The table of contents gives a detailed description of where specific information concerning a particular topic may be found.

### **GLOSSARY**

Some terms used in the summary have special meanings. These terms are identified by capitalizing the term's first letter. To find out the exact meaning of a special term, there is a glossary at the end of this summary.

### **EFFECTIVE DATE**

This booklet describes in easy-to-understand terms the principal features of the Plan as in effect on January 1, 2019. It updates and replaces any prior descriptions of the Plan. Some Plan provisions may be different for employees whose employment terminated before January 1, 2019.

### **MORE SPECIFIC INFORMATION**

Some technical details and legal expressions contained in the formal Plan documents have been omitted in this summary. The formal Plan documents govern in administering and interpreting the rights of participants and their beneficiaries.

### **DAILY ADMINISTRATIVE CONTACT**

The person or entity handling the day-to-day operations of the Plan is:

Julie Y. Copeland  
Associate Director of Benefits  
Fertitta Entertainment, Inc.  
1510 West Loop South  
Houston, TX 77027  
(713) 386-7337

Any questions concerning the day-to-day operations of the Plan should be directed to the person or entity identified above.

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## INTRODUCTION TO YOUR PLAN

The Sports, Hospitality and Entertainment 401(k) Plan helps you provide for your retirement security by making it simple and convenient for you to contribute to your retirement savings regularly. Your Employer may also make contributions to your Account to provide you with additional savings. The Plan is intended to meet federal tax law qualification requirements, allowing your savings to accumulate on a tax-deferred basis and permitting you to save more dollars for your retirement.

### HOW YOU SAVE

- You may contribute a percentage of your pay to the Plan as 401(k) Contributions. You may make Pre-Tax 401(k) Contributions and/or Roth 401(k) Contributions. For information on making 401(k) Contributions, see **YOUR CONTRIBUTIONS: 401(k) CONTRIBUTIONS**.
- If you will be age 50 by the end of the year, you may make Catch Up 401(k) Contributions to the Plan. Catch Up 401(k) Contributions are additional 401(k) Contributions that are not subject to some of the annual limits imposed on 401(k) Contributions under the Plan. For more information on making Catch Up 401(k) Contributions, see **YOUR CONTRIBUTIONS: 401(k) CONTRIBUTIONS** and **LIMITATIONS ON CONTRIBUTIONS**.
- If you have savings from another retirement plan or annuity, you may be able to roll those savings into the Plan as Rollover Contributions. For more information on the types of savings that may be rolled over into the Plan and the terms and conditions for making Rollover Contributions, see **YOUR CONTRIBUTIONS: ROLLOVER CONTRIBUTIONS**.
- If you contribute to the Plan, your Employer will add a Matching Contribution. For information on the amount of your Employer's Matching Contribution and the terms and conditions for receiving Matching Contributions, see **EMPLOYER CONTRIBUTIONS: MATCHING CONTRIBUTIONS**.
- Your Employer may also make Nonelective Contributions to the Plan for you. For information on the amount of your Employer's Nonelective Contribution and the terms and conditions for receiving Nonelective Contributions, see **EMPLOYER CONTRIBUTIONS: NONELECTIVE CONTRIBUTIONS**.
- Dollars you save as Pre-Tax 401(k) Contributions and dollars your Employer contributes on your behalf are not currently included as part of your federal taxable income. Dollars saved as Roth 401(k) Contributions, including Designated Roth Rollover Contributions, are taxed before contributed, but are not taxed when they are distributed to you. Taxes are also deferred on investment earnings on all contributions held in your Account. Therefore, you pay no federal income taxes on your Plan savings, except dollars saved as Roth 401(k) Contributions, including Designated Roth Rollover Contributions, until they are distributed to you. If you satisfy certain rules, you will not pay taxes on investment earnings on your Roth 401(k) Contributions and Designated Roth Rollover Contributions even when they are distributed to you.

### YOUR PLAN ACCOUNT

You have your own Account under the Plan to hold all contributions you make to the Plan and any contributions your Employer makes for you. Your Account also holds any investment earnings on those contributions. Your Account keeps track of your share of the assets held in the Plan.

### VESTING OF YOUR ACCOUNT

Your Vested Interest in your Account is the percentage of your Account that you would receive if your employment terminated.

Your Vested Interest in the balance of your Account resulting from your Pre-Tax 401(k) and Roth 401(k) Contributions is always 100%.

Your Vested Interest in the balance of your Account resulting from Employer Contributions is determined under the applicable vesting schedule, which may require you to complete a specified number of years of Vesting Service to earn a Vested Interest. (For more information about Vesting Service and vesting schedules, see **EMPLOYER CONTRIBUTIONS: VESTED INTEREST IN EMPLOYER CONTRIBUTIONS** and **VESTING SERVICE**.)

## **DISTRIBUTION OF BENEFITS**

You may receive distributions from your Vested Interest in your Account when any of the following happens:

- You satisfy the requirements for an in-service withdrawal. (For more information about withdrawals, see **IN-SERVICE WITHDRAWALS**.)
- You retire from employment after you reach your Normal or Early Retirement Date.
- You die (distribution will be made to your Beneficiary).
- Your employment terminates. (For more information about distributions following termination of employment, see **DISTRIBUTION OF YOUR ACCOUNT**.)

## **SPONSOR DISCRETION**

The Sponsor has discretionary authority to interpret and construe the provisions of the Plan, to determine your eligibility for benefits under the Plan, and to resolve any disputes that arise under the Plan. The Sponsor may delegate this authority as provided under the Plan. Any interpretation, determination, or other action made or taken by the Sponsor shall be final, binding and conclusive.

## **PLAN IDENTIFICATION INFORMATION**

### **TYPE OF PLAN**

The Plan is a "**defined contribution plan**". Under a defined contribution plan, all contributions you make to the plan or that are made on your behalf are held in an account that is invested in accordance with your investment direction. When you retire, your retirement benefit from the plan will be based on the value of your account (including investment earnings and losses) at the time distribution is made to you.

The Plan is a type of defined contribution plan called a "**profit-sharing plan**". Contributions under a profit-sharing plan are **not** subject to funding requirements under federal tax law. Therefore, contributions may be discretionary with the employer and may be conditioned on the employer's profits. However, any contributions made under a profit-sharing plan must be allocated among participants under a formula that is described in the plan.

The Plan is also a "**401(k) plan**". Under a 401(k) plan, you may elect to make contributions to the plan from your pay. Your contributions (called "401(k) Contributions" in this summary) may be either Pre-Tax 401(k) Contributions or Roth 401(k) Contributions. You do not pay any taxes on your Pre-Tax 401(k) Contributions or earnings until they are distributed to you. You pay taxes on your Roth 401(k) Contributions for the year of the contribution, but earnings accumulate tax-free and, if you satisfy certain requirements, are also excluded from your taxable income when distributed to you.

The Plan is also intended to be a "**404(c) plan**". Under a 404(c) plan, you may select the investments for all or a portion of your account under the plan. For the accounts over which you control investments, fiduciaries who would otherwise be responsible for assuring that your account is invested appropriately are relieved of responsibility for your investment choices. For more information, see **PLAN INVESTMENTS: 404(c) PROTECTION**.

### **ADMINISTRATOR**

(This is the Plan Administrator for purposes of ERISA and the Internal Revenue Code.)

Fertitta Entertainment, Inc.  
1510 West Loop South  
Houston, TX 77027  
(713) 386-7337



**SPONSOR**

Fertitta Entertainment, Inc.  
1510 West Loop South  
Houston, TX 77027

**SPONSOR'S EMPLOYER IDENTIFICATION NUMBER**

27-3287832

**PLAN NUMBER**

001

**PARTICIPATING EMPLOYERS**

Refer to Exhibit A at the end of the Summary Plan Description for other Employers who have adopted this Plan.

**FUNDING MEDIUM**

Plan assets are held in a trust maintained by the Trustee.

**TRUSTEE**

Prudential Bank & Trust, FSB  
280 Trumbull Street, H07E  
Hartford, CT 06103

**AGENT FOR SERVICE OF LEGAL PROCESS**

Legal process may be served on the Sponsor at its address listed above.

Legal process may also be served on the Administrator or the Trustee at its address listed above.

**ELIGIBILITY TO PARTICIPATE**

If you were eligible to make contributions to the Plan and/or receive Employer Contributions before January 1, 2019, you will continue to be eligible after January 1, 2019, provided you are still a Covered Employee, as described below. If you were *not* already eligible to make contributions to the Plan and/or receive Employer Contributions before January 1, 2019, you will become eligible after satisfying the eligibility requirements described below.

**ELIGIBILITY REQUIREMENTS**

To participate in the Plan with respect to any type of contribution, you must satisfy the eligibility requirements applicable to that type of contribution. The eligibility requirements for each contribution type are:

- 401(k) Contributions and Rollover Contributions. For eligibility to make 401(k) Contributions and Rollover Contributions, you must:
  - be a Covered Employee, as described in Covered Employees below;
  - complete 1 month of Eligibility Service ; and
  - be at least age 21.
- Nonelective Contributions. For eligibility to receive Nonelective Contributions you must:
  - be a Covered Employee, as described in **COVERED EMPLOYEES** below;
  - complete 1 year of Eligibility Service; and
  - be at least age 21.
- Matching Contributions. For eligibility to receive Matching Contributions you must:

- be a Covered Employee, as described in **COVERED EMPLOYEES** below;
- complete 1 year of Eligibility Service; and
- be at least age 21.

**COVERED EMPLOYEES**

You are a Covered Employee if:

- you are a common law employee of the Employer.

**OR**

- you are self-employed (e.g., a partner) and receive income for personal services performed for the Employer (but are not an independent contractor with respect to the Employer).

**AND**

- you have **not** executed a contract, letter of agreement, or other document acknowledging your status as an independent contractor and are **not** otherwise treated by the Employer as an independent contractor with respect to whom the Employer does not withhold income taxes and file Form W-2 (or any replacement Form) with the Internal Revenue Service. If the Employer treats you as an independent contractor and you are later adjudicated to be a common law employee of the Employer, you will not be considered a Covered Employee unless and until the Employer extends Plan coverage to you.
- you are **not** a nonresident alien, or you are a nonresident alien who receives United States source income.
- you are **not** a Leased Employee.
- you are **not** a union employee.
- you are **not** a resident of Puerto Rico.
- you are **not** an hourly-wage Employee, other than an hourly-wage Employee who is employed by the Company in a position with a job title and at the Company concept as follows: Assistant Retail Manager-Rainforest Cafe, Assistant Facilities Manager-Rainforest Cafe, Curator-Rainforest Cafe, Facilities Manager-Rainforest Cafe, Purchasing Manager-Rainforest Cafe, Retail Manager-Rainforest Cafe, Sale Manager-Rainforest Cafe, Associate Director of Security-Corporate, or Executive Administrative Assistant.
- you are **not** a Highly Compensated Employee of an Employer, other than a Highly Compensated Employee employed by Catch of LA Operating Company, LLC, EMM Group Management, LLC, Lexington Project Mangers, LLC, Lucky 13 Associates, LLC, or Go Rio San Antonio, LLC.
- you are **not** an Employee who is hired during a Plan Year whose base salary is equal to or in excess of the dollar amount in effect for such Plan Year under Code Section 414(q)(1)(B)(i) adjusted pursuant to Code Section 415(d), other than an Employee employed by Catch of LA Operating Company, LLC, EMM Group Management, LLC, Lexington Project Mangers, LLC, Lucky 13 Associates, LLC, or Go Rio San Antonio, LLC.

**DATE OF PARTICIPATION**

You will commence participation in the Plan on the first day of the month coinciding with or immediately following the date you meet the applicable eligibility requirements described above.

**TRANSFERS OF EMPLOYMENT**

If you are transferred from other employment with the Employer or a Related Company to employment as a Covered Employee (as described in **COVERED EMPLOYEES** above), you will be eligible to participate beginning on your transfer date if you would have been eligible to participate on or before your transfer date had you been employed as a Covered Employee for your entire period of employment. Otherwise, you will be eligible to participate as provided above.

## REEMPLOYMENT

If your employment terminates and you are later reemployed as a Covered Employee (as described in **COVERED EMPLOYEES** above), you will be eligible to participate beginning on your reemployment date if you were eligible to participate at the time you terminated employment. Otherwise, you will be eligible to participate when you have met the requirements above.

## ELIGIBILITY SERVICE

### ***Crediting Eligibility Service***

You are credited with Eligibility Service from your hire (or rehire) date until your Severance Date. If your employment terminates but you are rehired before you have been absent from work for 12 months, you are credited with Eligibility Service for the period that you were absent from work.

You are credited with Eligibility Service for employment with the Employer, any Related Company, and a Predecessor Employer (provided the Employer maintains a plan of that Predecessor Employer). In addition, you are credited with Eligibility Service for employment with certain companies that are treated as Predecessor Employers under the Plan. For further information concerning the companies treated as Predecessor Employers, see the definition of "Predecessor Employer" in the **GLOSSARY**.

## YOUR CONTRIBUTIONS

### **401(k) CONTRIBUTIONS**

If you elect to make 401(k) Contributions, you authorize your Employer to reduce the Compensation you would regularly receive by a specified amount. This amount is then deposited in your Account as a 401(k) Contribution. You may elect to make Pre-Tax 401(k) Contributions and/or Roth 401(k) Contributions to the Plan. Once you have designated a 401(k) Contribution as either a Pre-Tax or Roth 401(k) Contribution, you may not later change its designation. You may, however, change your designation with respect to future 401(k) Contributions. (See ***Change in Amount and/or Treatment of 401(k) Contributions*** below).

#### ***Pre-Tax 401(k) Contributions***

You do not pay federal income taxes (or, in many states, state income taxes) on Compensation you contribute to the Plan as Pre-Tax 401(k) Contributions for the year in which you make the contribution. Instead, your Pre-Tax 401(k) Contributions and earnings on your Pre-Tax 401(k) Contributions are only taxable when they are distributed from the Plan.

#### ***Roth 401(k) Contributions***

You pay federal income taxes and state income taxes on Compensation you contribute to the Plan as Roth 401(k) Contributions for the year in which you make the contribution. However, your Roth 401(k) Contributions are not taxable when they are distributed from the Plan. In addition, if certain conditions are satisfied, the earnings on your Roth 401(k) Contributions are also not taxable when distributed from the Plan.

There are 2 separate sets of requirements that must be satisfied in order for the distribution of the earnings on your Roth 401(k) Contributions to be non-taxable:

- First, distribution must be made at least 5 years after the first day of the calendar year in which you first made Roth 401(k) Contributions to the Plan. Special rules apply for determining this 5-year period if you make Designated Roth Rollover Contributions.
- Second, the distribution must be a "qualified distribution." A "qualified distribution" is a distribution made to you after you reach age 59 1/2 or become disabled or made to your Beneficiary after your death. For this purpose, you are considered disabled if you are unable to engage in **any** substantial gainful activity because of a medically determinable physical or mental impairment that can be expected to result in your death or to be of long-continued and indefinite duration.

### ***How to Make an Election***

To make 401(k) Contributions, you must contact a customer service associate by calling 1-877-PRU-2100 (1-877-778-2100), access your Account at the Insurance Company's internet site – [www.Prudential.com/online/retirement](http://www.Prudential.com/online/retirement), or notify the Administrator of your election in accordance with the rules established by the Administrator. Your election must specify the portion of your 401(k) Contributions to be treated as Pre-Tax 401(k) Contributions and the portion to be treated as Roth 401(k) Contributions.

### ***Amount of 401(k) Contributions***

You may contribute any whole percentage of Compensation up to 75% of your Compensation as 401(k) Contributions.

If you will be age 50 or older by the end of the year, you may make Catch-Up 401(k) Contributions in excess of 75% of your Compensation. Your total Catch-Up 401(k) Contributions cannot exceed the Catch-Up Limit in effect for the year.

### ***Commencement of 401(k) Contributions***

401(k) Contributions will be made from your Compensation as provided in your election beginning as soon as reasonably practicable after the date your election is effective.

### ***Change in Amount and/or Treatment of 401(k) Contributions***

You may change the amount your Employer withholds from your future Compensation or change the portion of your 401(k) Contributions treated as Pre-Tax and Roth 401(k) Contributions effective as of any business day during the Plan Year. To change the amount or treatment of your 401(k) Contributions, you must contact a customer service associate by calling 1-877-PRU-2100 (1-877-778-2100), access your Account at the Insurance Company's internet site – [www.Prudential.com/online/retirement](http://www.Prudential.com/online/retirement), or notify the Administrator in accordance with the rules established by the Administrator. Any change in your election must specify the portion of your future 401(k) Contributions to be treated as Pre-Tax 401(k) Contributions and the portion to be treated as Roth 401(k) Contributions.

### ***Suspension of 401(k) Contributions***

You may direct your Employer to stop withholding amounts from your future Compensation and suspend your 401(k) Contributions at any time. To suspend your 401(k) Contributions, you must contact a customer service associate by calling 1-877-PRU-2100 (1-877-778-2100), access your Account at the Insurance Company's internet site – [www.Prudential.com/online/retirement](http://www.Prudential.com/online/retirement), or notify the Administrator in accordance with the rules established by the Administrator. The suspension will take effect as soon as reasonably practicable after you notify the Administrator.

If you suspend your 401(k) Contributions, the suspension will remain in effect until you elect to resume making 401(k) Contributions again.

### ***Resumption of 401(k) Contributions***

If you suspend your 401(k) Contributions, you may resume making 401(k) Contributions effective as of any business day during the Plan Year. To resume your 401(k) Contributions you must contact a customer service associate by calling 1-877-PRU-2100 (1-877-778-2100), access your Account at the Insurance Company's internet site – [www.Prudential.com/online/retirement](http://www.Prudential.com/online/retirement), or notify the Administrator in accordance with the rules established by the Administrator. Your notice to resume 401(k) Contributions must specify the portion of your future 401(k) Contributions to be treated as Pre-Tax 401(k) Contributions and the portion to be treated as Roth 401(k) Contributions.

### ***Annual Federal Limit on Amount of 401(k) Contribution***

Federal law limits the amount of 401(k) Contributions (including both Pre-Tax and Roth 401(k) Contributions) that you can make to the Plan each calendar year. For 2019, the maximum amount is \$19,000. The IRS may adjust this limit for future years. Any adjustment will be in increments of \$500. If the Administrator determines that the amount you authorize your Employer to withhold from your Compensation

would exceed the maximum amount permitted for the year, the Administrator will adjust the amount withheld so that it does not exceed the maximum.

### ***Catch-Up 401(k) Contributions***

If you will be age 50 or older by the end of the calendar year, you may make Catch-Up 401(k) Contributions for that year that exceed the annual Federal limit described above. Your total Catch-Up 401(k) Contributions for a year cannot exceed the Catch-Up Limit in effect for the year. For 2019 the Catch-Up Limit is \$6,000. The IRS may adjust this limit each year. If you are eligible to make Catch-Up 401(k) Contributions and you made a 401(k) Contribution in excess of one of the annual limits applicable to ***401(k) Contributions***, the excess contribution will be treated as a Catch-Up Contribution, and that amount will be subtracted from the Catch-Up Limit to determine the amount of any additional Catch-Up 401(k) Contributions you may make.

## **ROLLOVER CONTRIBUTIONS**

If you are a Covered Employee and have satisfied the eligibility requirements to make 401(k) Contributions to the Plan, you may elect to roll over qualified distributions into the Plan.

As further described below, your Rollover Contributions are subject to all the terms and conditions of the Plan and are only distributable to you under the terms of the Plan.

### ***Savings Eligible for Direct Rollover***

The Plan permits "direct rollovers" from the following:

- "qualified plans" (these are plans that meet the requirements of Section 401(a) or annuities that meet federal tax law qualification requirements, such as 401(k) or profit-sharing plans). Your "direct rollover" may include Roth contributions.
- 403(b) retirement plans (these are retirement plans maintained for employees of tax exempt organizations or governments). Your "direct rollover" may include Roth contributions.
- 457 deferred compensation plans (these are deferred compensation plans for employees of state or local governments). Your "direct rollover" may include Roth contributions.
- IRAs.

A "direct rollover" is a rollover made directly from another plan or annuity without being distributed to you first. You may not make a direct rollover to the Plan of after-tax employee contributions.

If you have an outstanding loan under another plan or annuity, you may ***not*** roll over the loan note as part of your Rollover Contribution.

### ***Savings Eligible for Indirect Rollover***

The Plan permits "indirect rollovers" from the following:

- "qualified plans" (these are plans that meet the requirements of Section 401(a) or annuities that meet federal tax law qualification requirements, such as 401(k) or profit-sharing plans). Your "indirect rollover" may include the taxable portion of any Roth contributions, but may not include non-taxable Roth contributions.
- 403(b) retirement plans (these are retirement plans maintained for employees of tax exempt organizations or governments). Your "indirect rollover" may include the taxable portion of any Roth contributions, but may not include non-taxable Roth contributions.
- 457 deferred compensation plans (these are deferred compensation plans for employees of state or local governments). Your "indirect rollover" may include the taxable portion of any Roth contributions, but may not include non-taxable Roth contributions.
- IRAs.

An "indirect rollover" is a rollover you make to the Plan of amounts you have actually received as a distribution from another plan or annuity. You may not make an indirect rollover to the Plan of after-tax employee contributions or, except as provided above, Roth contributions.

***Rollover Procedures***

The Administrator may require you to provide information to show that the savings you want to roll over meet the Plan requirements.

If the distribution qualifies, you may roll it over into the Plan by having it delivered to the Trustee. If you actually receive distribution of the amount you are rolling over, your Rollover Contribution must be delivered to the Trustee within 60 days of the date you receive it.

***Treatment of Designated Roth Rollover Contributions***

If you make Designated Roth Rollover Contributions to the Plan, those amounts will be accounted for separately from your other Rollover Contributions. This is required so that the Plan can keep track of the non-taxable portion of the rollover.

**VESTED INTEREST IN YOUR CONTRIBUTIONS**

Your Vested Interest in the Value of your contributions to the Plan is always 100%.

**EMPLOYER CONTRIBUTIONS**

In addition to your contributions, your Employer may make Employer Contributions to your Account. You are not taxed on any Employer Contributions made to your Account until distribution is made to you.

**MATCHING CONTRIBUTIONS**

***Matching Contributions***

Once you have met the requirements to participate in the Plan with respect to Matching Contributions, as described in **ELIGIBILITY TO PARTICIPATE** above, you may receive Matching Contributions for a Plan Year only if you are employed by the Employer or a Related Company on the last day of the Plan Year.

The last day allocation requirement described above does not apply to you if you are absent because:

- you retire on or after your Normal or Early Retirement Date.
- you die.
- you become Disabled.

If you are eligible, each Plan Year your Employer, in its discretion, may make a Matching Contribution to your Account equal to a percentage, determined by your Employer, of your 401(k) Contributions to the Plan for the Plan Year. If you are an Employee of Rocket Ball, Ltd., your Matching Contributions will be determined each payroll period.

Your Employer will not match your Catch-Up 401(k) Contributions to the Plan. However, Catch-Up Contributions made by employees of Rocket Ball, Ltd. will be matched.

**NONELECTIVE CONTRIBUTIONS**

Once you have met the requirements to participate in the Plan with respect to Nonelective Contributions, as described in **ELIGIBILITY TO PARTICIPATE** above, you may receive Nonelective Contributions for a Plan Year only if you are employed by the Employer or a Related Company on the last day of the Plan Year.

The last day allocation requirement described above does not apply to you if you are absent because:

- you retire on or after your Normal or Early Retirement Date.
- you die.
- you become Disabled.

If you are eligible, each Plan Year your Employer may, in its discretion, make a Nonelective Contribution to your Account equal to a percentage of your Compensation, determined by your Employer, for the Plan Year.

**VESTED INTEREST IN EMPLOYER CONTRIBUTIONS**

***Vesting Schedule***

Your Vested Interest in the Value of the Nonelective and Matching Contributions in your Account is determined using the following schedule:

<b>Years of Vesting Service</b>	<b>Vested Interest</b>
Less than 2	0%
2, but less than 3	20%
3, but less than 4	40%
4, but less than 5	60%
5, but less than 6	80%
6 or more	100%

For the Employees of Rocket Ball, Ltd., your Vested Interest in the Value of the Matching and Nonelective Contributions in your Account will be determined using the following schedule:

<b>Years of Vesting Service</b>	<b>Vested Interest</b>
Less than 1	0%
1, but less than 2	34%
2, but less than 3	67%
3 or more	100%

***Special Vesting Events***

Notwithstanding the foregoing, if you are employed by the Employer (or a Related Company) on your Normal Retirement Date or the date you die or become Disabled, your Vested Interest in your full Account will be 100%. If you are absent from employment because of military service and you die while performing "qualified" military service (as described in the Uniformed Services Employment and Reemployment Rights Act of 1994), you are treated as if you died while employed by the Employer.

**VESTING SERVICE**

Vesting Service is used to determine your Vested Interest under the applicable schedule above.

***Crediting of Vesting Service***

You are credited with Vesting Service from your hire (or rehire) date until your Severance Date. If your employment terminates but you are rehired before you have been absent from work for 12 months, you are credited with Vesting Service for the period that you were absent from work.

You are credited with Vesting Service for employment with the Employer, any Related Company, and a Predecessor Employer (provided the Employer maintains a plan of that Predecessor Employer). In addition, you are credited with Vesting Service for employment with certain companies that are treated as Predecessor Employers under the Plan. For further information concerning the companies treated as Predecessor Employers, see the definition of "Predecessor Employer" in the **GLOSSARY**.

If you are absent from employment with an Employer (or a Related Company) because of military service, and you die while performing "qualified" military service (as described in the Uniformed Services

Employment and Reemployment Rights Act of 1994), you will be credited with Vesting Service for the period you were absent as if you returned to work immediately before your death.

## **PLAN INVESTMENTS**

### **WHERE PLAN CONTRIBUTIONS ARE INVESTED**

You direct how the contributions made to your Account are invested. You may direct that contributions be invested in any of the funds made available to you under the Plan. The Administrator will provide you with a description of the different investment funds available. New investment funds may be added and existing funds changed. The Administrator will update the description of the available funds to reflect any changes.

### **404(C) PROTECTION**

Because you direct how contributions to your Account are invested, the Employer, the Investment Fiduciary, and the Trustee, who might otherwise be responsible under federal rules for directing investments, are relieved of this responsibility with respect to those contributions. Therefore, they are no longer liable under the law for any losses to your Account that are the direct and necessary result of your investment directions. They are still responsible, however, for providing you with diverse investment opportunities and sufficient opportunity to direct the investment of your Account.

### **MAKING INVESTMENT ELECTIONS**

#### ***Investment Elections***

When you become eligible to participate in the Plan, you must notify the Administrator of your investment elections in accordance with the rules established by the Administrator. Your investment election must specify the percentage of contributions to your Account that will be invested among the available investment funds.

#### ***Failure to Direct Investments***

If you do not direct how contributions to your Account should be invested, the contributions will be invested in a qualified default investment for the Plan. Each year, you will be provided information and the Fund Fact Sheets regarding the qualified default investment established for the Plan. Should you have any questions regarding the qualified default investment, please contact a customer service associate by calling 1-877-PRU-2100 (1-877-778-2100).

#### ***Change of Investment Elections***

You may change how contributions to your Account are invested effective as of the business day the Administrator receives your instructions. To perform this transaction you must contact a customer service associate by calling 1-877-PRU-2100 (1-877-778-2100), access your Account at the Insurance Company's internet site – [www.Prudential.com/online/retirement](http://www.Prudential.com/online/retirement), or notify the Administrator in accordance with the rules established by the Administrator.

#### ***Transfers Between Funds***

You may transfer any amount held in your Account from one investment fund to another investment fund. You must specify the amount that is to be transferred.

A transfer may be made effective as of the business day the Administrator receives your instructions. To make a transfer, you must contact a customer service associate by calling 1-877-PRU-2100 (1-877-778-2100), access your Account at the Insurance Company's internet site – [www.Prudential.com/online/retirement](http://www.Prudential.com/online/retirement), or notify the Administrator in accordance with the rules established by the Administrator.



### ***Restrictions on Transfers***

It is expected that, under most circumstances, unrestricted transfers will be available into any competing fixed income fund. Also, these provisions will not affect new contributions to, or transfers from, a competing fixed income fund.

In addition, if the Securities and Exchange Commission (SEC) has suspended or otherwise restricted trading, or another emergency outside of our control exists, the Insurance Company may defer investment transfers for up to 6 months. Interest (or gains or losses, as applicable) will continue to apply during the deferral period. In addition, the Insurance Company reserves the right to monitor participant's investment fund transfer activities to determine whether there are any inappropriate market timing activities. If the Insurance Company determines that a plan participant has engaged in inappropriate market timing, it may restrict his or her ability to make investment transfers in or out of particular funds.

If you intend to transfer amounts from one investment fund to another investment fund, there may be special rules pertaining to transfers to and from such funds. For more information, you should contact the Administrator.

### ***Prudential Retirement's Internet Site***

The Prudential Retirement® Online Retirement Center allows Internet access to your Account using your personal computer. The Prudential Retirement® Online Retirement Center is available 24 hours a day, 7 days a week. You can access the Prudential Retirement® Online Retirement Center through the Internet site at [www.Prudential.com/online/retirement](http://www.Prudential.com/online/retirement).

## **VALUING YOUR ACCOUNT**

The Value of your Account is periodically adjusted to show any earnings or losses on your investments, any distributions that you have received, and any contributions that have been made to your Account since the preceding adjustment date. Legal rules require this adjustment to be made at least annually.

The Value of your Account may increase or decrease at any time due to investment earnings or losses. You are only entitled to receive from the Plan the Value of your Vested Interest in your Account on the date distribution is made to you. That Value will be determined on the adjustment date immediately preceding the date of distribution and may be larger or smaller than the Value determined on any other adjustment date. The Plan fiduciaries and functionaries handling Plan assets (including the Sponsor, the Employer, the Investment Fiduciary, the Administrator, and the Trustee) do **not** guarantee your Account from investment losses.

## **LOANS FROM YOUR ACCOUNT**

The Plan provides for loans to participants from their vested Accounts. Loans from the Plan are governed by a separate loan policy adopted by the Administrator. The Administrator can provide you with a copy of the policy governing Plan loans.

### **APPLICATION FOR LOAN**

You may apply for a loan from your Account in accordance with the rules prescribed by the Administrator.

### **FEDERAL TAX RULES GOVERNING PLAN LOANS**

For the Plan to retain its tax-qualified status (that allows your retirement savings to accumulate on a tax-deferred basis), any Plan loan must meet the following minimum requirements:

- **Interest rate:** must be a reasonable rate similar to the rate charged for a loan made under similar circumstances by persons in the business of lending money. (If you are absent because of military leave, federal law limits the interest rate that can apply to your loan.)
- **Loan amount:** cannot exceed specified limits when added to the outstanding balance of all other loans made to you from the Plan or any other plan maintained by your Employer or a Related Company.
- **Loan term:** cannot exceed 5 years, unless it is used to purchase your principal residence.

- **Repayment schedule:** must be substantially equal installments made not less frequently than quarterly. Some exceptions are made for unpaid leaves.

The loan guidelines provided by the Administrator may have more stringent requirements than the federally required minimum. In that case, any Plan loan must meet the more stringent requirements set forth in the loan guidelines.

#### **COLLATERAL FOR LOAN**

If you receive a Plan loan, a portion of your Vested Interest in your Account will be used as collateral for the loan. You may not receive a loan in excess of 50% of your Vested Interest. If a Plan loan is still outstanding at the time distribution of your Account is to be made, the amount distributed will be reduced by the portion of your Account being held as collateral for the loan, but only to the extent necessary to repay the loan.

#### **DEFAULT ON LOAN**

You will not receive a Plan loan unless you agree that your Account may be charged for unpaid principal and interest if you default on the loan. A Plan loan will be declared to be in default if either (1) you fail to make a required payment before the end of the calendar quarter following the calendar quarter in which the payment was due or (2) there is an outstanding principal balance after the last scheduled repayment date.

#### **SPECIAL LOAN RULES**

- **Repayment:** if you are employed by the Employer, repayment will be made by payroll withholding.
- **Minimum loan amount:** \$1,000.
- **Limit on outstanding loans:** only 1 outstanding Plan loan is permitted at any time.
- **Prepayment of outstanding balance:** permitted in full or in part without penalty.
- **Wait period to apply for new loan:** you may not apply for a new loan until 7 days after paying off a prior loan.
- **Principal residence loans:** may not exceed 10 years.
- **Other:** Loans may not be rolled into or out of this Plan. Loans will be available from all sources except Roth and Roth Rollover will not be loaned until all other available sources have been exhausted.

#### **IN-SERVICE WITHDRAWALS**

Under certain circumstances, you may make a cash withdrawal from your Account while you are still employed by your Employer. Withdrawal will be made pro-rata from all available sources except Roth and Roth Rollover which will be distributed only after all other sources have been exhausted.

#### **WITHDRAWALS OF YOUR CONTRIBUTIONS**

If you meet the applicable requirements indicated below, if any, you may withdraw all or part of the Value of the following contributions you made (or were made on your behalf) to your Account:

- **Rollover Contributions** at any time.
- **Designated Roth Rollover Contributions** at any time.
- **Pre-Tax 401(k) Contributions** at age 59 1/2.
- **Roth 401(k) Contributions** at age 59 1/2.

Your withdrawal will be effective as soon as administratively practicable after your election is received.

#### **WITHDRAWALS OF EMPLOYER CONTRIBUTIONS**

If you meet the applicable requirements indicated below, you may withdraw all or part of the Value of your Vested Interest in the following Employer Contributions held in your Account:

- **Nonelective Contributions**, provided you have reached age 59 1/2.
- **Matching Contributions**, provided you have reached age 59 1/2.

Your withdrawal will be effective as soon as administratively practicable after your election is received.

#### **WITHDRAWALS WHILE ABSENT ON MILITARY DUTY**

If you are absent from employment with your Employer or a Related Company to perform military service, you may be entitled to withdraw amounts from your Account.

##### ***Deemed Severance of Employment Withdrawals***

If you are absent from employment for more than 30 days because of service with the uniformed services (as described in United States Code, Title 38, Chapter 43), federal law permits the Plan to treat you as if you had terminated employment, **but solely** to allow you to withdraw amounts from your Account that are not otherwise available for withdrawal. (This summary does not address the effect of military leave on your other employer-provided benefits.) If you are deemed to have terminated employment for this purpose, you may withdraw all or part of the Value of the following contributions:

- **Pre-Tax 401(k) Contributions.**
- **Roth 401(k) Contributions.**

Your withdrawal will be effective as soon as administratively practicable after your election is received.

#### **HARDSHIP WITHDRAWALS**

If you incur an immediate and heavy financial need, you may withdraw all or part of the Value of the following contributions held in your Account:

- **Pre-Tax 401(k) Contributions (excluding investment earnings).**
- **Roth 401(k) Contributions (excluding investment earnings).**
- **Rollover Contributions.**
- **Nonelective Contributions.**
- **Matching Contributions.**

You may only make a hardship withdrawal if the Administrator determines that the withdrawal is necessary to meet your financial need. Generally, the amount of your hardship withdrawal cannot exceed the amount of your financial need, except it may include amounts necessary to pay any federal, state, or local income taxes or penalties reasonably expected to result from the withdrawal.

Your hardship withdrawal will be effective as soon as administratively practicable after your election is received.

##### ***Financial Needs For Which Hardship Withdrawals Are Available***

The financial needs for which you can get a hardship withdrawal are:

- expenses incurred or necessary for medical care, described in Code §213(d) (determined without regard to the limitations in Code §213(a)), incurred by you, your Spouse, your dependents (as defined in Code §152 without regard to Code §152(b)(1), (b)(2) and (d)(1)(B)), or, if so permitted by the Plan, your primary beneficiary under the Plan;
- the costs directly related to the purchase (excluding mortgage payments) of your principal residence;
- the payment of tuition, related educational fees, and room and board expenses for up to the next 12 months of post-secondary education for you, your Spouse, your child, your dependent (as defined in

Code §152 without regard to Code §152(b)(1), (b)(2) and (d)(1)(B)), or, if so permitted by the Plan, for your primary beneficiary under the Plan;

- payments necessary to prevent the eviction from, or a foreclosure on the mortgage of, your principal residence;
- payments for funeral or burial, expenses for your deceased parent, Spouse, child, dependent (as defined in Code §152 without regard to Code §152(d)(1)(B)), or, if so permitted by the Plan, for your primary beneficiary under the Plan;
- expenses to repair damage to your principal residence that would qualify for a casualty loss deduction under Code §165 (determined without regard to Code §165(h)(5) and whether the loss exceeds 10% of adjusted gross income);
- expenses and losses (including loss of income) you incur on account of a disaster declared by the Federal Emergency Management Agency (FEMA) provided that your principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster; or
- any other distribution which is deemed by the Commissioner of Internal Revenue to be made on account of immediate and heavy financial need as provided in Treasury Regulations.

Your "primary beneficiary under the Plan" is the individual named as a beneficiary who has an unconditional right to all or a portion of your Account balance under the Plan upon your death.

#### ***Demonstrating Need for Hardship Withdrawal***

The Administrator will approve your hardship withdrawal from your Pre-Tax and Roth 401(k) Contributions upon your written representation that you cannot meet an immediate and heavy financial need. A hardship distribution will be considered necessary only if:

(a) the distribution is not in excess of the amount of the immediate and heavy financial need (including amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution).

(b) you have obtained all other currently available distributions (but not hardship distributions), available under this and all other plans of deferred compensation (whether qualified or nonqualified) maintained by the Employer.

You must represent (in writing, by an electronic medium, or in such other form as may be prescribed by law) that you have insufficient cash or other liquid assets to satisfy such financial need. The Employer may rely on your substantiation of such necessity unless it has actual knowledge to the contrary. Any distribution under this section will occur within an administratively reasonable time after the request is received by the Administrator, will only be made in a single payment, and, if applicable, will be subject to Spousal consent requirements set forth in the Plan.

#### ***Limitations on Hardship Withdrawals***

The minimum hardship withdrawal you may take is \$500.

You must apply for a hardship withdrawal such number of days before the effective date as the Administrator prescribes.

### **FORFEITURE OF NON-VESTED AMOUNTS**

If your employment terminates with the Employer (and all Related Companies) and you are not 100% vested in the Value of the Employer Contributions in your Account at that time, you will forfeit the non-vested portion of your Account.

#### ***Timing of Forfeiture***

The non-vested portion of your Account will be forfeited on the date 5 years after your Severance Date.

If you are reemployed by the Employer (or a Related Company) before the non-vested portion of your Account is forfeited, the forfeiture will not occur.

***Treatment of Forfeited Amounts***

Amounts forfeited during a Plan Year are used to meet the Employer's contribution obligations to the Plan or to pay Plan expenses.

**DISTRIBUTION OF YOUR ACCOUNT**

**DISTRIBUTION TO YOU**

If your employment with the Employer (and all Related Companies) terminates, you may receive distribution of your Account. Distribution may be made as soon as reasonably practicable following the date your employment terminates.

You may postpone distribution until April 1 of the calendar year following the calendar year in which you reach age 70 1/2 or retire, whichever is later.

Instead of receiving distribution of your full Vested Interest, you may elect to receive a partial distribution of only a portion of your Account following termination and postpone distribution of the remaining balance.

***Request for Distribution***

Unless your Account is cashed out as described below, distribution of your Account will not be made before April 1 of the calendar year following the calendar year in which you reach age 70 1/2 or retire, whichever is later, unless you request an earlier distribution.

***Effect of Reemployment***

If you are reemployed by the Employer (or a Related Company) before distribution of your full Vested Interest in your Account has been made, distribution of your Account will be suspended until your reemployment terminates.

***Required Distribution***

Federal tax law requires distribution of your Account to begin no later than April 1 of the calendar year following the year in which you reach age 70 1/2 or retire, whichever is later. Special rules apply if you are a 5% owner of the Employer (see the Administrator for details).

**SPECIAL TAX RULES APPLICABLE TO DISTRIBUTIONS**

If you terminate employment before reaching age 55 and elect to receive distribution of your Account before reaching age 59 1/2, you may be subject to a 10% penalty tax on your distribution. The penalty tax does not apply to amounts that are rolled over to another eligible retirement program. You should consult your own tax advisor to determine whether this tax applies to you.

If you receive distribution of your Roth 401(k) Contributions or Designated Roth Rollover Contributions fewer than 5 years after you first made Roth 401(k) Contributions to the Plan or if you made a Designated Roth Rollover Contribution, the date you first made Roth contributions to the other plan, whichever is earlier, the earnings on your Roth 401(k) Contributions or Designated Roth Rollover Contributions will be taxable. (The 5-year period is counted from January 1 of the year in which you made the contribution.) In addition, if distribution of your Roth 401(k) Contributions or Designated Roth Rollover Contributions is made to you before you reach age 59 1/2 or become disabled, the earnings on your Roth 401(k) Contributions or Designated Roth Rollover Contributions will be taxable. For this purpose, you are considered disabled if you are unable to engage in **any** substantial gainful activity because of a medically determinable physical or mental impairment that can be expected to result in your death or to be of long-continued and indefinite duration.

## **DISTRIBUTION TO YOUR BENEFICIARY**

If you die before distribution of the full Value of your Account has been made to you, distribution of your Account will be made to your Beneficiary as soon as reasonably practicable following the date your Beneficiary requests distribution.

Unless distribution of your Account is to be made to your Beneficiary in a series of installment payments, federal tax law requires distribution to your Beneficiary to be made in full no later than the end of the fifth calendar year beginning after your death or, if your Beneficiary is your Spouse, the end of the calendar year in which you would have reached age 70 1/2, if later.

If distribution of your Account is to be made to your Beneficiary in a series of installment payments, federal tax law requires distribution to your Beneficiary to begin:

- if your Beneficiary is your Spouse, no later than the end of the first calendar year beginning after your death or the end of the calendar year in which you would have reached age 70 1/2, whichever is later; or
- if your Beneficiary is someone other than your Spouse, no later than the end of the first calendar year beginning after your death.

Your Spouse may only delay distribution under the federal tax law requirements described above if your Spouse is your sole Beneficiary. Generally, your Spouse is your sole Beneficiary only if (1) your Spouse is entitled to your full Account or a segregated portion of your Account and (2) no other Beneficiary is entitled to any portion of your Spouse's interest unless your Spouse dies before receiving full distribution of that interest.

## **CASH OUTS OF ACCOUNTS AND CONSENT TO DISTRIBUTION**

If the Value of your Vested Interest in your Account is \$5,000 or less, your Account will be "cashed out" by distributing your Vested Interest in your Account in a single-sum payment or by direct rollover to an IRA or other eligible retirement plan as soon as reasonably practicable following the date your employment terminates. Your Account will be cashed out even if you do not consent to the distribution.

If the Value of your Vested Interest in your Account is more than \$5,000, distribution of your Account cannot be made before your Normal Retirement Date without your written consent.

## **AUTOMATIC ROLLOVERS**

If the Value of your Vested Interest in your Account is \$5,000 or less, the Administrator will notify you of the cashout rules and give you the opportunity to elect whether to (1) receive payment yourself or (2) have the payment rolled over directly to the IRA or other eligible plan that you select. If you do not make an election within the period prescribed by the Administrator, tax rules require that your Vested Interest in your Account be rolled over directly to an IRA maintained by a provider selected by your Employer (an "automatic rollover IRA").

The automatic rollover rules only apply to you if the Value of your Vested Interest in your Account is more than \$1,000. If the Value of your Vested Interest is \$1,000 or less, and you do not make an election, payment will be made directly to you.

You are the beneficial owner of any automatic rollover IRA established for you. The automatic rollover IRA must initially be invested in products that are designed to preserve principal (the amount of the initial investment) and provide a reasonable rate of return, consistent with retaining liquidity (so that you can change investments readily). Examples of this kind of investment product are money market funds and certificates of deposit. As the IRA owner, you will be able to change your future investments.

All fees and expenses of maintaining the automatic rollover IRA will be paid directly from your IRA. For more information regarding automatic rollover IRAs, contact the Administrator at the telephone number and address shown at the beginning of this booklet.

## FORM OF PAYMENT

### FORM OF PAYMENT TO YOU

- **Single-sum payment:** Distribution of your Account will be made in one payment.
- **Installment payments:** Distribution of your Account will be made in a series of installment payments over the period you specify. Under federal law, however, the maximum period over which installment payments may be paid cannot exceed your life expectancy or the joint life expectancies of you and your Beneficiary. Installment payments will be made in reasonably equal amounts, except as necessary to reflect increases or decreases in the Value of your Account. You may accelerate the rate at which installments are paid.
- **Direct rollover:** If your distribution is eligible for rollover into an IRA or other eligible retirement plan, you can elect to have the distribution transferred directly into the IRA (including a Roth IRA) or other eligible plan. If you do not elect a direct rollover of your eligible distributions, a 20% mandatory federal income tax withholding applies to the distribution. All or any portion of a distribution from your Account is eligible for rollover except:
  - any minimum distribution that is required under federal tax law.
  - any distribution that is one of a series of installment payments made over your life, the life of you and your Beneficiary, or for a specified period of 10 or more years.
  - any hardship withdrawal.

### FORM OF PAYMENT TO YOUR BENEFICIARY

If you die before distribution of your Account is made, your Beneficiary may elect among the same forms of payment that are available to you.

If your Beneficiary receives distribution in a single-sum payment or in installments over a period of less than 10 years, your Beneficiary may also elect a direct rollover, as described above. If your Beneficiary is your Spouse or a former Spouse, he or she may roll over the distribution to an IRA (including a Roth IRA) or to any other eligible plan. Your non-Spouse Beneficiary may only roll over the distribution to an IRA (including a Roth IRA) that is treated as an inherited IRA for required distribution purposes.

## YOUR BENEFICIARY UNDER THE PLAN

### ***Beneficiary if You Have No Spouse***

You may designate a Beneficiary to receive distribution of your Account if you die. Unless your marital status changes, your Beneficiary will not change until you designate a different Beneficiary. To designate a Beneficiary or change a prior designation, you must contact the Administrator.

### ***Beneficiary if You Have a Spouse***

If you have a Spouse, your Beneficiary under the Plan is your Spouse. You may designate a non-Spouse Beneficiary with your Spouse's consent. To designate a non-Spouse Beneficiary or change a prior designation, you must contact the Administrator.

### ***Effect of Marriage on Prior Beneficiary Designation***

If you designate a non-Spouse Beneficiary and then get married, your prior Beneficiary designation will be ineffective, and your Spouse shall be your Beneficiary, unless you properly designate a non-Spouse Beneficiary with your new Spouse's consent.

### ***Beneficiary Where There is No Designated Beneficiary***

If you die without properly designating a Beneficiary or if no Beneficiary survives you, your Beneficiary will be your surviving Spouse or, if you have no surviving Spouse, your estate.

## **SPOUSAL CONSENT**

If you make an election that requires your Spouse's consent, your Spouse's consent must acknowledge the effect of providing the consent and must be witnessed by a Plan representative or a notary public. Your Spouse's written consent will not be required if you make a good faith attempt to find your Spouse and your Spouse cannot be located, you have a court order stating that you are legally separated from your Spouse, or you have a court order stating that your Spouse has abandoned you.

## **ERISA CLAIMS PROCEDURES**

ERISA requires a Plan to establish and maintain procedures governing the filing of benefit claims, notification of benefit determinations, and appeal of adverse benefit determinations. These procedures are set forth in the **PLAN CLAIMS PROCEDURES** Addendum to this booklet.

## **AMENDMENT AND TERMINATION OF THE PLAN**

### **PLAN AMENDMENT**

The Sponsor reserves the right to amend the Plan at any time, either prospectively or retroactively.

### **PLAN TERMINATION**

The Sponsor reserves the right to terminate the Plan at any time. Under federal law, if all contributions under the Plan cease, the Plan will be deemed to have terminated. In addition, an Employer may withdraw from the Plan at any time. If an Employer withdraws from the Plan, the Employer will determine whether the withdrawal should be treated as a termination of the Plan with respect to its employees.

If the Plan is terminated, you will be 100% vested in the Value of the Employer Contributions (including any investment gains or losses on them) in your Account and distribution of your Account will be made as permitted under federal law.

## **MISCELLANEOUS INFORMATION**

### **PLAN BOOKLET DOES NOT CREATE EMPLOYMENT CONTRACT**

The only purpose of this booklet is to provide you with information about the benefits available under the Plan. The booklet is not intended to create an employment contract between you and your Employer. Nothing in this booklet should be construed as a limitation on your right or your Employer's right to terminate your employment at any time, with or without cause.

### **NO GUARANTEES REGARDING INVESTMENT PERFORMANCE**

The Plan fiduciaries and functionaries handling Plan assets (including the Sponsor, the Employer, the Investment Fiduciary, the Administrator, and the Trustee) do not guarantee any particular investment gain or appreciation on your Account nor guarantees your Account against investment losses or depreciation.

### **IF CIRCUMSTANCES REQUIRE DELAY OF A WITHDRAWAL**

All withdrawals may be delayed by the Insurance Company under certain circumstances. A description of these situations may be obtained from your Administrator. Regardless of the circumstances, there will be no delay in payment in cases of death, retirement, termination of employment, or becoming disabled.

### **TRANSFERS FROM GUARANTEED INCOME FUND MAY BE LIMITED**

Under certain circumstances, the amount transferred from the Guaranteed Income Fund to other investment funds may be limited by the Insurance Company. Please see your Administrator for further information on transferring funds from the Guaranteed Income Fund.

### **PAYMENT OF ADMINISTRATIVE EXPENSES**

Generally, the expenses of administering the Plan are paid from Plan assets, unless your Employer elects to make the payment. If administrative expenses are paid from Plan assets, they will first be reduced by any



forfeitures the Administrator has directed to be used for payment of expenses. Any remaining expenses will be shared among all participants' Accounts.

#### **QUALIFIED DOMESTIC RELATIONS ORDERS**

Generally, federal law prohibits payment of your Account to someone other than you, unless you have died. An exception to this rule is made for qualified domestic relations orders. A qualified domestic relations order may require that a portion of your Account be paid to someone other than you or your Beneficiary.

"Qualified domestic relations orders" are court judgments, decrees, etc. that pertain to child support, alimony, or marital property and that meet specific legal requirements. The Administrator has procedures for determining whether a court judgment or decree meets the specific legal requirements to be a qualified domestic relations order. You or your Beneficiary may obtain, without charge, a copy of these procedures from the Administrator.

#### **MILITARY LEAVE**

If you return to employment following a military leave, you may be entitled to benefits under the Plan for the period that you were absent from employment. You should consult the Administrator for information regarding Plan benefits during military leave.

If you die while absent from employment with the Employer or a Related Company because of "qualified" military service (as described in the Uniformed Services Employment and Reemployment Rights Act of 1994), you will be treated for purposes of the Plan as if you died while employed by the Employer (or Related Company). However, no additional contributions will be made to your Account.

#### **RETURN OF CONTRIBUTIONS TO YOUR EMPLOYER**

If your Employer makes a contribution to your Account by mistake or if your Employer cannot deduct a contribution made to the Plan on its tax return, that contribution will be returned to your Employer in accordance with federal law.

#### **TOP-HEAVY PROVISIONS**

Federal law requires that the Plan contain certain provisions that become effective only if the Plan becomes top-heavy. The Plan will become "top-heavy" if the aggregate Value of Accounts for certain officers and shareholders is 60% or more of the Value of all assets held under the Plan. If the Plan becomes top-heavy, specific minimum vesting and minimum benefits provisions become effective. If the Plan becomes top-heavy, the Administrator will notify you and give you additional details regarding these provisions.

#### **LIMITATIONS ON CONTRIBUTIONS**

As described above in **YOUR CONTRIBUTIONS: 401(k) CONTRIBUTIONS**, federal law limits the dollar amount of 401(k) Contributions that you can make each calendar year. For 2019, the maximum contribution amount is \$19,000.

If you are a Highly Compensated Employee, federal law also limits the amount of 401(k) Contributions you may make to the Plan and the amount of Matching Contributions your Employer may make to your Account compared to the contributions made to the Plan for employees who are not Highly Compensated Employees. If the Administrator determines that contributions for Highly Compensated Employees would impermissibly exceed the contributions for other employees, it may adjust the amount of 401(k) Contributions and Matching Contributions that would otherwise be made for Highly Compensated Employees.

In addition, total contributions to the Plan are subject to annual limitations under federal law. Your Employer is required to restrict total contributions to the Plan so they do not exceed the annual limitation.

If you will be age 50 or older by the end of the year, you may make Catch-Up 401(k) Contributions that exceed any of the above limits. The total amount of your Catch-Up 401(k) Contributions cannot exceed the Catch-Up Limit for the year.

## **MORE THINGS YOU SHOULD KNOW**

Contributions you make to the Plan and contributions your Employer makes for you are held for the exclusive benefit of you and your Beneficiaries.

If your employment terminates with the Employer (and all Related Companies) before you are fully vested in your Account, you will lose the non-vested portion of your Account.

Because the Plan assets are held in individual Accounts and are never less than the total benefits payable to participants, no insurance of benefits by the Pension Benefit Guaranty Corporation under Title IV of ERISA is necessary or available. The Plan is subject, however, to the applicable provisions of Title I of ERISA (protection of employee benefit rights) and Title II of ERISA (amendments to the Internal Revenue Code relating to retirement plans).

## **YOUR RIGHTS UNDER THE PLAN**

The Plan is covered by ERISA, which was designed to protect employees' rights under benefit plans. As a participant in the Plan, you should know as much as possible about your Plan benefits.

### **RIGHT TO INFORMATION**

You are entitled to:

- Examine, without charge, at the Administrator's office during normal business hours and at other specified locations, such as worksites and union halls, copies of all documents governing the Plan, including insurance contracts and collective bargaining agreements, and a copy of the latest annual report (Form 5500 Series) filed by the Plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Employee Benefits Security Administration.
- Obtain, upon written request to the Administrator, copies of documents governing the operation of the Plan, including insurance contracts and collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated summary plan description. The Administrator may make a reasonable charge for the copies.
- Receive a summary of the Plan's annual financial report. The Administrator is required by law to furnish each participant with a copy of this summary at no charge.
- Receive a quarterly statement of your benefits under the Plan, and, if you are not fully vested, the earliest date on which you will have a nonforfeitable right to such benefits. The statement must include a description of any limitations or restrictions on your ability to direct investment of your Account.
- Obtain information as to whether a particular employer has adopted the Plan and, if so, the employer's address, upon written request addressed to the Administrator.
- Receive a written explanation with respect to any denied benefit claim regarding the reasons for such denial and the steps that must be taken in order to have such denial reviewed.

### **PRUDENT ACTIONS BY FIDUCIARIES**

In addition to creating rights for employees participating in the Plan, ERISA imposes duties upon the people who are responsible for the operation of the Plan. These people are called "fiduciaries" and have a duty to act prudently and in the best interest of you and other Plan participants and beneficiaries. No one, including your employer, your union, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a benefit or exercising your rights under ERISA.

### **ENFORCING YOUR RIGHTS**

If your claim for a benefit is denied in whole or in part, you have a right to know why this was done, to obtain copies (without charge) of documents relating to the decision, and to appeal any denial, all within certain time schedules. See the **PLAN CLAIMS PROCEDURES** Addendum to this booklet.

Under ERISA, there are steps you can take to enforce your rights under the Plan. For example, if you request a copy of Plan documents or the latest annual report for the Plan and you do not receive them within 30 days, you

have the right to file suit in federal court. In such a case, a court may require the Administrator to provide the materials and pay you up to \$110 a day until you receive the materials, unless the materials were not provided for reasons outside the Administrator's control. If you have a claim for benefits that is denied or ignored, in whole or in part, you may file suit in a state or federal court. In addition, if you disagree with the Plan's decision or lack thereof concerning the qualified status of a domestic relations order, you may file suit in federal court. If you believe a Plan fiduciary has misused Plan funds, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a federal court. In no event can you bring an action at law or in equity unless you have exercised your appeal rights (see the **PLAN CLAIMS PROCEDURES** Addendum to this booklet) and your benefits requested in the appeal have been denied in whole or in part.

After deciding your case, the court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if the court finds your claim to be frivolous.

#### **ASSISTANCE WITH YOUR QUESTIONS**

If you have any questions, you should contact the Administrator at the address indicated in **PLAN IDENTIFICATION INFORMATION** at the front of this booklet. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the Administrator, you may contact the nearest Office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.

## GLOSSARY

<b>Account</b>	The account established to track the contributions made to the Plan on your behalf and the investment earnings and losses on those contributions.
<b>Administrator</b>	The fiduciary responsible for the administration of the Plan.
<b>Beneficiary</b>	The person (or persons) entitled to receive distribution of your Account if you die before your Account has been fully distributed to you.
<b>Catch-Up 401(k) Contribution</b>	Any 401(k) Contribution that you make to the Plan for any year (beginning with the year you reach age 50) that exceeds an applicable limit by no more than the Catch-Up Limit in effect for the year.
<b>Catch-Up Limit</b>	The maximum amount by which your Catch-Up 401(k) Contributions for a particular year may exceed the limitations applicable to 401(k) Contributions for the year. The Catch-Up Limit for 2019 is \$6,000. The IRS may adjust this limit for future years.
<b>Compensation</b>	<p>The compensation from your Employer that is taken into account in determining the amount of contributions that you or your Employer can make to your Account.</p> <p>Your Compensation for any period means the wages paid to you for employment covered under the Plan that would be reported as income on Form W-2.</p> <p>Compensation includes the following:</p> <ul style="list-style-type: none"><li>• 401(k) Contributions you make to the Plan, transportation fringe benefits you receive from your Employer that are excluded from your taxable gross income, amounts that you contribute on a pre-tax basis to a cafeteria plan (or that the Employer contributes on your behalf unless you elect to receive cash instead), and amounts you contribute as salary reduction contributions to a 403(b) account, or other plan.</li><li>• pay you receive after your termination of employment for your services before termination, including your regular pay and, if otherwise included in Compensation, overtime, differential pay, etc., provided payment is made before the later of 2 1/2 months following termination or the end of the year in which termination occurs.</li></ul> <p>Notwithstanding the foregoing, Compensation does not include the following:</p> <ul style="list-style-type: none"><li>• differential pay you receive from the Employer for periods you are absent because of military service.</li><li>• Imputed earnings, reimbursements or other expense allowances, fringe benefits (cash and non-cash), moving expenses, deferred compensation, welfare benefits, and unused leave.</li></ul> <p>Bonuses are excluded for Employees of Rocket Ball, Ltd.</p> <p>Your Compensation if you are self-employed means your earnings for personal services you performed for the business covered by the Plan.</p>

Legal rules limit the Compensation that may be included under the Plan each year. For 2019, the maximum amount is \$280,000. (The IRS may adjust this limit for future years.)

***Covered Employee***

You are employed by the Employer in a job category and at a location that is covered by the Plan. Only employees who are Covered Employees may make and receive contributions under the Plan.

***Designated Roth Rollover Contributions***

A Rollover Contribution that consists of designated Roth contributions you made to another plan or annuity contract and/or earnings on those contributions.

***Disabled***

A disability as determined under the Company's long-term disability plan, or if the Participant is not covered by or eligible for such long-term disability plan, the Participant has been determined to be disabled by the Social Security Administration.

***Early Retirement Date***

The date you attain age 59.5.

***Eligibility Service***

The service credited to you that is used for determining whether you are eligible to participate in the Plan.

***Employer***

The Sponsor and any related company that participates in the Plan. The Employers that participate in the Plan are listed in Exhibit A to this Summary and are referred to collectively as "the Employer."

***Employer Contribution***

Any contribution that your Employer makes to your Account.

***ERISA***

The Employee Retirement Income Security Act of 1974, as amended.

***401(k) Contribution***

Any contributions you make to the Plan as provided in your salary reduction election.

***Highly Compensated Employee***

An employee who is treated as highly compensated for purposes of the federal tax law governing retirement plans. Generally, you may be a Highly Compensated Employee if you are a 5% owner in the current or preceding year or you were paid more than the applicable limit set by the federal government during the preceding year. For 2018 (the look back year used to determine who is a Highly Compensated Employee for 2019), this limit is \$120,000. If you are concerned that you may be a Highly Compensated Employee, you should consult the Administrator.

***Insurance Company***

Prudential Retirement Insurance and Annuity Company.

***Investment Fiduciary***

The fiduciary responsible for determining the investment options available under the Plan.

***Matching Contribution***

Any Employer Contribution your Employer makes to your Account because of your 401(k) Contributions to the Plan, as described in detail in **EMPLOYER CONTRIBUTIONS: MATCHING CONTRIBUTIONS**.

**Nonelective  
Contribution**

Any Employer Contribution made to the Plan by your Employer that is not contingent on your contributions, as described in detail in **EMPLOYER CONTRIBUTIONS: NONELECTIVE CONTRIBUTIONS**.

**Normal Retirement  
Date**

The date you are entitled to retire with full benefits. Your Normal Retirement Date is the date you reach age 65.

**Plan**

The Sports, Hospitality and Entertainment 401(k) Plan.

**Plan Year**

The period on which the Plan's records are kept. The Plan Year is the 12-month period beginning each January 1st.

**Pre-Tax 401(k)  
Contribution**

Any 401(k) Contribution made to the Plan on a before-tax basis.

**Predecessor  
Employer**

Any company that is a predecessor to the Employer, under federal tax rules, provided the Employer maintains a Plan of that company.

In addition, the following companies are treated as Predecessor Employers for the purposes indicated below:

- Fertitta Entertainment, LLC and all subsidiaries, Landry's, Inc. fka Landry's Restaurants, Inc. and all subsidiaries, Landry's Seafood House-Arlington, Inc. (payroll entity), Landry's Management, LP, C Jumper Restaurants, Inc., McCormick & Schmick's Seafood Restaurants, Inc. and all subsidiaries, for purposes of both Eligibility Service and Vesting Service.
- Fertitta Hospitality, LLC, for purposes of both Eligibility Service and Vesting Service.
- Post Oak Motors, LLC, for purposes of both Eligibility Service and Vesting Service.
- Golden Nugget, Inc., for purposes of both Eligibility Service and Vesting Service.
- Golden Nugget Atlantic City, LLC., for purposes of both Eligibility Service and Vesting Service.
- Riverboat Corporation of Mississippi, for purposes of both Eligibility Service and Vesting Service.
- Golden Nugget Lake Charles, for purposes of both Eligibility Service and Vesting Service.
- GNLV, Corp., for purposes of both Eligibility Service and Vesting Service.
- GNL, Corp., for purposes of both Eligibility Service and Vesting Service.

- The Oceanaire, Inc., for purposes of both Eligibility Service and Vesting Service.
- Bubba Gump Shrimp Co. Restaurants, Inc., for purposes of both Eligibility Service and Vesting Service.
- Claim Jumper, for purposes of both Eligibility Service and Vesting Service.
- Otter Inspirations, LLC & Evelyn Alexander Home for Animals Foundation, Inc., for purposes of both Eligibility Service and Vesting Service.

**Prudential Retirement's Internet Site**

The Internet service where, among other services, participants have access to view a 90-day account history, transfer between investment funds, change contribution percentages, check investment performances and project their investments. You can access Prudential Retirement's Internet site at [www.Prudential.com/online/retirement](http://www.Prudential.com/online/retirement).

**Related Company**

Any company or business that is considered to be related to an Employer under federal tax law.

**Rollover Contribution**

Any qualified cash contribution that you elect to roll over to the Plan from another retirement plan or from a rollover IRA.

**Roth 401(k) Contribution**

Any 401(k) Contribution you made to the Plan that is taxable under federal law for the year in which contributed, but is not taxable upon distribution from the Plan. If certain conditions are met, earnings on Roth 401(k) Contributions are also not taxable upon distribution from the Plan.

**Severance Date**

The date your employment terminates or you are absent from work (without terminating employment) for 1 year.

**Sponsor**

The company that maintains the Plan and has the power to amend the Plan. The Sponsor of the Plan is Fertitta Entertainment, Inc.

**Spouse**

The person to whom you are legally married in accordance with the laws of the State, Commonwealth, or foreign country in which the marriage was celebrated.

**Trustee**

The entity that holds the Plan assets for the benefit of covered employees. The entity may be a trust company, a bank, an insurance company, or a group of individuals chosen by the Sponsor.

**Value**

The monetary worth of the contributions and investment earnings and losses on such contributions in your Account.

**Vested Interest**

The percentage of the Value of your Account that you are entitled to receive upon distribution.

**Vesting Service**

The service credited to you that is used for determining your Vested Interest in the Value of the following contributions:

- Nonelective Contributions.
- Matching Contributions.

## ADDENDUM RE: PARTICIPANT LOAN POLICY

The Sports, Hospitality and Entertainment 401(k) Plan permits loans to be made to Participants. However, before any loan is made, the Plan requires that a written loan program be established which sets forth the rules and guidelines for making Participant loans. This document shall serve as the required written loan program. In addition, the Plan Administrator may use this document to serve as, or supplement, any required notice of the loan program to Participants. All references to Participants in this loan program shall only include Participants with respect to the Plan. Loans may not be rolled into or out of this Plan.

The Plan Administrator is authorized to administer the Participant loan program.

1. **LOAN APPLICATION.** All loan applications will be considered by the Plan Administrator within a reasonable time after the Participant makes formal application in accordance with elections made by the Plan Sponsor in the Administrative Services Agreement between the Plan Sponsor and the service provider ("Prudential") as follows:

- If the Loan Initiation Outsourcing Service has been selected, a Participant may apply for a loan by submitting a loan application ("Application"), in a form prescribed by Prudential and consistent with the terms of this Loan Policy as authorized by the Plan Administrator, to Prudential by authorized electronic means. The date and time of receipt will be appropriately recorded.

A Participant who has repaid a prior Plan loan may not apply for another loan until 7 days from the date of his last loan payment.

2. **LOAN LIMITATIONS.** The Plan Administrator will not approve any loan to a Participant in an amount which exceeds 50% of his or her nonforfeitable Account balance. The maximum aggregate dollar amount of loans outstanding to any Participant may not exceed \$50,000, reduced by the excess (if any) of (i) the Participant's highest outstanding balance of loans during the one year period ending on the day before the date on which a loan is made over (ii) the Participant's outstanding balance of loans on the date on which such loan is made.

With regard to any loan made pursuant to this program, the following rule(s) and limitation(s) shall apply, in addition to such other requirements set forth in the Plan:

- The minimum loan available from the Plan is \$1,000.
- A Participant may only have one loan outstanding from the Plan. A Participant with an outstanding loan may not apply for another loan until the existing loan is paid in full and may not refinance an existing loan or obtain a second loan for the purpose of paying off the existing loan. Note that a loan in default, including a loan that is deemed distributed, is treated as an outstanding loan for purposes of determining the number of loans outstanding to a Participant until it is repaid or actually offset against the Participant's Account balance.
- All loans made pursuant to this program will be considered a directed investment of the Participant's Account under the Plan. As such, all payments of principal and interest made by the Participant will be credited only to the Account of such Participant. The Plan also will charge the Participant's Account with expenses directly related to the origination, maintenance and collection of the note.

3. **LOAN FEES/SOURCES.** Please refer to the participant fee disclosure for applicable loan initiation and maintenance fees. The participant fee disclosure will be provided to you on an annual basis.

For additional information about loans and loan fees, please contact Prudential's customer service associate by calling 1-877-PRU-2100 (1-877-778-2100). The Plan Administrator may increase these fees by notice to or agreement with the record keeper or other party administering loans and repayments. The loan will be



processed from all Sub-Accounts, as prescribed by the Plan Administrator. Loans will be available from all sources except Roth and Roth Rollover will not be loaned until all other available sources have been exhausted.

4. **TERMS OF LOAN.** Any loan under this program will bear a rate of interest equal to the prime rate charged for a loan made under similar circumstances by persons in the business of lending money plus 1%.

The Plan Administrator will require that the Participant repay the loan by agreeing to payroll deduction.

The Plan Administrator will fix the term for repayment of any loan. Generally, the term of repayment may not be greater than 5 years. However, if the loan qualifies as a Primary Residence loan, the term may be longer than 5 years. The term of repayment of a "Primary Residence loan" may not be greater than 10 years.

- Note that the amount of any loan (other than a "Primary Residence loan") not repaid within 5 years may be treated as a taxable distribution on the last day of the 5 year period, including any available cure period or if sooner, at the time the loan is in default. If a Participant extends a non-Primary Residence loan having a 5 year or less repayment term beyond 5 years, the balance of the loan at the time of the extension is deemed to be a taxable distribution to the Participant.

Loans may be prepaid in whole or in part at any time. Any such prepayment shall be made by any form approved by the Plan Administrator. A loan, if not otherwise due and payable, is due and payable on termination of the Plan, notwithstanding any contrary provision in the promissory note. Nothing in this loan policy restricts the Employer's right to terminate the Plan at any time.

5. **SECURITY FOR LOAN.** The Plan will require that adequate security be provided by the Participant before a loan is granted. For this purpose, the Plan will consider a Participant's interest under the Plan to be adequate security. However, in no event will more than 50% of a Participant's vested interest in the Plan (determined immediately after origination of the loan) be used as security for the loan. The Plan will not make loans which require security other than the Participant's vested interest in the Plan. The Plan Administrator will not investigate the Participant's creditworthiness before making the loan as the loan will be treated as a directed investment of the borrower's Account.

The 50% limit is based on the Participant's full Account.

6. **FORM OF PLEDGE.** The pledge and assignment of a Participant's Account balances will be made in the manner prescribed by the Plan Administrator.

7. **MILITARY SERVICE.** If a Participant takes a leave of absence from the Employer because of service in the military and does not receive a distribution of his or her Account balances, the Plan may suspend loan repayments until the Participant's completion of military service. While the Participant is on active duty in the United States military, the interest rate on any loan in existence before such leave shall not exceed 6%, compounded annually.

8. **LEAVE OF ABSENCE/SUSPENSION OF PAYMENT.** The Plan Administrator may suspend loan repayments for a period not exceeding one year which occurs during an approved leave of absence, either without pay from the Employer or at a rate of pay (after applicable employment tax withholdings) that is less than the amount of the installment payments required under the terms of the loan. The Plan Administrator will provide the Participant with a written explanation of the effect of the leave of absence upon his or her Plan loan.

9. **PAYMENTS AFTER LEAVE OF ABSENCE.** When payments resume following a payment suspension in connection with a leave of absence authorized in 7 or 8 above, the Participant shall increase the amount of the required installments to an amount sufficient to amortize the remaining balance of the loan, over the remaining term of the loan. Further, if the Participant's loan term was not the maximum permissible, then he

may extend the maturity date of the loan and re-amortize the payments over the remaining time of the new term. If the leave of absence was due to a Qualified Military Leave of Absence described in item 7 above, the revised term of the loan shall not exceed the maximum term permitted in item 4 above, augmented by the time the Participant was actually in United States Military Service.

10. **DEFAULT.** The Plan Administrator will treat a loan in default if any scheduled payment remains unpaid beyond the last day of the calendar quarter following the calendar quarter in which the Participant missed the scheduled payment.. After termination of employment, whether the Participant chooses to continue to repay the loan or chooses not to repay the loan, the remaining loan balance will be offset against the Participant's Account upon the earlier of (1) a total distribution of the Account to the Participant, or (2) expiration of the grace period.

If a Participant is still employed upon default, a deemed distribution will be declared. The amount of loan outstanding upon default will be treated as a deemed distribution and will be taxable to the Participant in the year of the default, which will result in a Form 1099-R being issued to the Participant.

A Participant who continues employment following default may (i) repay the full amount of the loan, with interest, (ii) resume current status of the loan by paying any missed payment plus interest, or (iii) if distribution is available under the Plan, request distribution of the promissory note. If the loan remains in default, when the Participant's Account is distributed, the Plan Administrator will offset the Participant's vested Account balance by the outstanding balance of the loan to the extent permitted by law. The Plan Administrator will treat the note as repaid to the extent of any permissible offset. Pending final disposition of the note, the Participant remains obligated for any unpaid principal and accrued interest.

11. **MEANING OF TERMS.** Generally, capitalized terms have the meaning provided in the Summary Plan Description. The following terms, which are not defined in the Summary Plan Description, have the following meanings:

- "Participant" means an individual on whose behalf contributions were made to the Plan and who retains an Account under the Plan.
- "Primary Residence loan" means a loan used to acquire a dwelling unit that will, within a reasonable period of time, be used as the Participant's principal residence.
- "Sub-Account" means a sub-account maintained under a Participant's Account.

## **ADDENDUM: PLAN CLAIMS PROCEDURES**

The provisions of this Addendum describe the procedures used by the Plan whenever a claimant's request under the Plan is denied, in whole or in part. A "**claimant**" is any person who either (i) makes a claim for benefits under the Plan or (ii) seeks a remedy under any provision of ERISA or other applicable law in connection with any question regarding a benefit under the Plan. A Participant or the Participant's Beneficiary may be a claimant under the Plan.

A claimant may authorize a representative to act on his or her behalf with respect to any claim under the Plan. The representative must provide satisfactory evidence to the Administrator of the representative's authority to act for the claimant, such as a letter of authority with the claimant's notarized signature. To the extent consistent with the authority granted by a claimant to his or her representative, references to the claimant in these claims procedures include the claimant's representative.

The Administrator may review claims under the Plan or may delegate that authority to an appropriate claims adjudicator. References in these claims procedures to the Administrator include any claims adjudicator acting on behalf of the Administrator.

Benefit claim determination shall be made based on the applicable provisions of the Plan document and any documents of general application that interpret the Plan provisions and are maintained by the Employer or the Administrator for purposes of making benefit determinations. The Administrator shall take such steps as are necessary to ensure and verify that benefit claim determinations are made in accordance with such documents and that the Plan provisions are being applied consistently with respect to similarly situated claimants.

All notices to claimants will be written in a manner calculated to be understood by the claimant.

### **LIMITATION ON CLAIMS RELATED TO IMPLEMENTATION OF INVESTMENT ELECTIONS**

A claimant alleging that there has been a failure or error in implementing investment directions with respect to an Account must file a claim with the Administrator on or before the earlier of

- 60 days from the mailing of a trade confirmation, account statement, or other document, from which the alleged error can be discovered, or
- one year from the date of the transaction related to the alleged error.

If a claim is filed outside of that period, any recovery will be limited to the benefit that would have been determined if the claim were timely filed. Therefore, any adjustments for investment experience will be calculated only for such period.

### **STANDARD CLAIMS PROVISIONS**

The standard claims provisions apply to any claim that does **not** require a determination under the Plan as to whether or not a claimant is disabled. The standard claims provisions also apply if a claim requires a disability determination, but that determination is made outside the Plan for reasons other than determining eligibility for a

Plan Benefit. Examples of this are where the disability determination is based solely on whether the claimant is entitled to disability benefits under either the Social Security Act or the Employer's long term disability plan.

## **INITIAL REVIEW**

**Review Period.** Generally, the Administrator has 90 days from the date on which a claim is filed in which to review the claim and render a decision. This review period may be extended with the voluntary consent of the claimant or if the Administrator determines that special circumstances require an extension. If special circumstances require an extension, the Administrator will notify the claimant before the end of the initial review period that additional review time is necessary. The notice will:

- describe the special circumstances requiring a delay; and
- specify the date a decision is expected to be made.

The Administrator cannot extend the review period beyond an additional 90 days, unless the claimant voluntarily agrees to a longer extension.

If the Administrator requires additional information from the claimant in order to process the claim, the Administrator has discretion to decide whether to request the information and extend the initial review period as described in this section or, instead, to deny the claim on the basis that there is not sufficient information to proceed. If the Administrator notifies the claimant that additional information is needed, the notice may also serve as a denial notice if it clearly states that unless the claimant provides the requested information within the prescribed time period, the claim will be denied for failure to provide sufficient information. A combined notice must provide both the information described above and the information under "*Denial Notice*" below.

**Denial Notice.** The notice denying a claimant's claim will contain the following information:

- the specific reasons for the denial of the claim;
- specific reference to pertinent Plan provisions on which the denial is based;
- a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such information is necessary;
- a description of the Plan's appeal procedures; and
- a statement that if the claimant appeals an adverse benefit determination in accordance with the Plan's procedures and the reviewing fiduciary's decision on appeal is adverse to the claimant, no further administrative review is required, and the claimant then has a right to bring a civil action under ERISA Section 502(a).

The notice shall also include a statement advising the claimant that, within 60 days of the date on which he receives such notice, he may appeal the adverse benefit determination in accordance with the appeal procedures described below.

## **APPEAL OF ADVERSE BENEFIT DETERMINATION**

**Filing an Appeal.** Within the 60-day period beginning on the date the claimant receives notice of the adverse benefit determination, the claimant may appeal the determination by filing with the Administrator a written request that contains the following information:

- the date on which the claimant's appeal request was received by the Administrator; provided that the date on which the appeal request was in fact received by the Administrator shall control in the event that the date of the actual filing is later than the date stated by the claimant;
- the specific portions of the denial of his claim which the claimant requests the Administrator (or other reviewing fiduciary) to review;
- a statement by the claimant setting forth the basis upon which he believes the Administrator should reverse its previous denial of his claim for benefits and accept his claim as made; and
- any written or other material (offered as exhibits) which the claimant desires the Administrator to examine in its review of the adverse benefit determination.

**Review on Appeal.** If a claimant files a timely appeal, the Plan shall provide a full and fair review of the adverse benefit determination in accordance with the following:

- **Free Access to Information.** Upon request, the Plan shall provide the claimant reasonable access to, and copies of, all documents, records and other information relevant to the claimant's claim. No fee may be charged for such access and/or copies.
- **Record on Appeal.** In reviewing the claimant's appeal, the Administrator shall take into account all comments, documents, records, and other information submitted by the claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.
- **Timing.** Generally, the Administrator has 60 days from the date on which it received the claimant's appeal request in which to consider the appeal and render a decision. This review period may be extended with the voluntary consent of the claimant or if the Administrator determines that special circumstances require an extension. If special circumstances require an extension, the Administrator will notify the claimant before the end of the initial review period that additional review time is necessary. The notice will:
  - describe the special circumstances requiring a delay; and
  - specify the date a decision is expected to be made.

The Administrator cannot extend the review period beyond an additional 60 days, unless the claimant voluntarily agrees to a longer extension.

The Administrator may review a claimant's appeal itself or appoint a separate appeals fiduciary to conduct the review.

**Denial of Appeal.** If the Administrator decides for whatever reason to deny, whether in whole or in part, a claimant's appeal of an adverse benefit determination, the Administrator's decision shall be written in a manner calculated to be understood by the claimant and shall contain the following information:

- the specific reasons for the adverse determination;

- specific reference to pertinent Plan provisions on which the determination is based;
- a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim;
- a statement describing any voluntary review procedures and the claimant's right to obtain copies of such procedures; and
- a statement of the claimant's right to bring an action under ERISA Section 502(a) and a description of any applicable contractual limitation period that applies to the claimant's right to bring such an action.

### **BRINGING A CIVIL ACTION UNDER ERISA**

Before bringing a civil action under ERISA, a claimant must exhaust the remedies provided under the Plan's claims procedures. This means the claimant must have (1) submitted a timely claim for benefits under the Plan, (2) received notice of an adverse benefit determination, (3) filed a timely appeal, and (4) received an adverse benefit determination on appeal.

Any civil action by a claimant must be based only on the issues identified during the administrative review process. Judicial review will be limited to the Plan document and the record developed during the administrative review process.

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**EXHIBIT A**  
**PARTICIPATING EMPLOYERS**

The following entities (including, as specified, certain of their subsidiaries) are "Employers" participating in the Plan:

- Fertitta Entertainment, Inc., and its controlled group subsidiaries
- Rocket Ball Ltd.
- Landry's Management, L.P.
- Fertitta Hospitality, LLC
- 1600 West Loop South, LLC
- Catch Fertitta, LLC, and its controlled group subsidiaries
- Gio Rio San Antonio, LLC
- Top Shelf Holdings, LLC
- CC eSports, LLC