

**CERTIFICATE OF ADOPTING RESOLUTION**

The undersigned authorized representative of City of Joshua, TX (the Employer) hereby certifies that the following resolutions were duly adopted by Employer on \_\_\_\_\_, \_\_\_\_\_, and that such resolutions have not been modified or rescinded as of the date hereof;

RESOLVED, the Amendment to modify and terminate the City of Joshua 457(b) Deferred Compensation Plan (the Amendment) is hereby approved and adopted and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more copies of the amendment.

The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted in the foregoing resolution.

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

\_\_\_\_\_  
[print name/title]

**AMENDMENT FOR TERMINATING DEFINED CONTRIBUTION PLAN**

City of Joshua, TX \_\_\_\_\_, (“Employer”), adopts this Amendment to the  
City of Joshua 457(b) Deferred Compensation Plan \_\_\_\_\_ (“Plan”).

**ARTICLE I  
PREAMBLE**

- 1.1 **Adoption and effective date of Amendment.** The Employer adopts this Amendment to terminate the Plan effective as of the “Effective Date of Plan Termination” specified in Amendment Section 2.1 below.
- 1.2 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.3 **Construction.** Except as otherwise provided in this Amendment, any reference to “Section” in this Amendment refers only to sections within this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to the Plan article, section or other numbering designations.

**ARTICLE II  
EFFECTIVE DATE, CONTRIBUTIONS, AND DISTRIBUTION**

*The Employer must complete 2.1.a. below.*

- 2.1 **Plan Termination.** The Plan is terminated as of the Effective Date of Plan Termination.
  - a. **The Effective Date of Plan Termination** is: December 17, 2025.
- 2.2 **Cessation of contributions.** No employees shall enter the Plan after the Effective Date of Plan Termination, and there will be no contributions for periods after such date. Furthermore, in determining any contributions prior to the Effective Date of Plan Termination, the Plan will not take into account Compensation paid after such Effective Date.
- 2.3 **Distributions.** The Plan Administrator shall direct that distributions be made to Participants and Beneficiaries within a reasonable period of time after the Effective Date of Plan Termination. Notwithstanding any provision in the Plan to the contrary, if the Plan is a Profit Sharing or 401(k) Plan that is not required to provide for distributions in the form of a qualified joint and survivor annuity pursuant to Code §§ 401(a)(11) and 417 and the Employer does not maintain another defined contribution Plan (other than an ESOP), then the Plan will distribute benefits to Participants and Beneficiaries in a lump-sum payment, regardless of the Participant's or Beneficiary's consent to such distribution.
- 2.4 **Plan Year.** The Plan Administrator will administer the Plan as though the Plan Year that includes the Effective Date of Plan Termination ends on the Effective Date of Plan Termination. This provision applies for all plan administration purposes, including the application of the Top-Heavy requirements under Code §416, the limitation year under Code §415, and any allocation conditions imposed by the Plan. However, the plan termination does not change the Plan Year for purposes of ERISA, including ERISA's reporting and disclosure requirements.

\* \* \* \* \*

This Amendment has been executed this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

Name of Plan: City of Joshua 457(b) Deferred Compensation Plan

Name of Employer: City of Joshua, TX

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

\_\_\_\_\_  
*[Print Name, Title]*

## AMENDMENT TO IMPLEMENT SECURE ACT PROVISIONS FOR TERMINATING PLAN

### ARTICLE 1 PREAMBLE

- 1.1 **Adoption and effective date of Amendment.** The Employer hereby adopts this Amendment to the Plan identified below. Except as otherwise specified in this Amendment, this Amendment is effective ("the Effective Date") on the first day of the first Plan Year beginning after December 31, 2019, or as soon as administratively feasible thereafter.
- 1.2 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment. Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning in this Amendment. Most Articles include definitions which are specific to that Article.
- 1.3 **Construction.** Except as otherwise provided in this Amendment, any "Section" reference in this Amendment refers only to this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to the Plan article, section, or other numbering designations.
- 1.4 **Intention; Construction.** The purpose of this amendment is to amend the Plan in accordance with pension related provisions of the Further Consolidated Appropriations Act of 2019 ("FCAA") in general, and Division O of that Act, the Setting Every Community Up for Retirement Enhancement Act of 2019 ("SECURE"), in specific. It also addresses a provision of the Bipartisan American Miners Act ("BAMA"), which is also part of FCAA. The provisions of this Amendment shall be interpreted and applied to be consistent with FCAA.

### ARTICLE 2 IDENTIFICATION; ELECTIONS

#### 2.1 Identifying information.

- A. Name of Employer: City of Joshua, TX
- B. Name of Plan: City of Joshua 457(b) Deferred Compensation Plan
- C. Type of Plan (*check one*)
  - (1) ☐ 401(k) Plan
  - (2) ☐ Profit-Sharing Plan (other than a 401(k) plan)
  - (3) ☐ Money Purchase Pension Plan
  - (4) ☐ Defined Benefit Plan (including a cash balance plan)
  - (5) ☐ 403(b) Plan
  - (6) ☒ 457(b) Plan (check one): ☒ Governmental employer ☐ Tax-exempt employer

#### 2.2 Plan Type Definitions. "Qualified Plan" means a 401(k) Plan, Profit-Sharing Plan, Money Purchase Pension Plan or Defined Benefit Plan. "Defined Contribution Plan" means a Qualified Plan other than a Defined Benefit Plan.

#### 2.3 Default Provisions. The following provisions apply except to the extent the Employer makes a different election in one or more of Sections 2.4 through 2.9.

- a. **The Plan does not make birth/adoption distributions described in Article 5.**
- b. **Distribution of RMDs will begin for Affected Participants no sooner than April 1 of the calendar year following the year the Participant attains age 72.**
- c. **Participants will not be able to take in-service distributions from Money Purchase Pension Plans, Defined Benefit Plans, or Governmental 457(b) Plans at age 59½.**

- d. **The Plan will not make distributions of Lifetime Income Investments as described in Article 9.**
- e. **If the Plan is a QACA, the automatic deferral percentage will not exceed 10%.**
- f. **The Plan (if a retirement income account plan described in Code §403(b)(9)) does not cover employees of organizations affiliated with the Employer (other than Participating Employers).**

**Skip Sections 2.4 through 2.9 if you accept the default provisions listed in Section 2.3. Any entry in Sections 2.4 through 2.9 will override the corresponding default.**

- 2.4 ☐ **Birth/Adoption Distributions.** The provisions of Article 5, dealing with distributions following birth or finalized adoption APPLY as follows: *(Check (a) or (b). Check (c) if applicable.)*
- (a) ☐ The provisions apply effective January 1, 2020.
  - (b) ☐ The provisions apply effective \_\_\_\_\_. *(Enter date after December 31, 2019.)*
  - (c) ☐ Distributions are not available from the following accounts: \_\_\_\_\_ (e.g. matching contributions, or accounts in which the Participant is not fully vested).
- 2.5 ☐ **RMD Timing.** Distribution of RMDs to Affected Participants, as described in Article 6, will NOT be delayed on account of this Amendment (i.e., distributions will generally commence no later than April 1 of the calendar year following the year the Affected Participant attains age 70½), in accordance with Section 6.5.
- 2.6 ☐ **In-Service Distributions.** The provisions of Article 8, dealing with in-service distributions at age 59½ for pension plans and governmental 457(b) plans, APPLY as follows. If 2.6 is selected and 2.6(c) is not selected, in-service distributions are permitted at age 59½. *(Check (a) or (b). Check (c) if applicable.)*
- (a) ☐ The provisions apply effective on the first day of the first Plan Year beginning after December 31, 2019.
  - (b) ☐ The provisions apply effective \_\_\_\_\_ *(Enter date after the first day of the First Plan Year beginning after December 31, 2019.)*
  - (c) ☐ Age at which in-service distributions are permitted \_\_\_\_\_ *(Enter age greater than 59½.)*
- 2.7 ☐ **Distributions of Lifetime Income Investments.** The provisions of Article 9, dealing with distributions of Lifetime Income Investments, APPLY effective \_\_\_\_\_ *(Enter date after the first day of the First Plan Year beginning after December 31, 2019.)*
- 2.8 ☐ **QACA Maximum Automatic Deferrals.** The provisions of Article 11, dealing with the maximum automatic deferral percentage for a QACA, APPLY effective \_\_\_\_\_ *(Enter date after the first day of the First Plan Year beginning after December 31, 2019.)*
- 2.9 ☐ **Retirement Income Accounts.** The provisions of Article 13, dealing with retirement income account plans described in Code §403(b)(9), APPLY effective \_\_\_\_\_. *(Enter effective date.)* For purposes of Section 13.2, the following individuals are Specified Individuals: *(Select any that apply.)*
- (a) ☐ A duly ordained, commissioned, or licensed minister of the Employer in the exercise of his or her ministry.
  - (b) ☐ An employee of one or more of the following organizations, each of which is exempt from tax under Code §501 and is controlled by or associated (as described in Code §414(e)(3)(D)) with a church or a convention or association of churches: \_\_\_\_\_
  - (c) ☐ A former Employee described in Code §414(e)(3)(B)(iii).
  - (d) ☐ Describe: \_\_\_\_\_. *(Describe or name one or more individuals or categories of individuals who will be treated as an Employee. Each such individual must be described in Code §414(e)(3)(B).)*

### ARTICLE 3 ADP SAFE HARBOR NONELECTIVE PLANS – SECURE §103

- 3.1 **Application.** This Article 3 will apply only if the Plan is a 401(k) Plan. It is effective for Plan Years beginning after December 31, 2019.
- 3.2 **No need for safe harbor notice.** If the Employer makes a Safe Harbor Nonelective Contribution, then the Plan can use the ADP Safe Harbor, whether or not Participants receive a Safe Harbor Notice. However, the Plan is required to provide a Safe Harbor Notice if the plan utilizes the ACP safe harbor described in Code §401(m)(11) or (12).
- 3.3 **Retroactive adoption.** Unless the Plan at any time during the Plan Year is a Safe Harbor Match Plan, then the Employer may amend the Plan at any time within twelve months after the end of the Plan Year to provide (A) that the Employer will make a Safe Harbor Nonelective Contribution for the entire Plan Year, (B) that the Plan qualifies for the ADP Safe Harbor for the Plan Year, and (C) that the Plan will not be required to perform the ADP Test for the Plan Year. However, if the Employer adopts the amendment on or after the 30<sup>th</sup> day before the close of the Plan Year, the Safe Harbor Nonelective Contribution must be at least 4% of the Participant's Compensation.
- 3.4 **Definitions.** The following terms have the meaning set forth in this paragraph as more fully provided in the plan terms pertaining to the related subject matter. A “**Safe Harbor Nonelective Contribution**” means a contribution described in Code §401(k)(12)(C) or Code §401(k)(13)(D)(i)(II) of at least 3% of Compensation. The ADP Test means the test provided in Code §401(k)(3)(ii). The “**ADP Safe Harbor**” means the safe harbor provided by Code §401(k)(12)(A) or a Qualified Automatic Contribution Arrangement (QACA) described in Code §401(k)(13). A “**Safe Harbor Match Plan**” is a Plan which provided during the Plan Year that Participants would receive a matching contribution described in Treas. Reg. §1.401(k)-3(c) or Treas. Reg. §1.401(k)-3(k)(2). A “**Safe Harbor Notice**” is a notice described in Code §401(k)(12)(D) or Code §401(k)(13)(E).

### ARTICLE 4 403(b) TERMINATION DISTRIBUTIONS – SECURE Act §110

- 4.1 **Application.** This Article 4 will apply only if the Plan is a 403(b) Plan.
- 4.2 **Custodial Accounts.** In connection with distributions upon termination of the Plan, the Plan may treat the delivery of a custodial account as a distribution, pursuant to IRS guidance required under SECURE Act §110.

### ARTICLE 5 BIRTH/ADOPTION DISTRIBUTIONS – SECURE Act §113

- 5.1 **Application.** This Article 5 will apply only if (1) the Plan is a Defined Contribution Plan, a 403(b) Plan, or a Governmental 457(b) Plan, and (2) the Employer elects in Section 2.4 for this Article 5 to apply, effective on the date specified in Section 2.4.
- 5.2 **Distribution Authorized.** A Participant may request a distribution (other than from an account described in Section 2.4(c)) of up to \$5,000 (per child or Eligible Adoptee) as a QBAD. This \$5,000 limit shall be reduced by QBADs to the Participant made with respect to the same child or Eligible Adoptee by other plans maintained by the Employer or a related employer described in Code §414(b), (c), (m), or (o). However, if the Plan is a Money Purchase Pension Plan, and the Participant has not separated from service, the Participant may not take a QBAD prior to attaining the earlier of Normal Retirement Age or age 59½.
- 5.3 **Definitions.** A “**QBAD**” is Qualified Birth or Adoption Distribution described in Code §72(t)(2)(H)(iii). A QBAD must be made during the 1-year period beginning of the date on which a child of the Participant is born or on which the legal adoption of an Eligible Adoptee by the Participant is finalized. An “**Eligible Adoptee**” is an individual, other than a child of the Participant's spouse, who has not attained age 18 or is physically or mentally incapable of self-support. A individual is considered physically or mentally incapable

of self-support if that individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or to be of long-continued and indefinite duration. This provision shall be applied in a manner consistent with Part D of IRS Notice 2020-68.

- 5.4 **Rollover.** A Participant who received one or more QBADs from this Plan may, if the Plan then permits the Participant to make rollover contributions, make one or more contributions in an aggregate amount not to exceed the amount of such QBADs. The Plan will treat such a contribution as a rollover contribution made by direct trustee-to-trustee transfer within 60 days of distribution.
- 5.5 **Reliance.** The Plan Administrator may rely on an individual's reasonable representation that the individual is eligible to receive a QBAD unless the Plan Administrator has actual knowledge to the contrary.
- 5.6 **Status.** A QBAD is not an eligible rollover distribution for purpose of the obligation to permit a direct rollover under Code §401(a)(31), the notice requirement of Code §402(f), or the mandatory withholding rules of Code §3405(c)(1).

## ARTICLE 6 REQUIRED BEGINNING DATE – SECURE Act §114

- 6.1 **Application.** This Article 6 will apply to all plans, regardless of type. It is effective with regard to RMDs required to be made after December 31, 2019.
- 6.2 **Delay of Required Beginning Date.** An Affected Participant's RBD shall not be earlier than April 1 of the calendar year following the year the Affected Participant attains age 72. For purposes of determining an Affected Participant's RBD, an Affected Participant will be treated as a more than 5% owner if he or she was a 5-percent owner (as defined in Code §416(i)(1)(B)) as to the Plan Year ending in the calendar year the Participant attains age 72.
- 6.3 **Spousal Distributions.** If an Affected Participant dies prior to the Participant's RBD, and the Participant's sole Designated Beneficiary is the Participant's surviving spouse, then the RMDs to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 72, if later.
- 6.4 **Definitions.** A Participant is an "Affected Participant" if the Participant was born after June 30, 1949. An "RMD" is a Required Minimum Distribution as described in Code §401(a)(9). A Participant's "RBD" is the Participant's Required Beginning Date as described in Code §401(a)(9)(C).
- 6.5 **Optional Distribution Timing.** If the Employer elects in Section 2.5 for this Section 6.5 to apply, the timing and form of distributions to an Affected Participant will be determined as though this Article 6 had not been adopted. Distributions pursuant to this paragraph, which are not RMDs, will be treated as eligible rollover distributions for purposes of the direct rollover provisions of Code §401(a)(31).

## ARTICLE 7 BENEFICIARY RMDs – SECURE Act §401

- 7.1 **Application.** This Article 7 will apply to all plans other than Defined Benefit Plans. This Article will not apply to qualified annuities described in SECURE Act §401(b)(4)(B).
- 7.2 **Effective Date.** Except as provided in Section 7.4, Article 7 will apply to Participants who die on or after the Effective Date of this Article. Generally, the Effective Date of this Article is January 1, 2020. In the case of a governmental plan (as defined in Code §414(d)), the Effective Date of this Article is January 1, 2022. The Effective Date of this Article 7 in the case of a collectively-bargained plan will be the date determined in SECURE Act §401(b)(2).

- 7.3 **10-Year Rule.** If the distributee of a deceased Participant's account is a Designated Beneficiary who is not an "Eligible Designated Beneficiary," then the Plan will distribute the account in full no later than December 31 of the 10<sup>th</sup> year following the year of the Participant's death.
- 7.4 **Beneficiary Death.** If an Eligible Designated Beneficiary dies before receiving distribution of the Beneficiary's entire interest in the Participant's account, the Plan will distribute that interest in full no later than December 31 of the 10<sup>th</sup> year following the year of the Eligible Designated Beneficiary's death. Similarly, if a Participant died before the Effective Date of this Article 7, the limitations of this Article 7 shall apply to distributions to the beneficiary of the Participant's Designated Beneficiary if the Designated Beneficiary died after the Effective Date of this Article 7.
- 7.5 **Definitions.** A distributee is a "**Designated Beneficiary**" if the individual is described under Treas. Reg. §1.401(a)(9)-4. An individual is an "**Eligible Designated Beneficiary**" of a Participant if the individual qualifies as a Designated Beneficiary and is (1) the Participant's spouse, (2) the Participant's child who has not reached the age of majority (as defined for purposes of Code §401(a)(9)(F)), (3) an individual not more than 10 years younger than the Participant, (4) a disabled individual, as defined in Code §72(m)(7), or (5) an individual who has been certified to be chronically ill (as defined in Code §7702B(c)(2)) for a reasonably lengthy period, or indefinitely. Certain trusts may be treated as Eligible Designated Beneficiaries pursuant to Code §401(a)(9)(H)(iv) and (v). When a child of the Participant reaches the age of Majority, the Plan will distribute the child's account in full no later than 10 years after that date.

## ARTICLE 8 IN-SERVICE PENSION DISTRIBUTIONS – BAMA §104

- 8.1 **Application.** This Article 8 will apply only if (1) the Plan is a Money Purchase Pension Plan, a Defined Benefit Plan, or a Governmental 457(b) Plan, or, as described in 8.3 a 401(k) or Profit Sharing Plan, and (2) the Employer elects in Section 2.6 for this Article 8 to apply, effective on the date specified in Section 2.6.
- 8.2 **Distribution at 59½.** A Participant can take an in-service distribution at age 59½, or, if later, the age (if any) specified in Section 2.6(c). Such a distribution will be limited to the vested portion of Participant's accrued benefit or account and will be subject to all Plan provisions related to in-service distributions. If the Plan is a Governmental 457(b) Plan, the Plan can operationally permit distributions as early as January 1 of the calendar year the Participant attains 59½ (or such later age).
- 8.3 **Limited application to profit sharing plans.** If the Employer elects in Section 2.6 for this Article 8 to apply, this Article 8 will apply to an account in a 401(k) Plan or a Profit Sharing Plan which holds assets transferred from a Money Purchase Pension Plan or a Defined Benefit Plan.

## ARTICLE 9 DISTRIBUTIONS OF LIFETIME INCOME INVESTMENTS – SECURE §109

- 9.1 **Application.** This Article 9 will apply only if (1) the Plan is a Defined Contribution Plan, a 403(b) Plan, or a Governmental 457(b) Plan, and (2) the Employer elects in Section 2.7 for this Article 9 to apply, effective on the date specified in Section 2.7.
- 9.2 **Distributions authorized.** A Participant may request, and as soon as practical after the request the Plan will make, a distribution of a Lifetime Income Investment on or after the date that is 90 days prior to the date on which the Lifetime Income Investment is no longer authorized to be held as an investment option under the Plan. Such distribution will be in the form of a Qualified Distribution, or, if the Employer elects in Section 2.7(c), in the form of a Qualified Plan Distribution Annuity Contract.
- 9.3 **Definitions.** The terms "**Lifetime Income Investment**," "**Qualified Distribution**" and "**Qualified Plan Distribution Annuity Contract**" have the meanings defined in Code §401(a)(38)(B).



**ARTICLE 10**  
**ADOPTION OF PLAN AFTER YEAR END – SECURE §201**

- 10.1 **Application.** This Article 10 will apply only if the Plan is a Qualified Plan. It is effective for Plan Years beginning after December 31, 2019.
- 10.2 **Retroactive Plan Adoption.** If the Employer adopted the underlying Plan to which this Amendment relates after the close of a taxable year, but prior to the due date (including extensions) of the Employer's federal income tax return for that taxable year, the Plan is treated as having been adopted as of the last day of the taxable year if the Plan's initial effective date is any date within that taxable year. However, no Participant may make elective deferrals to the Plan prior to the date it was adopted.

**ARTICLE 11**  
**QACA MAXIMUM AUTOMATIC DEFERRAL – SECURE §102**

- 11.1 **Application.** This Article 11 will apply only if (1) the Plan is a 401(k) Plan or a 403(b) Plan and (2) the Employer elects in Section 2.8 for this Article 11 to apply, effective on the date specified in Section 2.8.
- 11.2 **Higher Maximum Contribution.** If the Plan includes a Qualified Automatic Contribution Arrangement (QACA) described in Code §401(k)(13), then the automatic deferral percentage which applies to a Participant (referred to as the "qualified percentage" in Treas. Reg. §1.401(k)-12(j)(2)) shall not exceed 10% of the Participant's Compensation during the Initial Period, and shall not exceed 15% of the Participant's Compensation after the Initial Period. The Initial Period for a Participant begins when the Participant first has contributions made pursuant to a default election under the QACA for a Plan Year and ends on the last day of the following Plan Year.
- 11.3 **Validation.** If the Employer amends or has amended the plan (effective for a Plan Year beginning on or after the effective date specified in Section 2.8) to provide for an automatic deferral percentage which does not exceed the limitations of Section 11.2, the amendment is valid notwithstanding any limitations contained in any provision of the Plan which would limit the automatic deferral percentage to 10%.

**ARTICLE 12**  
**DIFFICULTY OF CARE PAYMENTS – SECURE §116**

- 12.1 **Application.** This Article 12 will apply only if the Plan is a Defined Contribution Plan or a 403(b) Plan. It is effective for Plan Years beginning after December 31, 2015.
- 12.2 **Inclusion in 415 Compensation.** The amount of a Participant's Compensation for purposes of determining the annual addition limit under Code §415(c)(1)(B) is increased by the amount of Difficulty of Care Payments the Employer makes to the Participant.
- 12.3 **Definition.** A Difficulty of Care Payment is a payment described in Code §131(c)(1) made in connection with qualified foster individuals.

**ARTICLE 13**  
**EMPLOYEES PARTICIPATING IN RETIREMENT INCOME ACCOUNT PLAN – SECURE §111**

- 13.1 **Application.** This Article 13 will apply only if (1) the Plan is a 403(b) Plan, (2) Plan assets are held in retirement income accounts described in Code §403(b)(9), and (3) the Employer elects in Section 2.9 for this Article 13 to apply. It is effective as of the date specified in Section 2.9.
- 13.2 **Employee.** For all Plan purposes, the term "Employee" includes Specified Individuals as elected in Section 2.9.

This Amendment has been executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Name of Employer: City of Joshua, TX

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

## AMENDMENT TO IMPLEMENT SECURE 2.0

### ARTICLE 1 PREAMBLE

- 1.1 **Adoption and effective date of Amendment.** The Employer hereby adopts this Amendment to the Plan identified below. Unless otherwise stated, the effective date of each Article of this Amendment is the first day of the first Plan Year beginning in 2023.
- 1.2 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment. Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning in this Amendment. Most Articles include definitions which are specific to that Article.
- 1.3 **Numbering.** Except as otherwise provided in this Amendment, any “Section” reference in this Amendment refers only to this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to the Plan article, section, or other numbering designations.
- 1.4 **Intention; Construction.** The purpose of this amendment is to amend the Plan in accordance with SECURE 2.0 Act of 2022, enacted by Congress as Division T of the Consolidated Appropriations Act of 2023, and shall be interpreted and applied accordingly.

### ARTICLE 2 IDENTIFICATION; ELECTIONS

#### 2.1 Identifying information.

A. Name of Employer: City of Joshua, TX

B. Name of Plan: City of Joshua 457(b) Deferred Compensation Plan

### ARTICLE 3 QACA PLANS – SECURE 2.0 §401

- 3.1 **Application.** This Article 3 will apply only if the Plan is a Qualified Automatic Contribution Arrangement (“QACA”) described in Code §401(k)(13). This Article is effective as of the first day of the first plan year beginning in 2020, or such later date as the Plan is a QACA.
- 3.2 **Safe harbor notice required to use ACP safe harbor.** The Plan is required to provide a safe harbor notice, as described in Code §401(k)(13)(E), if the plan utilizes the ACP safe harbor described in Code §401(m)(12).

### ARTICLE 4 BIRTH/ADOPTION DISTRIBUTIONS – SECURE 2.0 §311

- 4.1 **Application.** This Article 4 will apply only if the Plan permits Qualified Birth and Adoption Distributions (“QBADs”) as described in Code §72(t)(2)(H).
- 4.2 **Rollover Deadline.** A Participant who received one or more QBADs from this Plan may, if the Plan then permits the Participant to make rollover contributions, make one or more contributions in an aggregate amount not to exceed the amount of such QBADs. The Plan will treat such a contribution in the same manner as a rollover contribution made by direct trustee-to-trustee transfer within 60 days of distribution. However, any such contribution must be received by the Plan no later than December 31, 2025, or prior to Plan termination (if earlier than December 31, 2025).

**ARTICLE 5  
REQUIRED BEGINNING DATE – SECURE 2.0 §107**

- 5.1 **Application.** This Article 5 will apply to all plans, regardless of type. It is effective with regard to RMDs required to be made after December 31, 2022.
- 5.2 **Delay of Required Beginning Date.** An Affected Participant's RBD shall not be earlier than April 1 of the calendar year following the year the Affected Participant attains age 73. For purposes of determining an Affected Participant's RBD, an Affected Participant will be treated as a more than 5% owner if the Participant was a 5-percent owner (as defined in Code §416(i)(1)(B)) as to the Plan Year ending in the calendar year the Participant attains age 73.
- 5.3 **Spousal Distributions.** If an Affected Participant dies prior to the Participant's RBD, and the Participant's sole Designated Beneficiary is the Participant's surviving spouse, then the RMDs to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 73, if later. However, this Section will apply only if the Plan, prior to this Amendment, permitted a surviving spouse to delay RMD distributions to December 31 of the calendar year in which the Participant would have attained age 72.
- 5.4 **Definitions.** The following definitions apply for this Article 5:
- (a) A Participant is an "**Affected Participant**" if the Participant was born after December 31, 1950.
  - (b) An "**RMD**" is a Required Minimum Distribution as described in Code §401(a)(9).
  - (c) A Participant's "**RBD**" is the Participant's Required Beginning Date as described in Code §401(a)(9)(C), as amplified by Section 5.2.

**ARTICLE 6  
COLLECTION OF PEP CONTRIBUTIONS – SECURE 2.0 §105**

- 6.1 **Application.** This Article 6 will apply only if the Plan is a Pooled Employer Plan ("PEP") described in ERISA §3(43).
- 6.2 **Named Fiduciary.** The Pooled Plan Provider ("PPP") of the Plan or another Named Fiduciary, other than an Employer in the Plan, to be responsible for collecting contributions to the Plan. The PPP or other Named Fiduciary shall implement written contribution collection procedures that are reasonable, diligent, and systematic.

This Amendment has been executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Name of Employer: City of Joshua, TX

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

### CERTIFICATE OF ADOPTING RESOLUTION

The undersigned authorized representative of City of Joshua, TX (the Employer) hereby certifies that the following resolution was duly adopted by Employer on \_\_\_\_\_, and that such resolution has not been modified or rescinded as of the date hereof:

RESOLVED, the Amendment to the City of Joshua 457(b) Deferred Compensation Plan Plan for the CARES Act (the Amendment) is hereby approved and adopted and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Plan Administrator the Amendment and to take any and all actions as it may deem necessary to effectuate this resolution.

The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted in the foregoing resolution.

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

\_\_\_\_\_  
[print name/title]

## AMENDMENT FOR CARES ACT

### ARTICLE 1

#### PREAMBLE; DEFINITIONS

- 1.1 **Adoption of Amendment.** The Employer adopts this Amendment to implement provisions of the Act which affect the Plan. All references to the Plan include the Plan's loan program, policy, or procedure to the extent applicable.
- 1.2 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.3 **Construction.** Except as otherwise provided in this Amendment, any Article or Section reference in this Amendment refers only to this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment and does not relate to the Plan article, section, or other numbering designations.
- 1.4 **Effect of restatement of Plan.** If the Employer restates the Plan then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates these provisions).
- 1.5 **Definitions.** Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning in this Amendment. The following definitions apply specifically to this Amendment:
  - A. The "**Act**" is the Coronavirus Aid, Relief, and Economic Security Act, also known as the CARES Act. This Amendment shall be interpreted and applied to comply with the Act.
  - B. A "**Qualified Individual**" means any individual who meets one or more of the criteria described in paragraphs (1), (2), (3), or (4). Participants, alternate payees and beneficiaries of deceased participants can be treated as Qualified Individuals. The Plan Administrator may rely on an individual's certification that the individual satisfies a condition to be a Qualified Individual unless the Plan Administrator has actual knowledge to the contrary. In applying the criteria, "COVID-19" means either the virus SARS-CoV-2 or coronavirus disease 2019; "an approved test" means a test approved by the Centers for Disease Control and Prevention (including a test authorized under the Federal Food, Drug, and Cosmetic Act); and a "member of the individual's household" means someone who shares the individual's principal residence. The criteria are as follows:
    - (1) The individual was diagnosed with COVID-19 by an approved test;
    - (2) The individual's spouse or dependent (as defined in Code §152) was diagnosed with COVID-19 by an approved test;
    - (3) The individual has experienced adverse financial consequences because: (a) the individual or the individual's spouse, or a member of the individual's household was quarantined, furloughed or laid off, or had work hours reduced due to COVID-19; (b) the individual, the individual's spouse, or a member of the individual's household was unable to work due to lack of childcare due to COVID-19; (c) A business owned or operated by the individual, the individual's spouse, or a member of the individual's household closed or reduced hours due to COVID-19; or (d) the individual, the individual's spouse, or a member of the individual's household had a reduction in pay (or self-employment income) due to COVID-19 or had a job offer rescinded or start date for a job delayed due to COVID-19; or
    - (4) The individual satisfies any other criteria determined by the Treasury or the IRS.

### ARTICLE 2

## IDENTIFYING INFORMATION; EMPLOYER ELECTIONS

### 2.1 Reserved.

### 2.2 Employer identifying information.

A. Name of Employer: City of Joshua, TX

B. Name of Plan: \_\_\_\_\_

#### C. Type of Plan (check one)

- (1) ☐ 401(k) Plan
- (2) ☐ Profit-Sharing Plan (other than a 401(k) plan)
- (3) ☐ Money Purchase Pension Plan
- (4) ☐ Defined Benefit Plan (including a cash balance plan)
- (5) ☐ 403(b) Plan
- (6) ☒ 457(b) Plan sponsored by a governmental employer

### 2.3 Relief for Qualified Individuals. Will the Plan provide any or all of the following relief for Qualified Individuals: (1) Coronavirus-Related Distributions described in Article 3, (2) increased loan limits described in Section 4.2, (3) the loan repayment extension described in Section 4.3. (Select one of (a), (b), or (c). If (c) is selected, then select one or more of (d), (e), and/or (f))

- (a) ☐ **No.** The Plan will not provide any of these relief provisions.
- (b) ☐ **Yes.** The Plan will provide all of these relief provisions. The limitations on distributions described in Sections 2.3(d)(1) – (4) and the limitations on loans in Section 2.3(e)(1) – (3) and 2.3(f)(1)—(3) do not apply.
- (c) ☐ **Some.** The Plan will provide those relief provisions selected in (d), (e), or (f) below.
  - (d) ☐ **The Coronavirus-Related Distribution provisions described in Article 3** (If (d) is selected, the Employer may optionally select one or more of (1), (2), (3), (4), or (5).)
    - (1) ☐ Coronavirus-Related Distributions are not available from an account in which the Participant is not 100% vested.
    - (2) ☐ Coronavirus-Related Distributions may be made only from the following accounts: \_\_\_\_\_.
    - (3) ☐ The maximum amount of Coronavirus-Related Distributions from the Plan to a Qualified Individual will not exceed: \$\_\_\_\_\_. (Enter amount less than \$100,000.)
    - (4) ☐ The following additional provisions apply to Coronavirus-Related Distributions: \_\_\_\_\_.  
(Enter limitations or restrictions which are nondiscriminatory and not subject to Employer discretion.)
  - (e) ☐ **The increased loan limit described in Section 4.2** (If (e) is selected, the Employer may optionally select any one or more of (1), (2), or (3).)
    - (1) ☐ The maximum dollar amount of loans pursuant to Section 4.2 will not exceed: \$\_\_\_\_\_. (Enter amount less than \$100,000.)
    - (2) ☐ The maximum percentage of the present value of the nonforfeitable accrued benefit that may be loaned pursuant to Section 4.2 will not exceed: \_\_\_\_\_%. (Enter percentage less than 100%.)
    - (3) ☐ The following additional provisions apply to the increased loan limit: \_\_\_\_\_.  
(Enter limitations or restrictions which are nondiscriminatory.)
  - (f) ☐ **The loan repayment extension described in Section 4.3** (If (f) is selected, the Employer may optionally select and one or more of (1), (2), or (3).)
    - (1) ☐ The Suspension Period will begin \_\_\_\_\_ (Enter date not before March 27, 2020) and end \_\_\_\_\_. (Enter date not later than December 31, 2020.)
    - (2) ☐ The Extension Period will be \_\_\_\_\_. (Enter period, up to one year, the due date of the loan will be extended, such as “six months.”)

- (3) ☐ The following additional provisions apply to the loan repayment extension:

*(Enter limitations or restrictions which are nondiscriminatory.)*

- 2.4 **RMD waivers for 2020.** Unless the Employer elects otherwise below, the provisions of Section 5.2 apply and a Participant or Beneficiary who would have been required to receive a 2020 RMD or Extended 2020 RMD will receive the distribution unless the Participant or Beneficiary chooses not to receive the distribution.

- (a) ☒ The provisions of Section 5.2 apply and a Participant or Beneficiary who would have been required to receive a 2020 RMD or Extended 2020 RMD will not receive the distribution unless the Participant or Beneficiary chooses to receive the distribution.
- (b) ☐ Payment of RMDs or Extended 2020 RMDs will be governed by the terms of the Plan without regard to this Amendment (i.e., no election is available to Participants or Beneficiaries).
- (c) ☐ Other: \_\_\_\_\_

For purposes of Section 5.3, the Plan will also treat the following as eligible rollover distributions in 2020: *(Choose one or none of (d), (e), or (f)): If no election is made, then a direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code §401(a)(9)(I):*

- (d) ☐ 2020 RMDs.
- (e) ☐ 2020 RMDs and Extended 2020 RMDs.
- (f) ☒ 2020 RMDs but only if paid with an additional amount that is an eligible rollover distribution without regard to Code §401(a)(9)(I).

The provisions of Article 5, and the election in this Section 2.4, will be effective on the date specified in Section 2.5. unless a different date is entered here: \_\_\_\_\_. *(Optional. Enter a date between March 27, 2020 and December 31, 2020. RMD distributions before the selected effective date should have followed plan terms in effect before this amendment.)*

- 2.5 **Effective Date.** This Amendment is effective March 27, 2020, or as soon as practical thereafter, or, if later, the following date: \_\_\_\_\_. *(Optional. Enter a date not later than December 31, 2020.)*

### ARTICLE 3 CORONAVIRUS-RELATED DISTRIBUTIONS

- 3.1 **Application.** This Article 3 will apply if Section 2.3(b) or Section 2.3(d) is selected.
- 3.2 **Coronavirus-Related Distribution(s).** Subject to the provisions described in Section 2.3(d)(4), if any, a Qualified Individual may take one or more Coronavirus-Related Distributions. The accounts from which the amount may be distributed shall be limited if selected in Sections 2.3(d)(1) and (2). However, if the Plan is a Money Purchase Pension Plan or a Defined Benefit Plan, and the Qualified Individual has not separated from service, the Qualified Individual may not take a Coronavirus-Related Distribution prior to attaining the earlier of Normal Retirement Age or age 59½. The provisions of this Section will apply notwithstanding any limitation in the Plan on partial distributions or any otherwise applicable plan or administrative limits on the number of allowable distributions.
- 3.3 **Repayment of distribution.** If the Plan permits rollover contributions, then a Participant who receives a Coronavirus-Related Distribution (from this Plan and/or another eligible retirement plan as defined in Code §402(c)(8)(B)), at any time during the 3-year period beginning on the day after receipt of the distribution, may make one or more contributions to the Plan, as rollover contributions, in an aggregate amount not to exceed the amount of such distribution.
- 3.4 **Definition of Coronavirus-Related Distribution.** A "Coronavirus-Related Distribution" means a distribution to a Qualified Individual during the period beginning January 1, 2020 and ending December 30, 2020. The total amount of Coronavirus-Related Distributions to a Qualified Individual pursuant to this Amendment from all plans maintained by the Employer, or any related employer described in Code §414(b), (c), (m), or (o), shall not exceed \$100,000, (or such lesser amount specified in Section 2.3(d)(3)). The



Coronavirus-Related Distributions from the Plan to a Qualified Individual will not exceed the amount of the individual's vested account balance or the present value of the individual's vested accrued benefit.

#### **ARTICLE 4 PARTICIPANT LOAN RELIEF**

- 4.1 **Application.** This Article 4 will apply only if the Plan permits participant loans. Section 4.2 will apply if Section 2.3(b) or Section 2.3(e) is selected. Section 4.3 will apply if Section 2.3(b) or Section 2.3(f) is selected.
- 4.2 **Increased loan limit.** Notwithstanding the loan limitation that otherwise would apply, the Plan will determine the loan limit under Code §72(p)(2)(A) for a loan to a Qualified Individual, made during the period beginning March 27, 2020 and ending September 22, 2020, by substituting "\$100,000" (or such lesser amount specified in Section 2.3(e)(1)) for "\$50,000," and by substituting "100% (or such lesser percentage specified in Section 2.3(e)(2)) of the present value of the nonforfeitable accrued benefit of the employee under the Plan" for "one-half of the present value of the nonforfeitable accrued benefit of the employee under the Plan" (or its equivalent). The provisions described in Section 2.3(e)(3), if any, will apply in connection with loans to Qualified Individuals.
- 4.3 **Extension of certain repayments.** If a Qualified Individual has an outstanding loan from the Plan on or after March 27, 2020, then: (1) if the date for any repayment of such loan occurs during the Suspension Period, the due date is extended for the Extension Period; (2) the due date of the loan will be extended by the Extension Period; (3) the Plan will adjust any subsequent repayments to reflect the extension of the due date and any interest accrued during the Suspension Period; and (4) the Plan will disregard the Extension Period in determining the 5-year period and the loan term under Code §72(p)(2)(B) or (C). The provisions described in Section 2.3(f)(3), if any, will apply in connection with the suspension and extension described in this Section. The Suspension Period, unless otherwise specified in Section 2.3(f)(1), will begin March 27, 2020 and end December 31, 2020. The Extension Period, unless otherwise specified in Section 2.3(f)(2) will be one year. The provisions of this Section 4.3 will be applied in accordance with Section 5.B. of Notice 2050-50, or any subsequent applicable guidance, and the adjustment described in (3) may reflect the "safe harbor" described therein.

#### **ARTICLE 5 WAIVER OF 2020 REQUIRED MINIMUM DISTRIBUTIONS (RMDs)**

- 5.1 **Application.** This Article 5 will apply only to defined contribution plans, including 401(k) Plans, Profit-Sharing Plans, Money Purchase Pension Plans, 403(b) Plans, and 457(b) Plans sponsored by governmental employers. The definitions in Section 5.4 will apply in interpreting Section 2.4.
- 5.2 **Waiver; default provision.** This Section 5.2 will apply unless the Employer has selected Section 2.4(b) or (c). Notwithstanding the provisions of the Plan relating to RMDs, whether a Participant or Beneficiary who would have been required to receive 2020 RMDs, and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2020 RMDs, or (2) Extended 2020 RMDs will receive those distributions is determined in accordance with the option chosen by the Employer in Section 2.4. Notwithstanding the option chosen by the employer in Section 2.4, a Participant or Beneficiary will be given an opportunity to make an election as to whether or not to receive those distributions. If the Plan permits a Beneficiary of a deceased Participant to make the election to use the 5-year rule or the life expectancy rule, the deadline to make the election shall be extended to reflect the adoption of Code §401(a)(9)(I).
- 5.3 **Direct rollovers.** Notwithstanding the provisions of the Plan relating to required minimum distributions under Code §401(a)(9), and solely for purposes of applying the direct rollover provisions of the Plan, certain additional distributions in 2020, as elected by the Employer in Section 2.4, will be treated as eligible rollover distributions. If no election is made by the Employer in Section 2.4, then a direct rollover will be

offered only for distributions that would be eligible rollover distributions without regard to Code §401(a)(9)(I).

- 5.4 **Definitions. “RMDs”** means required minimum distributions described in Code §401(a)(9). **“2020 RMDs”** means required minimum distributions the Plan would have been required to distribute in 2020 (or permitted to pay in 2021 for the 2020 calendar year for a Participant with a required beginning date of April 1, 2021) but for the enactment of Code §401(a)(9)(I). **“Extended 2020 RMDs”** means one or more payments in a series of substantially equal distributions (that include the 2020 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant’s designated Beneficiary, or for a period of at least 10 years.
- 5.5 **Installment payments.** A Participant or Beneficiary receiving payment of 2020 RMDs or 2020 Extended RMDs pursuant to this Article 5 may receive them in any method (including installments or partial distributions) which would have been permitted under the terms of the Plan if the amounts would have been RMDs but for the enactment of Code §401(a)(9)(I).

\* \* \* \* \*

This Amendment has been executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Name of Plan: City of Joshua 457(b) Deferred Compensation Plan

Name of Employer: City of Joshua, TX

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

**SECURE 2.0 Operational Checklist**  
**ASC Cycle 3 Defined Contribution Plans**  
**EMPLOYER ELECTIONS**  
**Plan name**

1. **Mandatory Automatic Enrollment for New 401(k) Plans.** [SECURE 2.0 Act §101 - effective for plan years beginning after December 31, 2024 with respect to 401(k) plans established on or after December 29, 2022 (other than for small or new businesses as described in SECURE 2.0, SIMPLE plans, governmental or church plans). See IRS Notice 2024-2 (Q&As A-1 – A-6) for guidance relating to the mandatory automatic enrollment requirements.]

- ☒ (a) **The Plan is exempt from the mandatory automatic enrollment requirements.** The Plan is not required to satisfy the mandatory automatic enrollment requirements because it is exempt from such requirements under Code §414A(c). The Code §414A(c) exemptions include: (1) any 401(k) plan established before December 29, 2022; (2) small businesses for which the Employer normally employs (or employed) 10 or fewer Employees; (3) new businesses for which the Employer has been in existence for less than 3 years; (4) any SIMPLE plan; (5) governmental plans, and (6) church plans. [See IRS Notice 2024-2 (Q&As A-1 – A-6) for guidance relating to the exemptions from the mandatory automatic enrollment requirements.]

**The following elections apply to plans that are not exempt from the mandatory automatic enrollment requirements.**

- ☐ (b) **Eligible Automatic Contribution Arrangement deferral percentage and automatic increase.**
- ☐ (1) **Automatic deferral percentage.** \_\_\_\_\_% of Plan Compensation [*must be between 3% and 10%*]
- ☐ (2) **Automatic increase.** The automatic deferral percentage will increase effective the first day of each Plan Year after each completed full year of participation by 1% of Plan Compensation until the total automatic deferral percentage is \_\_\_\_\_% of Plan Compensation [*may not exceed 15%. However, in the case of an eligible automatic contribution arrangement that does not meet the requirements of Code §§401(k)(12) (Traditional safe harbor plan) or (13) (QACA safe harbor plan) for the 2025 plan year and earlier plan years, the total automatic deferral percentage may not exceed 10%*].
- ☐ (3) **Special application of automatic increase provisions.** The Employer may describe under this subsection (3) special rules applicable to automatic increase provisions: \_\_\_\_\_  
[*Note: Special rules must satisfy all applicable statutory requirements.*]
- ☐ (c) **Application of automatic deferral provisions.** The automatic deferral election under subsection (b) will apply to Participants who enter the Plan on or after the automatic deferral provisions are effective. Rules for current Participants who are eligible to participate in the Plan at the time the automatic deferral provisions are effective are set forth under subsection (c)(1).
- ☐ (1) **Current Participants.** The automatic deferral provisions apply to all other eligible Participants as follows:
- ☐ (i) Automatic deferral provisions apply to all current Participants who have not entered into a Salary Deferral Election (including an election not to defer under the Plan).
- ☐ (ii) Automatic deferral provisions apply to all current Participants who have not entered into a Salary Deferral Election that is at least equal to the automatic deferral amount under subsection (a)(1). Current Participants who have made a Salary Deferral Election that is less than the automatic deferral amount, or who have not made a Salary Deferral Election, will automatically be increased to the automatic deferral amount unless the Participant enters into a new Salary Deferral election on or before the effective date of the automatic deferral provisions.
- ☐ (iii) Describe: \_\_\_\_\_
- ☐ (2) **Expiration of affirmative deferral elections.** Unless this subsection (2) is elected, for purposes of the automatic deferral provisions of the Plan, a Participant's affirmative elective deferral election will not expire. If this subsection (2) is elected, a Participant's affirmative deferral election will expire:
- ☐ (i) at the end of each Plan Year.
- ☐ (ii) Describe date that the affirmative election will expire: \_\_\_\_\_
- Expiration applies to the following:
- ☐ (iii) All affirmative elections.
- ☐ (iv) Only to affirmative elections that are less than the current automatic deferral rate.

If a Participant fails to complete a new affirmative deferral election subsequent to the prior election expiring, the Participant becomes subject to the automatic deferral percentage as specified in the Plan pursuant to the automatic contribution arrangement provisions. Each year, the Participant may always complete a new affirmative election and designate a new deferral percentage.

- (3) **Treatment of automatic deferrals.** Any Salary Deferrals made pursuant to an automatic deferral election will be treated as Pre-Tax Salary Deferrals, unless designated otherwise under this subsection (3).

☐ Any Salary Deferrals made pursuant to an automatic deferral election will be treated as Roth Deferrals. [*Note: This subsection (3) may only be checked if Roth Deferrals are permitted under AA §6A-5.*]

- (d) **Treatment of terminated Employees who are rehired.** Unless designated otherwise below, in applying the automatic deferral provisions under this Section 1, including the automatic increase provisions, a rehired Participant is treated as a new Employee (regardless of the amount of time since the rehired Employee terminated employment).

☐ (1) **Rehired Employees not treated as new Employee.** In applying the automatic deferral provisions under this AA§6A-8, including the automatic increase provisions, a rehired Participant is not treated as a new Employee. Thus, for example, a rehired Participant's deferral percentage will be calculated based on the date the individual first began making automatic deferrals under the Plan.

☐ (2) **Describe special rules applicable to rehired Employees:** \_\_\_\_\_

- (e) **Permissible Withdrawals Must be Allowed.** A Participant who receives an automatic deferral may withdraw such contributions (and earnings attributable thereto) if such Participant makes the election to withdraw no later than 90 days after the date the Plan Compensation from which such Salary Deferrals are withheld would otherwise have been included in gross income. If an Employee does not make automatic deferrals to the Plan for an entire Plan Year (e.g., due to termination of employment), the Plan may allow such Employee to take a permissive withdrawal. [*Note: The permissible withdrawal requirements are mandatory, and the Employer must allow such withdrawals.*]

☐ (f) Describe special rules applicable to the mandatory automatic enrollment under the Plan: \_\_\_\_\_

2. **Saver's Match.** [SECURE 2.0 Act §103 - effective for taxable years beginning after December 31, 2026.]

**This checklist may expand elections associated with the Saver's Match provision under SECURE 2.0 §103 after IRS issues applicable guidance.**

To receive federal matching contributions under the Saver's Match provisions of SECURE 2.0 §103, the Employer must elect to accept such contributions.

☐ (a) The Employer elects to accept the receipt of federal matching contributions (Saver's Match), effective \_\_\_\_\_ [*must be after December 31, 2026*].

☐ (b) Employer will not accept receipt of Saver's Match.

☐ (c) Describe special rules applicable to the Saver's Match: \_\_\_\_\_

3. **Pooled Employer Plan – Collection of Contributions.** [SECURE 2.0 Act §105 - effective for Plan Years beginning after December 31, 2022.]

**PEP FIDUCIARY INFORMATION.**

Name of PEP Fiduciary. \_\_\_\_\_

Address. \_\_\_\_\_

City, State, Zip Code. \_\_\_\_\_

PEP Fiduciary EIN. \_\_\_\_\_

Effective date of designation. \_\_\_\_\_

4. **Higher Catch-up Limits for Ages 60, 61, 62 and 63.** [SECURE 2.0 Act §109 - effective for taxable years beginning after December 31, 2024.]

Effective for taxable years beginning after December 31, 2024, the Plan's catch-up limit is increased to the greater of \$10,000 or 150% of the regular catch-up amount for the 2025 calendar year for Employees who have attained ages 60, 61, 62 and 63, unless otherwise elected below.

☐ The Employer elects not to increase the catch-up limit under the Plan to the greater of \$10,000 or 150% of the regular catch-up amount for the 2025 calendar year for Employees who have attained ages 60, 61, 62 and 63,

**[Caution: The IRS may not allow plans that provide for catch-up contributions to elect not to increase the catch-up limit as provided under SECURE 2.0 Act §109. Providers should make Employers aware of this possibility.]**

5. **Treatment of Student Loan Payments as Elective Deferrals for Matching Contributions.** [SECURE 2.0 Act §110 - effective for Plan Years beginning after December 31, 2023.]

- ☐ The Employer elects to make Matching Contributions on account of “qualified student loan payments,” effective \_\_\_\_\_ [no earlier than the first day of the Plan Year beginning after December 31, 2023].

The Employer may develop procedures to assist in the administration of this election.

6. **Military Spouse Retirement Plan Eligibility Credit for Small Employers.** (SECURE 2.0 Act §112 - effective for taxable years beginning after December 29, 2022.) [Highly Compensated Employees cannot be considered military spouses for the purposes of this credit. See IRS Notice 2024-2 (Q&As C-1 – C-3) for guidance on the military spouse credit.]

*[Note: If the Employer wishes to receive this credit, it may instead modify the eligibility and contribution provisions of the Plan to meet the conditions for the credit. If the Plan’s eligibility, contribution and vesting provisions already satisfy the conditions for receiving the tax credit, the Employer is entitled to receive the tax credit and no special modification of the Plan for military spouses is necessary.]*

- ☐ (a) **The Employer elects the following special provisions applicable to military spouses. All Matching Contributions and/or Employer Contributions made on behalf of the military spouse are immediately 100% vested.**

- ☐ (1) A military spouse will enter the Plan immediately upon such military spouse’s Employment Commencement Date and is immediately eligible to receive Matching Contributions and/or Employer Contributions as otherwise provided to Eligible Employees under the Plan.
- ☐ (2) A military spouse will enter the Plan on the date which is two months after such military spouse’s Employment Commencement Date and is then immediately eligible to receive Matching Contributions and/or Employer Contributions as otherwise provided to Eligible Employees under the Plan.
- ☐ (3) A military spouse will enter the Plan on the next Entry Date following such military spouse’s Employment Commencement Date, but in no event later than two months after such Employment Commencement Date, and is then immediately eligible to receive Matching Contributions and/or Employer Contributions as otherwise provided to Eligible Employees under the Plan.
- ☐ (4) A military spouse will enter the Plan on the date which is \_\_\_\_\_ months [cannot exceed two (2)] or \_\_\_\_\_ days [cannot exceed 60] after such military spouse’s Employment Commencement Date and is then immediately eligible to receive Matching Contributions and/or Employer Contributions as otherwise provided to Eligible Employees under the Plan.
- ☐ (5) Describe special rules applicable to military spouses: \_\_\_\_\_
- ☐ (b) Effective date of special provisions applicable to military spouses: \_\_\_\_\_
- ☐ (c) Describe special rules relating to contributions for military spouses: \_\_\_\_\_

7. **Distributions for Certain Emergency Expenses.** [SECURE 2.0 Act §115 - effective for emergency expense distributions made after December 31, 2023.]

Unless otherwise elected below, the Plan does not allow distributions for emergency expenses.

- ☐ (a) Effective \_\_\_\_\_ [no earlier than January 1, 2024], the Employer elects to allow a Participant to take one distribution per year from the Participant’s vested account balance not to exceed the lesser of:

- (1) \$1,000, or  
(2) the amount by which the Participant’s total vested account balances exceeds \$1,000

for emergency expenses, which are unforeseeable or immediate financial needs relating to personal or family emergency expenses. The Participant has the option to repay such distribution within 3 years from the date of the distribution. No further emergency distributions may be made during the 3-year repayment period unless full repayment occurs or elective deferrals, plus and Employee contributions subsequently made to the plan are at least equal to the amount of the previous distribution.

- ☐ (b) Emergency expense distributions are available from the following sources to the extent vested:

- ☐ (1) All available sources  
☐ (2) Pre-Tax Deferral Account  
☐ (3) Roth Deferral Account (including In-Plan Roth Conversion Account)  
☐ (4) Matching Contribution Account  
☐ (5) Employer Contribution Account  
☐ (6) Safe Harbor Contribution Account(s)

- ☐ (7) Qualified Matching Contribution (QMAC) and/or Qualified Nonelective Contribution (QNEC) Account(s)
- ☐ (8) Rollover Contribution Account
- ☐ (9) After-Tax Employee Contribution Account
- ☐ (10) Transfer Account
- ☐ (11) Money Purchase Pension Plan Accounts (subject to the limitations stated under the Plan)
- ☐ (12) Describe available sources: \_\_\_\_\_
- ☐ (c) Emergency expense distributions are available to all Participants who have the applicable Account(s), unless otherwise indicated below.
  - ☐ (1) Emergency expense distributions are not available to terminated Participants.
  - ☐ (2) Emergency expense distributions will only be permitted if the Participant is 100% vested in the source from which the distribution is taken.
  - ☐ (3) Describe the Participants who may receive Emergency expense distributions: \_\_\_\_\_
- ☐ (d) Describe special rules applicable to distributions for emergency expenses: \_\_\_\_\_

**8. Additional Employer Contributions to SIMPLE 401(k) Plans.** [SECURE 2.0 Act §116 - effective for taxable years beginning after December 31, 2023.]

Effective for taxable years beginning after December 31, 2023, an Employer may make additional discretionary Employer Contributions to its SIMPLE 401(k) Plan for each Eligible Employee in a uniform manner, provided that such contribution may not exceed the lesser of up to 10% of compensation or \$5,000 (indexed for inflation). The Employer may elect below to make the additional Employer Contribution as a fixed contribution to the Plan.

- ☐ (a) Effective for Plan Years beginning after \_\_\_\_\_ [no earlier than December 31, 2023], the Employer elects to make an additional fixed Employer Contribution to the SIMPLE 401(k) Plan for the Plan Year equal to \_\_\_\_\_% of Total Compensation [may not exceed 10%] up to:
  - ☐ (1) \$5,000
  - ☐ (2) \$ \_\_\_\_\_ [must be less than \$5,000]
- ☐ (b) Describe special rules relating to Employer Contributions to the SIMPLE 401(k) Plan: \_\_\_\_\_

**9. Increased Contribution Limit for SIMPLE 401(k) Plans.** [SECURE 2.0 Act §117 - effective for taxable years beginning after December 31, 2023. See IRS Notice 2024-2 (Q&As E-1 – E-8) for guidance with respect to the increased contribution limits for SIMPLE plans.]

[*Note: To be eligible to allow increased deferral and catch-up contributions in a SIMPLE 401(k) Plan, the Employer must not have had any other plan within the prior 3 years.*]

**Employers with 25 or fewer Employees.** Effective for taxable years beginning after December 31, 2023, for an Employer with 25 or fewer Employees who received at least \$5,000 of compensation for the preceding year that sponsors a SIMPLE 401(k) Plan, the otherwise applicable annual deferral limit and the limit on the catch-up contribution at age 50 (adjusted for COLAs) are automatically increased by 10%. No Employer election is necessary to implement the increased limits.

**Employers with more than 25 Employees.** Effective for taxable years beginning after December 31, 2023, for an Employer with 26 to 100 Employees who receive at least \$5,000 of compensation for the preceding year that sponsors a SIMPLE 401(k), the otherwise applicable annual deferral limit and the limit on the catch-up contribution at age 50 (adjusted for COLAs) are increased by 10% if the Employer elects to either provide for a 4% Matching contribution or a 3% Employer contribution.

- ☐ (a) Effective for taxable years beginning after \_\_\_\_\_ [no earlier than the taxable year beginning after December 31, 2023], the Employer elects to contribute a Matching Contribution equal to the Employee's Salary Deferrals up to 4% of the Employee's SIMPLE Compensation for the full calendar year.
- ☐ (b) Effective for taxable years beginning after \_\_\_\_\_ [no earlier than the taxable year beginning after December 31, 2023], the Employer elects to contribute an Employer Contribution of 3% of Total Compensation for the full calendar year for each Eligible Employee who receives at least \$5,000 of SIMPLE Compensation for the calendar year.

**10. Automatic Portability Transactions.** [SECURE 2.0 Act §120 - effective for transactions occurring on or after December 29, 2023.]

- ☐ (a) The Employer will accept transfers of assets pursuant to an automatic portability transaction, effective \_\_\_\_\_ [no earlier than December 29, 2023].
- ☐ (b) Describe special rules applicable to the acceptance of transfers of assets pursuant to an automatic portability transaction: \_\_\_\_\_

11. **Starter 401(k) Plans for Employers with No Retirement Plan.** [SECURE 2.0 Act §121 - effective for plan years beginning after December 31, 2023.]

- ☐ (a) The Employer establishes a Starter 401(k) Plan, effective for the Plan Years beginning after \_\_\_\_\_ [no earlier than December 31, 2023].
- ☐ (b) **Default percentage.** The automatic (default) deferral percentage is: \_\_\_\_\_ % of compensation [must be at least 3% and may not exceed 15%].
- ☐ (c) **Service Requirement.** An Eligible Employee must complete the following minimum service requirements to participate in the Plan.
- ☐ (1) There is no minimum service requirement for participation in the Plan.
- ☐ (2) One Year of Service.
- ☐ (3) The completion of at least \_\_\_\_\_ [cannot exceed 1,000] Hours of Service during the first \_\_\_\_\_ [cannot exceed 12] months of employment or the first \_\_\_\_\_ [cannot exceed 365] days of employment or the completion of a Year of Service
- ☐ (4) The completion of \_\_\_\_\_ [cannot exceed 1,000] Hours of Service during an Eligibility Computation Period
- ☐ (d) **Minimum Age Requirement.** An Eligible Employee must have attained the following age:
- ☐ (1) There is no minimum age for Plan eligibility.
- ☐ (2) Age 21.
- ☐ (3) Age \_\_\_\_\_ [not later than age 21].
- ☐ (e) **Entry Date.** An Eligible Employee who satisfies the minimum age and service requirements shall be eligible to participate in the Plan as elected below:
- ☐ (1) Immediately. The date age and service requirements are satisfied.
- ☐ (2) Semi-annually. The first day of the 1<sup>st</sup> and 7<sup>th</sup> month of the Plan Year.
- ☐ (3) Quarterly. The first day of the 1<sup>st</sup>, 4<sup>th</sup>, 7<sup>th</sup> and 10<sup>th</sup> month of the Plan Year.
- ☐ (4) Monthly. The first day of each calendar month.
- ☐ (5) Payroll period. The first day of the payroll period.
- ☐ (6) Describe: \_\_\_\_\_
- ☐ (f) Describe any rules applicable to the Starter 401(k) plan: \_\_\_\_\_

12. **Long-Term Part-Time Employees.** [SECURE Act §112 and SECURE 2.0 Act §125 - Effective dates vary depending on the provision.]

Long-Term Part-Time (LTPT) Employees must participate (i.e., be eligible to make Salary Deferrals) under the Plan as required SECURE Act §112 and SECURE 2.0 Act §125. The Employer may design the Plan so that the LTPT Employee requirements do not apply to the Plan. The Employer may rely on Prop. Reg. §1.401(k)-5 in interpreting the statutory requirements.

- ☐ (a) **LTPT Employee rules do not apply to the Plan.** The Plan, as designed and as described below, does not require the application of the LTPT Employee requirements because no Employee will participate in the Plan solely by reason of completing the applicable number of 12-month periods during which the Employee is credited with at least 500 Hours of Service. That is, the eligibility requirements for participation in the Plan are always more liberal than the LTPT Employee rules under Code §401(k) would require. If this (a) is elected, no other elections relating to LTPT Employees are required.
- Describe Plan design: \_\_\_\_\_
- ☐ (b) **LTPT Employee rules apply to the Plan.** The LTPT Employee rules apply to the Plan and some Employees may participate in the Plan solely by reason of completing the applicable number of consecutive 12-month periods during which the Employee is credited with at least 500 Hours of Service. (See Prop. Reg. §1.401(k)-5 for guidance on the LTPT Employee requirements.)
- (c) **Other contributions.** In addition to the ability to make Salary Deferrals (including Catch-Up Contributions), Employees who meet the definition of LTPT Employee may receive or make the following contributions in the same manner and under the same conditions as other Eligible Employees under the Plan:
- ☐ (1) All available Employer, Matching and Employee Contribution sources
- ☐ (2) Employer Contributions (including QNECs)
- ☐ (3) Matching Contributions (including QMACs)
- ☐ (4) Safe Harbor Contributions
- ☐ (5) Rollover Contributions

- ☐ (6) After-Tax Employee Contributions
- ☐ (7) Describe other contributions for LTPT Employees: \_\_\_\_\_

(d) **Eligibility, Entry Date and minimum age rules.** Unless otherwise elected below, the Plan's rules for Eligibility Computation Period and Entry Date applicable to Eligible Employees who are not Long-Term Part-Time Employees also apply to LTPT Employees. *[ASC caution: ASC highly recommends that the Plan use the same Eligibility Computation Periods and Entry Dates for all Employees. While Prop. Reg. §1.401(k)-5 is not clear on the ability to use different Eligibility Computation Period and Entry Dates for LTPT Employees, the risk of compliance problems and administrative difficulties in applying different rules to different Employees are significant.]*

- ☐ (1) **Eligibility Computation Period.** The Eligibility Computation Period for LTPT Employees is based on Anniversary Years and will not switch to the Plan Year.
- ☐ (2) **Entry Dates.** The Entry Dates for LTPT Employees will be the first day of the 1<sup>st</sup> and 7<sup>th</sup> month of the Plan Year, even if the Entry Dates for other Eligible Employees are more frequent.
- ☐ (3) **Minimum age requirement.** To meet the definition of an LTPT Employee, the Plan must require an Employee to attain age 21 by the close of the applicable consecutive 12-month periods. Allowing an Employee who otherwise would meet the definition of LTPT Employee based on the LTPT Employee service condition to participate in the Plan at an age earlier than age 21 would mean such Employee is not a LTPT Employee and certain special LTPT Employee rules (e.g., the elections to exclude LTPT Employees from the coverage, nondiscrimination and top-heavy rules) would not apply. Unless otherwise elected below, an Employee must attain age 21 and satisfy the LTPT Employee service requirement (i.e., are credited with at least 500 hours of service during the applicable consecutive 12-month periods) to enter the Plan under the LTPT Employee rules.
  - ☐ (i) Employees who satisfy the LTPT Employee service requirement (i.e., are credited with at least 500 hours of service during the applicable consecutive 12-month periods) may enter the Plan upon the attainment of age \_\_\_\_\_ *[not later than age 21]. [Note: Employees who enter the Plan before age 21 are NOT LTPT Employees.]*
  - ☐ (ii) Employees who satisfy the LTPT Employee service requirement (i.e., are credited with at least 500 hours of service during the applicable consecutive 12-month periods) may enter the Plan and no minimum age condition applies. *[Note: Employees who enter the Plan before age 21 are NOT LTPT Employees.]*
- ☐ (4) Describe any special rules that apply for purposes of Eligibility Computation Periods, Entry Dates or minimum age requirements: \_\_\_\_\_

(e) **Collectively Bargained Employees and non-resident aliens.** If Collectively Bargained Employees and/or non-resident aliens who receive no compensation from the Employer that constitutes U.S. source income are otherwise eligible for the Plan, the Employer may elect to exclude such Employees from the LTPT Employee rules below. *[If Collectively Bargained Employees and/or non-resident aliens who receive no compensation from the Employer that constitutes U.S. source income are not eligible for the Plan, such Employees are not eligible under the LTPT Employee rules.]*

- ☐ (1) Collectively Bargained Employees are excluded from eligibility as LTPT Employees
- ☐ (2) Non-resident aliens who receive no compensation from the Employer that constitutes U.S. source income are excluded from eligibility as LTPT Employees

(f) **Employer elections relating to coverage, nondiscrimination and top-heavy rules.**

**Non-Safe Harbor Plans.** If the Plan is neither a Traditional Safe Harbor Plan under Code §401(k)(12) nor a QACA Safe Harbor Plan under Code §401(k)(13), the Employer may elect to exclude LTPT Employees from applicable coverage and nondiscrimination tests. The Employer may administratively make this election at the time the coverage and nondiscrimination tests are performed for a particular Plan Year. If this election to exclude LTPT Employees from the tests is made, all LTPT Employees are excluded from the coverage test under Code §410(b) and all of the nondiscrimination tests under Code §§401(a)(4), 401(k) (ADP test) and 401(m) (ACP test).

The Employer separately may elect to exclude LTPT Employees for purposes of determining whether the Plan satisfies the vesting and benefit requirements of Code §§416(b) and 416(c). This election must be made in the Plan before the beginning of the Plan Year for which the exclusion election applies. Unless elected otherwise below, the Employer always elects to exclude LTPT Employees for purposes of determining whether the Plan satisfies the vesting and benefit requirements of Code §§416(b) and 416(c).

- ☐ The Employer elects **NOT** to exclude LTPT Employees for purposes of determining whether the Plan satisfies the vesting and benefit requirements of Code §§416(b) and 416(c). *[Note: This election must be made before the beginning of the Plan Year for which the exclusion election applies.]*

**Safe Harbor Plans.** If the Plan is either a Traditional Safe Harbor Plan under Code §401(k)(12) or a QACA Safe Harbor Plan under Code §401(k)(13), the Employer may elect to exclude LTPT Employees from applicable coverage and nondiscrimination tests. This election must be made in the Plan before the beginning of the Plan Year for which the exclusion election applies. Unless elected otherwise below, the Employer always elects to exclude LTPT



Employees from applicable coverage and nondiscrimination tests. If this election to exclude LTPT Employees from the tests is made, all LTPT Employees are excluded from the coverage test under Code §410(b) and all of the nondiscrimination tests under Code §§401(a)(4), 401(k) (ADP test) and 401(m) (ACP test).

- ☐ The Employer elects **NOT** to exclude LTPT Employees from applicable coverage and nondiscrimination tests. [*Note: This election must be made before the beginning of the Plan Year for which the exclusion election applies.*]

The Employer separately may elect to exclude LTPT Employees for purposes of determining whether the Plan satisfies the vesting and benefit requirements of Code §§416(b) and 416(c). This election must be made in the Plan before the beginning of the Plan Year for which the exclusion election applies. Unless elected otherwise below, the Employer always elects to exclude LTPT Employees for purposes of determining whether the Plan satisfies the vesting and benefit requirements of Code §§416(b) and 416(c).

- ☐ The Employer elects **NOT** to exclude LTPT Employees for purposes of determining whether the Plan satisfies the vesting and benefit requirements of Code §§416(b) and 416(c). [*Note: This election must be made before the beginning of the Plan Year for which the exclusion election applies.*]

- (g) **Other elections.** To the extent the following provisions or options apply to Eligible Employees who are not LTPT Employees, such provisions do not apply to LTPT Employees:

- ☐ (1) The opportunity to make Roth Deferrals  
☐ (2) The automatic contribution arrangement provisions under Plan  
☐ (3) Describe Plan provisions that do not apply to LTPT Employees: \_\_\_\_\_

- ☐ (h) Describe special rules related to the participation of LTPT Employees under the Plan: \_\_\_\_\_

**13. Pension-Linked Emergency Savings Accounts (PLESAs).** [SECURE 2.0 Act §127 - effective for plan years beginning after December 31, 2023.]

[*Note: IRS guidance is necessary to implement this provision. After IRS issues guidance, the Employer Elections will be updated.*]

- ☐ Check this box if the Employer is interested in adding a pension-linked emergency savings account to its plan.

[*\*Caution: It is not clear if PLESAs are available to non-ERISA plans. SECURE 2.0 provides that an “applicable retirement plan” may include a pension-linked emergency savings account established pursuant to ERISA §801. Although governmental and church plans are not subject to ERISA, they are generally considered to be an “applicable retirement plan” within the meaning of IRC §402A. This inconsistency creates uncertainty with regard to a non-ERISA plan’s ability to establish a PLESA. Document providers should make Employers aware of this uncertainty.*]

**14. Increase in Dollar Limit for Mandatory Distributions.** [SECURE 2.0 Act §304 - effective for distributions made after December 31, 2023.]

Unless elected otherwise below, the Involuntary Cash-Out Distribution threshold for a Plan that utilizes the \$5,000 threshold is increased to \$7,000, effective for distributions made after December 31, 2023. Unless elected otherwise below, a Plan that currently utilizes an Involuntary Cash-Out Distribution lower than \$5,000 will continue to apply such lower threshold.

- ☐ **Lower Involuntary Cash-Out Distribution threshold.** A terminated Participant will receive an Involuntary Cash-Out Distribution only if the Participant’s vested Account Balance is less than or equal to:

- ☐ (a) \$5,000  
☐ (b) \$\_\_\_\_\_ [*must be less than \$7,000*]

- ☐ Describe special rules, including effective dates applicable to the application of the thresholds for purposes of Involuntary Cash-Out Distributions or the Automatic Rollover rules: \_\_\_\_\_

**15. Participant Certification for Hardship Distributions.** [SECURE 2.0 Act §312 - effective for plan years beginning after December 29, 2022.]

In determining whether a distribution qualifies as a Hardship Distribution (if offered under the Plan), the Plan Administrator may, in the absence of actual knowledge to the contrary, rely on a written certification by the Participant that the distribution (i) is on account of a financial need of a type which is deemed under applicable in regulations to be an immediate and heavy financial need, (ii) is not in excess of the amount required to satisfy such financial need, and (iii) that the Participant has no alternative means reasonably available to satisfy such financial need (“Participant Certification of Hardship”).

Unless a later date is elected below, the Employer will accept Participant Certifications of Hardship effective for Plan Years beginning after December 29, 2022.

- ☐ The Employer elects to accept Participant Certifications of Hardship effective \_\_\_\_\_ [*no earlier than January 1, 2023*].

The Employer may indicate below or in separate administrative procedures if it will **not** rely on a Participant Certification of Hardship:

☐ The Plan Administrator will **not** rely on Participant Certification of Hardship.

**16. Distributions for Domestic Abuse.** (SECURE 2.0 Act §314 - effective for distributions made after December 31, 2023.)

Unless otherwise elected below, the Plan does not allow for domestic abuse distributions.

☐ (a) Domestic abuse distributions are available from the following sources (to the extent vested) to Plan Participants, effective \_\_\_\_\_ [no earlier than January 1, 2024]:

- ☐ (1) All available sources
- ☐ (2) Pre-Tax Deferral Account
- ☐ (3) Roth Deferral Account (including In-Plan Roth Conversion Account)
- ☐ (4) Matching Contribution Account
- ☐ (5) Employer Contribution Account
- ☐ (6) Safe Harbor Contribution Account(s)
- ☐ (7) QMAC and/or QNEC Account(s)
- ☐ (8) Rollover Contribution Account
- ☐ (9) After-Tax Employee Contribution Account
- ☐ (10) Transfer Account
- ☐ (11) Describe available sources: \_\_\_\_\_

☐ (b) If elected above, domestic abuse distributions are available to all Participants who have the applicable Account(s), unless otherwise indicated below.

- ☐ (1) Domestic abuse distributions are not available to terminated Participants.
- ☐ (2) Domestic abuse distributions will only be permitted if the Participant is 100% vested in the source from which the distribution is taken.
- ☐ (3) Describe the Participants who may receive domestic abuse distributions: \_\_\_\_\_

☐ (c) Describe any special rules related to domestic abuse distributions: \_\_\_\_\_

**17. Amendments to Increase Benefit Accruals under the Plan for Previous Plan Year Allowed until Employer Tax Return Due Date.** [SECURE 2.0 Act §316 - effective for plan years beginning after December 31, 2023]

Regardless of any other provision of the Plan (including the effective date parameter on the Employer Signature Page), the Employer may adopt an amendment to increase contributions/allocation under the Plan for the previous Plan Year until the Employer's tax return due date (including extensions).

☐ The Employer elects to treat the amendment adopted on \_\_\_\_\_ as effective for the previous Plan Year.

**18. Retroactive First Year Elective Deferrals for Sole Proprietors.** [SECURE 2.0 Act §317 - effective for plan years beginning after December 29, 2022]

☐ The Employer, who is a sole proprietor or single-member LLC with no other Employees, elects to treat Salary Deferral contributions made to the Plan before the time for filing the tax return for the sole proprietor or single-member LLC (determined without regard to extensions) ending after or with the end of the Plan's first Plan year as having been made before the end of the first Plan Year. The Plan's first Plan Year begins \_\_\_\_\_ [no earlier than January 1, 2023].

**19. Distributions for Terminal Illness.** [SECURE 2.0 Act §326 - effective for distributions made after December 29, 2022. See IRS Notice 2024-2 (Q&As F-1 – F-15) for guidance on “terminally ill individual distributions.” These Employer Elections assume that the SECURE 2.0 Technical Corrections Act will be enacted.]

Unless otherwise elected below, the Plan does not allow for terminally ill individual distributions.

☐ (a) Terminally ill individual distributions are available from the following sources (to the extent vested) to Plan Participants, effective \_\_\_\_\_ [no earlier than December 30, 2022]:

- ☐ (1) All available sources
- ☐ (2) Pre-Tax Deferral Account
- ☐ (3) Roth Deferral Account (including In-Plan Roth Conversion Account)
- ☐ (4) Matching Contribution Account
- ☐ (5) Employer Contribution Account

- ☐ (6) Safe Harbor Contribution Account(s)
  - ☐ (7) QMAC and/or QNEC Account(s)
  - ☐ (8) Rollover Contribution Account
  - ☐ (9) After-Tax Employee Contribution Account
  - ☐ (10) Transfer Account
  - ☐ (11) Money Purchase Pension Plan Accounts (subject to the limitations stated under the Plan)
  - ☐ (12) Describe available sources: \_\_\_\_\_
- (b) If elected above, terminally ill individual distributions are available to all Participants who have the applicable Account(s), unless otherwise indicated below.
- ☐ (1) Terminally ill individual distributions are not available to terminated Participants.
  - ☐ (2) Terminally ill individual distributions will only be permitted if the Participant is 100% vested in the source from which the distribution is taken.
  - ☐ (3) Describe the Participants who may receive terminally ill individual distributions: \_\_\_\_\_
- ☐ (c) Describe any special rules related to terminally ill individual distributions: \_\_\_\_\_

**20. Special Rules for Use of Retirement Funds in Connection with Qualified Federally-Declared Disasters. [SECURE 2.0 Act §331 – effective for disaster occurring on or after January 26, 2021]**

The provisions of SECURE 2.0 relating to special disaster-related rules for retirement plans will apply only to the extent a distribution or loan has been made to a qualified individual as provided under SECURE 2.0. If the Plan does not operationally apply these rules, such provisions will not apply to the Plan. The Plan Administrator may indicate the operational application of this provision below or may document under separate administrative procedures.

- ☐ (a) Qualified Disaster Recovery Distributions (as defined in SECURE 2.0 §331) are allowed and are available from the following sources, to the extent vested:
- ☐ (1) All available sources
  - ☐ (2) Pre-Tax Salary Deferral Accounts
  - ☐ (3) Roth Deferral Accounts
  - ☐ (4) Matching Contribution Accounts
  - ☐ (5) Employer Contribution Account
  - ☐ (6) Safe Harbor Contribution Accounts
  - ☐ (7) QMAC and/or QNEC Account(s)
  - ☐ (8) Rollover Accounts
  - ☐ (9) After-Tax Employee Contribution Accounts
  - ☐ (10) Transfer Accounts
  - ☐ (11) Money Purchase Pension Plan Accounts (subject to the limitations stated under the Plan)
  - ☐ (12) Specify: \_\_\_\_\_
- ☐ (b) The aggregate limit of Qualified Disaster Recovery Distributions received by a Participant with respect to the same qualified disaster may not exceed:
- ☐ (1) \$22,000
  - ☐ (2) \$ \_\_\_\_\_ [must be less than \$22,000]
- (c) Unless elected otherwise below, if the Employer elects to make Qualified Disaster Recovery Distributions available, then such distributions will be available for all qualified federally-declared disasters.
- ☐ The Employer will determine the availability of Qualified Disaster Recovery Distributions on a disaster-by-disaster basis.
- ☐ (d) Describe special rules applicable to Qualified Disaster Recovery Distributions: \_\_\_\_\_
- ☐ (e) Qualified Disaster Recovery Loans (as defined in SECURE 2.0 §331) are allowed and subject to the following rules:
- ☐ (1) The loan limit for a Participant eligible to receive a Qualified Disaster Recovery Loan is:
    - ☐ (i) \$100,000 or 100% of the Participant's vested Account Balance
    - ☐ (ii) \$ \_\_\_\_\_ [must be \$100,000 or less] or \_\_\_\_\_ % of the Participant's vested Account Balance [must be 100% or less]
  - ☐ (2) Describe special rules applicable to qualified disaster recovery loans: \_\_\_\_\_

21. **Distributions for Qualified Long-Term Care.** (SECURE 2.0 Act §334 – effective for distributions made after December 29, 2025]

The provision is effective for distributions made after December 29, 2025. The provision applies to 401(k) plans that elect to allow distributions for long-term care contracts.

Unless otherwise elected below, the Plan does not allow for qualified long-term care distributions.

- ☐ (a) Qualified long-term care distributions are allowed and available from the following sources:
- ☐ (1) All available sources
  - ☐ (2) Pre-Tax Deferral Account
  - ☐ (3) Roth Deferral Account
  - ☐ (4) Matching Contribution Account
  - ☐ (5) Employer Contribution Account
  - ☐ (6) Safe Harbor Contribution Account(s)
  - ☐ (7) QMAC and/or QNEC Account(s)
  - ☐ (8) Rollover Contribution Account
  - ☐ (9) After-Tax Employee Contribution Account
  - ☐ (10) Transfer Account
  - ☐ (11) Money Purchase Pension Plan Accounts (subject to the limitations stated under the Plan)
  - ☐ (12) Describe available sources: \_\_\_\_\_
- ☐ (b) Qualified long-term care distributions are available to all Participants who have the applicable Account(s), unless otherwise indicated below.
- ☐ (1) Qualified long-term care distributions are not available to terminated Participants.
  - ☐ (2) Qualified long-term care distributions will only be permitted if the Participant is 100% vested in the source from which the distribution is taken.
  - ☐ (3) Describe the Participants who may receive qualified long-term care distributions: \_\_\_\_\_
- ☐ (c) Describe special rules applicable to distributions for qualified long-term care distributions: \_\_\_\_\_
- ☐ (d) Effective date: \_\_\_\_\_ [no earlier than January 1, 2026]

22. **Optional Treatment of Matching or Nonelective Employer Contributions as Roth Deferrals.** [SECURE 2.0 Act §604 – effective for contributions made after December 29, 2022. See IRS Notice 2024-2 (Q&As L-1 – L-11) for guidance with respect to the optional treatment of Matching and Employer Contributions as Roth Deferrals.]

Unless otherwise elected below, Participants may not elect to treat Matching Contributions and/or Employer Contributions as Roth Deferrals

- ☐ (a) Effective \_\_\_\_\_ [no earlier than December 30, 2022], Participants may elect to treat Matching Contributions as Roth Deferrals.
- ☐ (b) Effective \_\_\_\_\_ [no earlier than December 30, 2022], Participants may elect to treat Employer Contributions as Roth Deferrals.

The Employer may adopt procedures to assist in administering this provision.

23. **Describe any other special elections associated with the provisions of SECURE 2.0 Act:**

[Signature Optional]

The above request for change in plan operation is deemed effective until such changes are incorporated into a plan amendment.

\_\_\_\_\_  
Name of Employer

\_\_\_\_\_  
Name/Title of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date