

AMENDMENT TO IMPLEMENT SECURE 2.0, SECURE, AND CARES

ARTICLE 1 PREAMBLE

- 1.1 **Adoption and effective date of Amendment.** The Employer hereby adopts this Amendment to the Plan identified below. Where Articles specify effective dates, their provisions begin on that date or, in the case of discretionary amendments, as soon thereafter as administratively practicable for the Plan.
- 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. This Amendment uses the phrase “elective deferral” to refer to contributions described in Code § 402(g)(3) or salary reduction contributions to a 457(b) Plan. Many Articles include definitions which are specific to that Article. To the extent the Plan does not use a defined term used in this Amendment, the Amendment is to be interpreted as if the appropriate defined term from the Plan was referenced in the Amendment.
- 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 the statutes described below and related IRS guidance. The provisions of this Amendment, and any policies or procedures adopted or modified pursuant to it, shall be interpreted and applied in a manner consistent with these statutes and any related guidance issued by the IRS or DOL, whether issued before or after the date of this Amendment. If any provision of this Amendment is rendered inoperative due to conflicting guidance, the Plan Administrator may disregard or revise such provision consistent with the intent of this Amendment and applicable law. The Plan Administrator may, but is not required to, reduce such policies or procedures to writing. The statutes include:
- SECURE 2.0 Act of 2022 (“SECURE 2.0”) enacted as Division T of the Consolidated Appropriations Act of 2023,
 - Setting Every Community Up for Retirement Enhancement Act of 2019 (“SECURE”) enacted as Division O of the Further Consolidated Appropriations Act of 2019,
 - Coronavirus Aid, Relief, and Economic Security Act (“CARES”), and
 - Bipartisan American Miners Act (“BAMA”) as enacted in Division M of the Further Consolidated Appropriations Act of 2019.
- 1.5 **403(b) Plans.** To the extent this Amendment provides for distribution options, those options apply only to the extent permitted under the relevant investment arrangement documentation.
- 1.6 **Preservation of prior amendments.** Except as provided in (a) through (d) below, this Amendment supersedes any previously adopted amendments relating to the same subject matter. *(Select one or more of (a) through (d) if applicable.)*
- (a) [] **Prior CARES Amendment.** The Employer previously adopted a CARES amendment. The provisions of Section 2.24 and Article 24 do not apply. The provisions of that CARES amendment apply to the relief described therein, without regard to the provisions of Section 2.20 and Article 20.
- (b) [] **Prior SECURE Amendment.** The Employer previously adopted a SECURE amendment which addressed the matters covered in Articles 25-27. Therefore, Sections 2.25-2.27 and Articles 25-27 shall not apply.
- (c) [] **Prior BAMA Amendment.** The Employer previously adopted a BAMA amendment which addressed the matters covered in Article 27. Therefore, Section 2.27 and Article 27 shall not apply.

- (d) ☒ **General Override.** If the Employer previously amended the Plan after December 20, 2019, to implement a provision contained in one or more Articles of this Amendment, that prior amendment shall remain in effect and will not be superseded by this Amendment. For example, if the Employer adopted an amendment increasing Cash-Out Limits, the provisions of Section 2.15 and Article 15 will not apply. However, notwithstanding the selection of this paragraph (d), the provisions of Articles 5 and 16, and Sections 2.5 and 2.16 shall supersede any prior amendment.

- 1.7 **Restatements.** This amendment is designed to take into account Section 12.08 of Rev. Proc. 2025-04, which states: “A pre-approved plan restatement that generally is effective as of a certain date should not be treated as superseding a previously adopted interim plan amendment that is effective before or after the restatement’s effective date and that has not been incorporated or reflected in the restatement, provided that the pre-approved plan is operated in a manner consistent with the interim plan amendment. A plan is presumed to be operating in compliance with an interim plan amendment in any case in which the operation of the plan cannot be determined.” To the extent a preapproved plan restatement incorporates the provisions of this Amendment, the IRS-approved language is intended to control, so that the plan can rely on the opinion letter.

ARTICLE 2 IDENTIFICATION; ELECTIONS

2.1 Identifying information.

A. Name of Employer: County of San Mateo

B. Name of Plan: SAN MATEO COUNTY DEFERRED COMPENSATION PLAN

C. Type of Plan (*optional; select at least 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 (select one): ☐ Governmental employer ☐ Tax-exempt employer

- 2.2 **Plan Type Definitions.** “Qualified Plan” (sometimes called a 401(a) plan) means a 401(k) Plan, Profit-Sharing Plan, Money Purchase Pension Plan or Defined Benefit Plan. “Defined Contribution Plan” or “DC Plan” means a Qualified Plan other than a Defined Benefit Plan. “Profit-Sharing Plan” includes stock bonus plans and ESOPs.

- 2.3 **Operating Elections.** Many subsequent Articles of this Amendment refer to elections appearing in this Article 2. Each of Sections 2.4 through 2.27 refers to a corresponding Article in this Amendment. For example, Section 2.4 has the elections related to Article 4. The definitions in those Articles apply to the elections in the corresponding Section of this Article 2, and those elections have the same effective date as the corresponding Article. Each Section of this Article lists the default provisions which will apply automatically if no election is made. **If you accept the default(s), there is no need to complete the Section.** There are no elective provisions which apply to Article 3 or Articles 28 through 44; they apply by default based on plan type or other conditions. The following paragraphs summarize the default rules and list the Articles for which no elections are available in this Amendment.

- Article 3. Provide for limited notices to unenrolled participants.
- Article 4. There are no eligibility adjustments to avoid LTPT rules.
- Article 5. None of the optional adjustments for LTPT Employees apply.
- Article 6. Special military spouse provisions do not apply.
- Article 7. Mandatory automatic enrollment, if applicable, applies at lowest default deferrals.
- Article 8. Plan permits higher catch-up contributions for participants ages 60-63.
- Article 9. Does not allow additional SIMPLE deferrals.
- Article 10. HPI catch-ups are Roth; all participants can make Roth deferrals.

- Article 11. Roth employer contributions are not allowed.
- Article 12. Plan is not a starter 401(k) plan.
- Article 13. OEE employees do not receive top-heavy minimum contributions.
- Article 14. Student loan payments are not matched.
- Article 15. Cash-out limits are increased to \$7000.
- Article 16. EDB RMDs use life expectancy rule rather than the 10-year rule.
- Article 17. Emergency personal expenses distributions are not allowed.
- Article 18. Domestic abuse victim distributions are not available.
- Article 19. Terminally ill individual distributions are not available.
- Article 20. Qualified disaster recovery distributions are authorized as described in plan policies.
- Article 21. Hardship sources for 403(b) plans are expanded.
- Article 22. Qualified long-term care distributions are not permitted.
- Article 23. PLESAs are not implemented.
- Article 24. CARES 2020 RMD waivers apply unless the participant opts out.
- Article 25. The limitation on QACA maximum automatic deferrals is not increased.
- Article 26. Qualified birth and adoption distributions are not available.
- Article 27. The age for pension and gov't 457(b) in-service distributions is not reduced to 59 ½.
- Article 28. Permits retroactive plan adoption.
- Article 29. Sole proprietors can defer to retroactively adopted plan.
- Article 30. Permits retroactive increase in certain employer contributions.
- Article 31. Difficulty of care payments included as compensation for 415.
- Article 32. Allows retroactive election of safe harbor nonelective. No notice needed for safe harbor nonelective.
- Article 33. Governmental 457(b) elections can be effective immediately.
- Article 34. Small deferral incentives allowed.
- Article 35. Repeals maximum age for deemed IRAs.
- Article 36. Three-year deadline for repayment of Qualified Birth and Adoption Distributions.
- Article 37. Plan can adopt policy regarding documenting hardship distributions.
- Article 38. Governmental plan that permits distributions for health and long-term care insurance can make distribution directly to participant.
- Article 39. Permits rollovers from SIMPLE IRAs.
- Article 40. Permits distribution of discontinued lifetime income investments.
- Article 41. The PPP or a named fiduciary is responsible for collection of PEP contributions.
- Article 42. Permits distribution of 403(b) custodial accounts on plan termination.
- Article 43. Permits additional nonelective contributions to SIMPLE 401(k) plans.
- Article 44. Recognizes tribal orders as potential QDROs.

Check (a) or (b).

- (a) ☐ All defaults apply. *Skip the rest of Article 2 and sign the amendment.*
- (b) ☒ One or more defaults do not apply. *Complete those sections in Article 2 for which you do not accept the default; then sign the amendment.*

2.4 Article 4 – Optional 401(k) Adjustment to Eligibility Requirements to Avoid LTPT Rules. Except as provided below or in Articles 5 or 6, this Amendment does NOT modify the service requirements to make elective deferrals to a 401(k) plan. However, if Section 2.4(a)-(d) is selected, then in no event will an Employee be required to complete a period of service beyond that specified below to be eligible to defer. For examples, see Article 4. The provisions of this Section and Article 4 are effective January 1, 2024, unless otherwise specified in Section 2.4(e).

- (a) ☐ All Employees satisfy the service requirements to defer immediately upon hire.
- (b) ☐ All Employees satisfy the service requirements to defer ____ months after hire. *(Enter number of months not exceeding 24. Mere passage of time.)*
- (c) ☐ All Employees satisfy the service requirements to defer after one (1) Eligibility Computation Period with at least 500 Hours of Service.
- (d) ☐ Describe: _____

(To avoid application of the LTPT rules, the plan must allow employees to defer prior to becoming LTPT Employees.)

(e) ☐ Article 4 is effective as of _____.

2.5 **Article 5 – LTPT Employees.** The Employer makes the following optional elections regarding LTPT Employees. (Select all that apply.)

- (a) ☒ **Provisions which apply to LTPT Employees.** An LTPT Employee, in addition to being eligible to defer, shall also be treated as a Regular Participant for purposes of (check any or all that apply):
- (1) ☐ Receiving an allocation of safe harbor contributions (including QACA).
 - (2) ☐ Receiving an allocation of Employer matching contributions.
 - (3) ☐ Receiving an allocation of Employer nonelective contributions.
 - (4) ☐ Receiving an allocation of top-heavy minimum contributions. [Note: Also see Article 13]
 - (5) ☒ Making after-tax Employee voluntary contributions.
 - (6) ☒ Making rollover contributions.
 - (7) ☐ Making deemed IRA contributions described in Code §408(q).
- (b) ☐ **Provisions inapplicable to LTPT Employees.** The following provisions which apply to Regular Participants do not apply to LTPT Employees (check any or all that do not apply to LTPT Employees):
- (1) ☐ The ability to make Roth elective deferrals.
 - (2) ☐ Automatic deferral provisions.
 - (3) ☐ Automatic escalation provisions.
 - (4) ☐ The ability to make catch-up contributions.
- (c) ☒ **LTPT Entry Dates.** LTPT Entry Dates shall be determined as described in Section 5.8(b) except as indicated below (select one):
- (1) ☒ The same as the entry date that applies to Elective Deferrals of Regular Participants.
 - (2) ☐ The first day of the plan year quarter following the date the employee becomes an LTPT Employee.
 - (3) ☐ The first day of the month following the date the employee becomes an LTPT Employee.
 - (4) ☐ Describe: _____
- (d) ☐ **Hours of Service.** Determination of hours of service to be an LTPT Employee and vesting of LTPT Employees and Former LTPT Employees will be determined as described in Article 5, except as indicated below: [Select (1), (2), or (3). Complete (4) if applicable.]
- (1) ☐ Actual hours of service.
 - (2) ☐ Actual hours of service for hourly paid employees and the equivalency method (as specified in (4)) for others.
 - (3) ☐ The equivalency method specified in (4).
 - (4) ☐ The equivalency method is ☐ 10 hours per day; ☐ 45 hours per week; ☐ 90 hours bi-weekly; ☐ 95 hours semi-monthly; ☐ 190 hours per month
- (e) ☐ **LTPT Years.** LTPT Years will be determined as described in Section 5.8(h) except as indicated below:
- (1) ☐ Subsequent periods following the first LTPT Year are based on anniversaries of the employment commencement date.
 - (2) ☐ Subsequent periods following the first LTPT Year are based on the Plan Year.
- (f) ☐ **Prior Elections.** Elections, to the extent consistent with Article 5 and applicable law, made in prior amendments relating to LTPT Employees shall remain in effect except as specified in this Section.
- (g) ☒ **Describe.** Describe additional provisions (including effective dates) which apply to LTPT Employees: Elections, to the extent consistent with Article 5 and applicable law, made in prior amendments relating to LTPT Employees shall remain in effect. If the Plan was not previously amended to specify elections described in this Section, the elections selected in this Amendment will apply.

2.6 **Article 6 – Military Spouse Provisions.** In the absence of an election below, Article 6 does NOT apply. To activate special provisions for military spouses, check (a). Select (b) if applicable.

- (a) ☐ Article 6 applies to contributions made after _____. (Enter date after December 31, 2022.)
- (b) ☐ If Article 6 applies, then a Military Spouse shall enter the Plan on the earlier of the date the he/she would otherwise enter the plan or the date which is 2 months after the Hire Date, unless otherwise specified below.
 - (1) ☐ A Military Spouse shall enter the Plan immediately on the Hire Date.
 - (2) ☐ Describe the entry date: _____

2.7 **Article 7 – Mandatory Automatic Enrollment.** The Employer makes the following optional elections with regard to the mandatory automatic enrollment provisions of Article 7. See Section 7.2(a) regarding the application of Plan and default provisions.

- (a) ☐ Article 7 is effective _____. [By default, Article 7 is effective on the first day of the first Plan Year beginning in 2025. Optionally, you may enter an earlier effective date, such as the first day of the 2024 Plan Year or the Effective Date of the Plan.]
- (b) ☐ The Plan will comply with Code §414A(b) and Article 7 is effective regardless of whether the Plan is exempt under Code §414A(c). [This selection is appropriate for a Plan that is complying with the mandatory automatic enrollment rules, whether that compliance is voluntary or required. If the Plan is later determined to be exempt and the Employer wishes to discontinue EACA provisions, the Plan should be amended to remove this Election.]
- (c) The Automatic Deferral Percentage is: (Select one.)
 - (1) ☐ **Default provision.** The amount otherwise determined under the automatic deferral provisions of the Plan, to the extent those provisions comply with Code §414A(b). In the absence of such provisions, the Automatic Deferral Percentage is 3% for each payroll period increasing 1% of Compensation on the first day of each Plan Year up to a maximum of 10% of Compensation.
 - (2) ☐ **10%.** 10% of Compensation for each payroll period.
 - (3) ☐ **Annual increase from 3% to at least 10%.** _____% (not less than 3 nor more than 10) for each payroll period increasing 1% of Compensation each year up to a maximum of _____% (not less than 10 nor more than 15) of Compensation. This escalation will apply as of the first day of each Plan Year unless otherwise specified in (d) below.
- (d) ☐ The escalation described in (c)(3) will apply as of: (select one of (1)-(4). If no selection is made, the escalation applies as of the first day of each Plan Year)
 - (1) ☐ Each anniversary of the Participant's Employment/Reemployment Commencement Date
 - (2) ☐ Each anniversary of the Participant's Entry Date.
 - (3) ☐ Each anniversary of each calendar year.
 - (4) ☐ Describe: _____.
- (e) ☐ Unless selected below, the escalation provision in (c)(1) or (c)(3) will apply as of the first change date specified above that begins after the Participant first has contributions made pursuant to a default election (select one if applicable)
 - (1) ☐ **Second change date.** The escalation provision will apply as of the second change date after the Participant first has contributions made pursuant to a default election.
 - (2) ☐ **At least 6 months after.** The increase will apply as of the first Change Date thereafter which is at least 6 months (or 180 days) after the Participant first has automatic deferrals withheld.
- (f) ☐ The Automatic Deferral is a Roth Elective Deferral. If this option is not selected, or if the Plan does not allow Roth Deferrals, the Automatic Deferral is a Pre-Tax Elective Deferral.
- (g) The Automatic Deferral applies to (Select one):
 - (1) ☐ **All Participants.** All Participants, regardless of any prior salary reduction agreement, unless and until they make a contrary election after the Notice Date.

- (2) ☐ **Election of at least Automatic Deferral Percentage.** All Participants, except those who have in effect a salary reduction agreement on the Notice Date provided that the Elective Deferral amount under the Agreement is at least equal to the Automatic Deferral Percentage.
- (3) ☐ **No existing salary reduction agreement.** All Participants, except those who have in effect a salary reduction agreement on the Notice Date regardless of the Elective Deferral amount under the Agreement. *(This is the default.)*
- (4) ☐ **Election of 0% or no existing salary reduction agreement.** All Participants, except those who have in effect a salary reduction agreement on the Notice Date provided that the Elective Deferral amount under the Agreement is greater than 0%.
- (5) ☐ **Post-2024 Participants.** All Participants who become eligible to defer on or after the first day of the first Plan Year beginning in or after 2025.
- (6) ☐ **Describe.** _____.
- (h) ☐ If the Plan is a multiple employer plan (MEP or PEP), then Article 7 applies to all participating employers other than those who are exempt under Code § 414A(c), unless otherwise provided below *(select one)*:
- (1) ☐ **Applies to all.** Article 7 applies to all participating employers without regard to whether an employer is exempt under Code § 414A(c).
- (2) ☐ **Describe.** Article 7 applies to participating employers as follows: _____.
(e.g., Article 7 applies to all participating employers other than the following. Attach a separate schedule if automatic deferral schedules or elections apply differently to some of the participating employers.)
- 2.8 **Article 8 – Higher Catch-Up Contributions at Ages 60 to 63.** Article 8, permitting additional catch-up deferrals for Participants ages 60, 61, 62, and 63 APPLIES effective January 1, 2025, except as indicated below.
- (a) ☐ Article 8 does NOT apply.
- (b) ☐ Article 8 applies effective as of January 1, _____. *[Enter year after 2025.]*
- 2.9 **Article 9 – Higher SIMPLE 401(k) Deferrals.** In the absence of an election below, Article 9 does NOT apply. To activate higher deferral limits under SECURE 2.0 § 117 for a SIMPLE 401(k) plan, check (a) or (b). If Article 9 does apply, it is effective for January 1, 2024, unless a later year is specified in (c).
- (a) ☐ **Unconditional election:** Article 9 applies to deferrals.
- (b) ☐ **Conditional election:** Article 9 applies to deferrals for a calendar year only if the Employer does not exceed the Employee Threshold for that year.
- (c) ☐ **Delayed effective date:** Article 9 is effective as of January 1, _____. *[Enter year after 2024]*
- 2.10 **Article 10 – Roth Catch-Up Deferrals; Optional Roth Addition.** *[Plans that are not a 401(k) Plan, a 403(b) Plan, or a Governmental 457(b) Plan, and plans that do not permit Catch-Up Deferrals, skip to Section 2.11.]*
- (a) ☐ Article 10 is effective _____. *[Must be after December 31, 2023. Default is January 1, 2026.]*
- (b) ☐ If the Plan does not accept Roth Deferrals as of the effective date of Article 10, then *[select (1), (2), or (3) below]*:
- (1) ☐ **Add Roth.** All Participants eligible to make Deferrals may make Roth Deferrals. This is the default selection. This is effective as of the effective date of Article 10 or the following earlier date: _____. *[Must be after December 31, 2023.]*
- a. ☐ Roth Deferrals are available only for Catch-Up Deferrals
- (2) ☐ **No Catch-Ups.** No Participant may make Catch-Up Deferrals.

- (3) ☐ **No Catch-Ups for HPIs.** Only Participants who are not HPIs may make Catch-Up Deferrals. *[Use this selection if no Employees have FICA Wages.]*
- a. ☐ Self-Employed HPIs may not make Catch-Up Deferrals
[If (b)(2) or (b)(3) is selected, skip to Section 2.11.]
- (c) By default, HPIs are deemed to have elected that their Catch-Up Deferrals are Roth Deferrals, unless (1) is selected below.
- (1) ☐ HPIs are not deemed to have elected that their Catch-Up Deferrals are Roth Deferrals unless the Plan Administrator notifies them of such a deemed election before they have made the Deferral.
- (d) ☒ If the Plan does not permit Roth Rollovers, the following applies:
- (1) ☒ This Amendment does not modify existing Plan provisions with regard to Roth Rollovers. This is the default selection.
- (2) ☐ Roth Rollovers are permitted. This is effective as of the effective date of Article 10 or the following earlier date: _____. *[Must be after December 31, 2023]*
- a. ☐ Roth Rollovers are limited to Deferrals.
- b. ☐ Roth Rollovers may only be made from accounts which are fully vested.
- c. ☐ Other limitations or conditions which apply to Roth Rollovers: _____.
- (e) ☐ A Participant may not receive an In-Service Distribution from the Participant's Roth Deferral Account unless it is a qualified distribution as defined in Code §402A(d)(2).
- (f) ☐ Describe additional provisions which apply to Roth Deferrals or Roth Rollovers: _____

2.11 **Article 11 – Roth Employer Contributions.** In the absence of an election below, Article 11 does NOT apply. To permit participants to elect Roth Employer Contributions, check (a). If Roth Employer Contributions are available, they are available for all types of vested contributions except as provided in Article 11, in elections (b) or (c), or in Plan policies. *(Select all that apply.)*

- (a) ☐ Article 11 applies to contributions made after _____. *(Enter date after December 29, 2022.)*
- (b) ☐ Roth Employer Contributions may be elected only with respect to the following contributions: *[Check all that apply]*
- (1) ☐ ADP safe harbor contributions (nonelective or matching)
- (2) ☐ Matching Contributions (other than ADP safe harbor contributions)
- (3) ☐ Nonelective Contributions (other than ADP safe harbor contributions)
- (4) ☐ Describe: _____ *(e.g., “prevailing wage contributions.” Must be definitely determinable and not subject to discretion.)*
- (c) ☐ Describe additional limitations: _____
(Must be definitely determinable and not subject to discretion)

2.12 **Article 12 – Starter 401(k).** In the absence of an election below, Article 12 does NOT apply. To make the Plan a starter 401(k) plan, select (a).

- (a) ☐ Article 12 applies effective _____. *[Enter first day of 401(k) plan year provisions are effective. Cannot be earlier than January 1, 2024.]*

2.13 **Article 13 – Top-heavy.** Article 13 APPLIES to exclude Otherwise Excludable Employees from receiving Top-heavy Contributions unless the Employer checks (a). It is effective for plan years beginning after December 31, 2023, unless a different effective date is specified in (b). *[Note that, regardless of Article 13 and this Section 2.13, LTPT Employees will not receive Top-heavy Contributions unless the Employer checks Election 2.5(a)(4).]*

- (a) ☐ Article 13 does not apply.
- (b) ☐ Article 13 applies to minimum contributions made after _____. *(Enter date after December 31, 2023.)*

- (c) ☒ The Employer may make a discretionary nonelective contribution equal to the Top-heavy Contribution for those Otherwise Excludable Employees who are not Highly Compensated Employees as defined in Code § 414(q) and as further defined in the Plan.

2.14 **Article 14 – Match Student Loan Payments.** In the absence of an election below, Article 14 does NOT apply. To activate match for student loans, check (a).

- (a) ☐ Article 14 applies to matching contributions made after _____. (*Enter date after December 31, 2023.*)
- (b) ☐ Article 14 does not apply to: [Optional. Choose (1) or (2). Choose (3) if applicable.]
- (1) ☐ Collectively bargained employees.
- (2) ☐ Non-collectively bargained employees
- (3) ☐ Describe: _____ (may specify one or more unions whose employees do or do not participate. No other exclusions are available.)

2.15 **Article 15 – Increase in Cash-Out Limits.** \$5,000 Cash-Out Limits ARE increased to \$7,000, effective January 1, 2024, except as specified below.

- (a) ☐ Article 15 does not apply.
- (b) ☐ Article 15 applies effective on the first day of the first plan year beginning in 2024.
- (c) ☒ Article 15 applies to distributions made after April 1, 2024. (*Enter date after December 31, 2023.*)
- (d) ☐ Article 15 applies even if the Plan previously provided for a lower limit (such as \$3,500 or \$1,000 for Mandatory Distributions)
- (e) ☒ Article 15 does **not** apply to the following Cash-Out Limits and therefore they are not increased as a result of this amendment: (*Check one or more as and if applicable*)
- (1) ☒ The limit on Mandatory Distributions
- (2) ☐ QJSA provisions or 457(b) *de minimis* distributions
- (3) ☐ Any limit on the availability of distribution options (e.g., annuities or installments) other than lump sums
- (f) ☐ Unless otherwise specified in election (f)(1), Article 15 does not modify any provision relating to whether a Participant's vested benefit or balance includes rollover contributions for purposes of determining if a Mandatory Distribution exceeds the Cash-Out Limit.
- (1) ☐ The Plan will disregard rollover contributions in determining whether a Participant's vested benefit or account balance exceeds the limit on Mandatory Distributions.
- (g) ☐ Article 15 does not apply to Mandatory Distributions made before _____. (*Enter date Plan applied Article 15 to Mandatory Distributions.*)
- (h) ☐ Describe additional modifications: _____
(*E.g., lower limit. Must be definitely determinable and not subject to discretion.*)

2.16 **Article 16 – RMDs.** RMDs to an EDB of a Participant who dies prior to the Participant's RBD will be made as elected below. In the absence of an election in this Section 2.16, the Plan's existing provisions governing Beneficiary elections under the 5-Year Rule shall apply, substituting the 10-Year Rule for the 5-Year Rule. In addition, unless otherwise elected under paragraph (g) or (h), beneficiaries of CARES 5-Year Rule Accounts (as described in Section 16.9) shall have the option to extend distribution under the 5-Year Rule by one year; in the absence of a Beneficiary election, the extension shall automatically apply.

- (a) ☐ **Beneficiary election.** The EDB may elect application of the 10-Year Rule or the Life Expectancy Rule. If the Beneficiary does not make a timely election (*Select one of (1) or (2)*):
- (1) ☐ **10-Year Rule.** The 10-Year Rule shall apply to the EDB.
- (2) ☐ **Life Expectancy Rule.** The Life Expectancy Rule shall apply to the EDB.
- (b) ☐ **10-Year Rule.** The 10-Year Rule shall apply to the EDB.
- (c) ☐ **Life Expectancy Rule.** The Life Expectancy Rule shall apply to the EDB.

- (d) ☐ **Shorter Period.** The entire interest of the EDB shall be distributed no later than December 31 of the _____ (enter a number of years, not exceeding "tenth") year following the year of the Participant's death. [Note that distributions pursuant to this election may be eligible rollover distributions.]
- (e) ☐ **Other:** (Describe, e.g., the 10-Year Rule applies to all Beneficiaries other than a surviving spouse Beneficiary.) _____
- (f) ☒ **Prior Elections.** Elections made in prior amendments relating to RMDs shall remain in effect to the extent otherwise consistent with Article 16, Code § 415, and applicable guidance.
- (g) ☐ **Opt-In Extension.** The CARES extension of the 5-Year Rule described in Section 16.9 will NOT apply unless the Beneficiary affirmatively elects for it to apply.
- (h) ☐ **No Extension.** The CARES extension of the 5-Year Rule described in Section 16.9 will NOT apply.

2.17 **Article 17 – Emergency Personal Expense Distributions.** In the absence of an election below, Article 17 does NOT apply. To activate emergency personal expenses distributions (EPEDs), check (a).

- (a) ☐ Article 17 applies and Participants can receive EPEDs effective _____. (Enter date after December 31, 2023.)
- (b) ☐ EPEDs are available only for contributions in which the Participant is fully vested.
- (c) ☐ EPEDs may be elected only with respect to the following contributions: [Check all that apply]
 - (1) ☐ Elective deferrals
 - (2) ☐ Safe harbor contributions
 - (3) ☐ Employer matching contributions
 - (4) ☐ Employer nonelective contributions
 - (5) ☐ QNECs and QMACs
 - (6) ☐ Rollover contributions
 - (7) ☐ After-tax employee contributions
 - (8) ☐ Transferred accounts
 - (9) ☐ Describe: _____ (must be definitely determinable and not subject to discretion)
- (d) ☐ EPEDs are not available if the Participant has severed employment.
- (e) ☐ The minimum amount of an EPED is _____. (Enter an amount up to \$1,000)
- (f) ☐ A Participant who has received an EPED may not receive another EPED from the Plan during the immediately following three calendar years.
- (g) ☐ Describe additional limitations: _____ (must be definitely determinable and not subject to discretion)

2.18 **Article 18 – Domestic Abuse Victim Distributions.** In the absence of an election below, Article 18 does NOT apply. To activate domestic abuse victim distributions (DAVDs), check (a).

- (a) ☒ Article 18 applies and Participants can receive DAVDs effective December 2, 2024. (Enter date after December 31, 2023.)
- (b) ☐ DAVDs are available only for contributions in which the Participant is fully vested.
- (c) ☐ DAVDs may be elected only with respect to the following contributions: [Check all that apply]
 - (1) ☐ Elective deferrals
 - (2) ☐ Safe harbor contributions
 - (3) ☐ Employer matching contributions
 - (4) ☐ Employer nonelective contributions
 - (5) ☐ QNECs and QMACs
 - (6) ☐ Rollover contributions
 - (7) ☐ After-tax employee contributions
 - (8) ☐ Transferred accounts
 - (9) ☐ Describe: _____ (must be definitely determinable and not subject to discretion)
- (d) ☐ DAVDs are not available if the Participant has severed employment.
- (e) ☐ The minimum amount of a DAVD is _____. (Enter an amount less than \$1,000)

- (f) ☐ A Participant who has received a DAVD may not receive another DAVD from the Plan during the immediately following ____ calendar years.
- (g) ☐ Describe additional limitations: _____
(must be definitely determinable and not subject to discretion)

2.19 **Article 19 – Terminally Ill Individual Distributions.** In the absence of an election below, Article 19 does NOT apply. To activate terminally ill individual distributions (TIIDs), check (a).

- (a) ☐ Article 19 applies and Participants can receive TIIDs effective _____. (Enter date after December 29, 2022.)
- (b) ☐ Describe additional limitations: _____
(must be definitely determinable and not subject to discretion)

2.20 **Article 20 – Qualified Disaster Recovery Distributions.** The Plan Administrator may adopt a disaster relief policy, as described in Article 20, which includes the ability to make Qualified Disaster Recovery Distributions (QDRDs), except as limited below:

- (a) ☐ The Plan is not authorized to provide QDRDs and Sections 20.3 and 20.4 do NOT APPLY.
- (b) ☐ QDRDs are available only for contributions in which the Participant is fully vested.
- (c) ☐ QDRDs may be distributed only with respect to the following contributions: [Check all that apply]
 - (1) ☐ Elective deferrals
 - (2) ☐ Safe harbor contributions
 - (3) ☐ Employer matching contributions
 - (4) ☐ Employer nonelective contributions
 - (5) ☐ QNECs and QMACs
 - (6) ☐ Rollover contributions
 - (7) ☐ After-tax employee contributions
 - (8) ☐ Transferred accounts
 - (9) ☐ Describe: _____ (must be definitely determinable and not subject to discretion)

2.21 **Article 21 – 403(b) Hardship Distribution Sources.** Hardship distributions from 403(b) plans, if and to the extent otherwise available under the plan, ARE available from the sources described in Article 21, including QNECs, QMACs, and earnings, except as indicated below.

- (a) ☒ Article 21 does not apply.
- (b) ☐ Article 21 applies effective as the first day of the first plan year beginning in 2024.
- (c) ☐ Article 21 applies to distributions made after _____. (Enter date after December 31, 2023.)
- (d) ☐ Article 21 applies earnings on elective deferrals but not to QNECs and QMACs.
- (e) ☐ Article 21 applies QNECs and QMACs (and earnings thereon) but not to earnings on elective deferrals.
- (f) ☐ Describe additional modifications: _____
(Must be definitely determinable and not subject to discretion).

2.22 **Article 22 – Qualified Long-Term Care Distributions.** In the absence of an election below, Article 22 does NOT apply. To activate qualified long-term care distributions (QLTCDs), check (a).

- (a) ☐ Article 22 applies and Participants can receive QLTCDs effective _____. (Enter date after December 29, 2025.)
- (b) ☐ QLTCDs are available only for contributions in which the Participant is fully vested.
- (c) ☐ QLTCDs may be elected only with respect to the following pre-tax accounts: [Check all that apply. Note: QLTCDs are limited to pre-tax amounts and may not be made from Roth and after-tax employee contributions.]
 - (1) ☐ Elective deferrals
 - (2) ☐ Safe harbor contributions

- (3) ☐ Employer matching contributions
- (4) ☐ Employer nonelective contributions
- (5) ☐ QNECs and QMACs
- (6) ☐ Rollover contributions
- (7) ☐ Transferred accounts
- (8) ☐ Describe: _____ (must be definitely determinable and not subject to discretion)
- (d) ☐ QLTCs are not available if the Participant has severed employment.
- (e) ☐ Describe additional limitations: _____ (must be definitely determinable and not subject to discretion)

2.23 **Article 23 – PLESA.** In the absence of an election below, Article 23 does NOT apply. To activate PLESAs (Pension-Linked Emergency Savings Accounts) check (a).

- (a) ☐ Article 23 shall apply effective _____. [Must be after December 31, 2023.]
- (b) ☐ Employees (other than HCEs) who are Participants in any portion of the Plan are PLESA Participants unless otherwise indicated below:
 - (1) ☐ Only Participants who are eligible to accrue a benefit or to receive an allocation of Employer Contributions are PLESA Participants.
 - (2) ☐ Describe: _____.
- (c) ☐ The automatic enrollment provisions of Section 23.5 apply. The automatic contribution rate is ____% [Enter a number not greater than 3.]
- (d) ☐ The maximum PLESA balance is \$_____. [Enter an amount not exceeding \$2,500 (as adjusted under Code §402A(e)(3)(A)).]
- (e) ☐ Describe additional provisions: _____ (must be definitely determinable and not subject to discretion)

2.24 **RMD waivers for 2020.** [Note: This Section 2.24 and Article 24 do not apply if the Employer has checked Section 1.6(a).] In the absence of an election below, Section 24.2 applies 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. To modify this treatment, check one or more of (a) through (d) below.

- (a) ☐ **No RMDs without request.** The Participant or Beneficiary will not receive the distribution unless they affirmatively choose to receive it.
- (b) ☐ **Split.** The Participant or Beneficiary will not receive the 2020 RMD unless elected, but will receive the Extended 2020 RMD unless they elect otherwise.
- (c) ☐ **No change to RMDs.** 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).
- (d) ☐ **Describe other treatment:** _____ (Must be definitely determinable and not subject to discretion.)

For purposes of Section 24.3, the Plan will treat the following as eligible rollover distributions in 2020: (Choose one or none of (e), (f), (g), or (h): 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)):

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

(i) ☐ **Effective Date.** The provisions of Article 24, and the elections in this Section 2.24, will be effective on March 27, 2020, or as soon as practical thereafter, unless a different effective date is entered here: _____ [Enter date between March 27, 2020 and December 31, 2020.]

2.25 **Article 25 – QACA Maximum Automatic Deferrals.** *[Note: This Section 2.25 and Article 25 do not apply if the Employer has checked Section 1.6(b).]* In the absence of an election below, Article 25 does NOT apply and this Amendment does not affect the Plan’s limitation on automatic deferrals under a QACA. To permit automatic deferrals of up to 15% of compensation, *complete (a) below and (b) if applicable.*

- (a) ☐ Article 25 applies effective on or after the first day of the first plan year beginning after December 31, 2019, unless a different date is selected in (1) below.
- (1) ☐ _____. *(Enter a date on or after the first day of the first plan year beginning after December 31, 2019.)*
- (b) ☐ The following modified QACA statutory schedule will apply (the limitations in the parentheses below only applies to QACAs): *(Select and complete one of (1), (2), or (3) below. The resulting schedule must satisfy Code §401(k)(13)(C)(iii)):*
- (1) ☐ **Detailed Schedule.** The following modified QACA statutory schedule will apply. **NOTE:** *Plan Years 1 and 2 must be between 3% and 10%. 3-14 may not exceed 15%*

<u>Plan Year of application to a Participant</u>	<u>Automatic Deferral Percentage</u>
1	_% (not less than 3 and not more than 10)
2	_% (not less than 3 and not more than 10)
3	_% (not less than 4 and not more than 15)
4	_% (not less than 5 and not more than 15)
5	_% (not less than 6 and not more than 15)
6	_% (not less than 6 and not more than 15)
7	_% (not less than 6 and not more than 15)
8	_% (not less than 6 and not more than 15)
9	_% (not less than 6 and not more than 15)
10	_% (not less than 6 and not more than 15)
11	_% (not less than 6 and not more than 15)
12	_% (not less than 6 and not more than 15)
13	_% (not less than 6 and not more than 15)
14 and thereafter	_% (not less than 6 and not more than 15)

- (2) ☐ **Fixed Increase.**
- a. First plan year of application to a participant: ____ *(not less than 3 and not more than 10)*
- b. Second plan year of application to a participant: ____ *(not less than 3 and not more than 10)*
- c. In subsequent plan years the automatic deferral percentage will increase by ____% per year up to a maximum of ____% *(not more than 15)* of Compensation
- (3) ☐ **Describe:** _____

2.26 **Article 26 – Birth/Adoption Distributions.** *[Note: This Section 2.26 and Article 26 do not apply if the Employer has checked Section 1.6(b).]* In the absence of an election below, Article 26 does NOT apply. To permit QBADs (Qualified Birth and Adoption Distributions), check (a). If QBADs are available, they apply to all accounts except as provided in Article 26 or in elections (b), (c), (d), or (e). *(Select all that apply.)*

- (a) ☐ Article 26 applies effective January 1, 2020, unless a different date is selected in (1) below.
- (1) ☐ _____. *(Enter a date after December 31, 2019.)*
- (b) ☐ QBADs may only be made from accounts in which the Participant is fully vested.
- (c) ☐ QBADs are only available from the following Accounts *(select one or more):*
- (1) ☐ Pre-Tax Elective Deferrals
- (2) ☐ Roth Elective Deferrals
- (3) ☐ Employer matching contributions (including safe harbor contributions and QMACs)
- (4) ☐ Employer nonelective contributions (including safe harbor contributions and QNECs)
- (5) ☐ Rollover contributions
- (6) ☐ After-tax employee contributions

- (7) ☐ Transferred accounts
- (8) ☐ Describe: _____ (must be definitely determinable and not subject to discretion)
- (d) ☐ QBADs are not available if the Participant has severed employment.
- (e) ☐ Describe additional limitations: _____ (must be definitely determinable and not subject to discretion)

2.27 **Article 27 – In-Service Distributions.** [Note: This Section 2.27 and Article 27 do not apply if the Employer has checked Section 1.6(b) or (c).] In the absence of an election below, Article 27 does NOT apply. To permit in-service distributions at age 59½ for pension plans and governmental 457(b) plans, check (a). Check (b) to specify an age greater than 59 ½. If Article 27 applies, it applies to all Accounts except as limited in Article 27.

- (a) ☐ Article 27 applies effective on or after the first day of the first plan year beginning after December 31, 2019, unless a different date is selected in (1) below.
 - (1) ☐ _____. (Enter a date on or after the first day of the first plan year beginning after December 31, 2019.)
- (b) ☐ Age at which in-service distributions are permitted _____ (Enter age greater than 59½.)

ARTICLE 3 – DC, 403(b) NOTICES TO UNENROLLED PARTICIPANTS – SECURE 2.0 §320

- 3.1 **Application.** This Article 3 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, 2022. This Article gives the Plan the option of providing fewer notices for Employees who are eligible but not participating.
- 3.2 **Optional Elimination of Notices to Unenrolled Participants.** No disclosure, notice, or other plan document (other than the Alternative Notices) shall be required to be furnished to any Unenrolled Participant who is furnished with the Alternative Notices.
- 3.3 **Definitions.** The following definitions apply for this Article 3:

(a) An “**Unenrolled Participant**” is a Participant in the Plan who (1) has been furnished the summary plan description of the Plan described in ERISA §104(b) and any other notices related to eligibility under the Plan and required to be furnished under the Plan, the Code, or ERISA in connection with such Participant’s initial eligibility to participate in such plan, (2) is not participating in the Plan, and (3) satisfies such other criteria as determined by the IRS and/or DOL, including future guidance.

(b) The “**Alternative Notices**” consist of the Annual Reminder Notice and any document the Participant requests that the Participant would be entitled to receive, notwithstanding this Article.

(c) An “**Annual Reminder Notice**” is a notice which (1) is provided in accordance with DOL Reg. §2520.104b–1; (2) is furnished in connection with the annual open season election period with respect to the Plan or, if there is no such period, is furnished within a reasonable period prior to the beginning of each Plan Year; (3) notifies the Unenrolled Participant of their eligibility to participate in the Plan, the key benefits and rights under the plan, with a focus on Employer contributions and vesting provisions, and any applicable election deadlines; and (4) provides such information in a prominent manner calculated to be understood by the average participant.

ARTICLE 4 – 401(k) PROACTIVELY ADJUST ELIGIBILITY SO LTPT TRACKING DOESN’T APPLY

- 4.1 **Application.** This Article 4 will apply to 401(k) Plans, but only if the Employer makes a selection in Section 2.4. It is effective on the date specified in Section 2.4(e), or, if none, January 1, 2024.

- 4.2 **Modification of service requirement.** No Employee shall be required to complete a period of service beyond that specified in Section 2.4 to make elective deferrals. For example, suppose the Plan otherwise provides that Employees in general are eligible to defer 6 months after hire, but part-time Employees are excluded from the Plan until they have a Year of Service, and that the Employer selects 2.4(b), providing that Employees satisfy the service requirements to defer 24 months after hire. In that case, Employees in general would remain eligible to defer 6 months after hire, but part-time Employees would become eligible to defer once they complete one Year of Service or 24 months after hire, whichever is earlier. Other eligibility conditions unrelated to service (such as union status) still apply and the entry date provisions of the plan still apply. The word “hire” refers to an Employee’s employment commencement date as described in DOL Reg. §2530.202-2.

ARTICLE 5 – 401(k), ERISA 403(b)
LONG-TERM PART-TIME EMPLOYEES – SECURE §112; SECURE 2.0 §125

- 5.1 **Application.** This Article 5 will apply to 401(k) and 403(b) Plans as follows:

(a) **401(k) Plans.** This Article 5 will apply to a 401(k) Plan that permits elective deferrals, effective for Plan Years beginning after December 31, 2020. Except as otherwise provided in Section 2.5, it specifically supersedes any prior or contemporaneous amendment addressing LTPT Employees. It is intended to comply with Prop. Treas. Reg. § 1.401(k)-5 (and any subsequent guidance) and shall be interpreted and applied accordingly.

(b) **403(b) Plans.** This Article 5 will apply to a 403(b) Plan subject to ERISA that permits elective deferrals, effective for Plan Years beginning after December 31, 2024. It does not apply to 403(b) Plans which are not subject to ERISA. It is intended to comply with Prop. Treas. Reg. § 1.401(k)-5 and Notice 2024-73 (and any subsequent guidance) and shall be interpreted and applied accordingly.

- 5.2 **LTPT Employee Deferrals.** An LTPT Employee will be eligible to make Elective Deferrals to the Plan. An LTPT Employee enters the Elective Deferral portion of the Plan on the Employee’s LTPT Entry Date, if the Employee is still an LTPT Employee and satisfies the Other Conditions of the Plan (see 5.8(d)) on that Entry Date. The provisions of the Plan relating to rehired employees, breaks in service, and change in status will apply to LTPT Employees.
- 5.3 **Limited Participation.** An LTPT Employee who is eligible to make Elective Deferrals under Section 5.2 will be a Participant solely with regard to Elective Deferrals and related Account Balances. Except as otherwise provided in Section 2.5(a), an LTPT Employee will not be eligible (1) to receive any employer contributions, including top-heavy minimum allocations and safe harbor contributions, (2) to make after-tax Employee voluntary contributions, (3) to make rollover contributions (unless otherwise permitted under the Plan’s administrative policies related to rollover contributions), or (4) to make deemed IRA contributions described in Code §408(q).
- 5.4 **Satisfaction of Eligibility Conditions.** On the first day of the first Plan Year on or after the date an LTPT Employee becomes a Regular Participant, the individual will no longer be an LTPT Employee, but will instead participate in the Plan in the same manner as other Regular Participants, except as provided in Section 5.5 regarding vesting.
- 5.5 **Vesting.** For purposes of applying any vesting schedule in the Plan applicable to Employer contributions other than elective deferrals, an LTPT Employee or a Former LTPT Employee (1) will be credited with a Year of Service for each vesting computation period during which the Employee was credited with at least 500 Hours of Service (or such lower requirement as may apply to Regular Participants) in such period, and (2) will not be credited with a break in service for any vesting computation period unless the Employee has fewer than 500 Hours of Service in such period. Hours of Service for this purpose are based on Actual Hours of Service unless otherwise specified in Section 2.5(d).

(a) **401(k) Plans.** This section will not apply to vesting computation periods of a 401(k) Plan beginning before January 1, 2021.

(b) **403(b) Plans.** This section will not apply to vesting computation periods of a 403(b) Plan beginning before January 1, 2023.

5.6 **Testing.**

(a) **401(k) Plans.** If the Plan is a 401(k) Plan, then pursuant to Code §401(k)(15)(B)(i)(II) and Prop. Treas. Reg. §1.401(k)-5(f), the Plan Administrator may elect to exclude LTPT Employees from coverage testing under Code §410(b), the ADP test of Code §401(k)(3), the ACP test of Code §401(m)(2), and other nondiscrimination testing under Code §401(a)(4). Separately, pursuant to Prop. Treas. Reg. §1.401(k)-5(f)(2), the Plan Administrator may elect to exclude LTPT Employees from determining if the Plan satisfies the contribution and vesting requirements of Code §416(b) and (c).

(b) **403(b) Plans.** If the Plan is a 403(b) Plan, then pursuant to Code §403(b)(12)(D)(i)(II) and Notice 2024-73, the Plan Administrator may elect to exclude LTPT Employees from coverage testing under Code §410(b), the ACP test of Code §401(m)(2), and other nondiscrimination testing under Code §401(a)(4).

5.7 **Application of Elective Deferral Provisions.** Except as otherwise provided in Section 2.5(b), all provisions of the Plan related to Elective Deferrals which apply to Regular Participants also apply to LTPT Employees who have become eligible to make Elective Deferrals, including as applicable (1) eligibility to make Roth deferrals, (2) automatic enrollment provisions, (3) automatic escalation provisions, and (4) the ability to make catch-up contributions.

5.8 **Definitions.** The following definitions apply for this Article 5 and Section 2.5:

(a) **“LTPT Employee”** is defined as follows:

(1) **401(k) Plans.** With regard to a 401(k) Plan, an **“LTPT Employee”** means a long-term part-time employee described in Code §§401(k)(2)(D), 401(k)(15) and Prop. Treas. Reg. §1.401(k)-5(b)(1). Specifically, an LTPT Employee is an Employee, other than an LTPT Excluded Employee, who has not entered the Plan as a Regular Participant, but who is credited with at least three (3) consecutive LTPT Years beginning after December 31, 2020 with at least 500 Hours of Service in each and who has attained age 21 on or before the last day of the last such LTPT Year. For Plan Years beginning after December 31, 2024, the foregoing definition shall be applied by substituting “two (2) consecutive LTPT Years” in place of “three (3) consecutive LTPT Years.”

(2) **403(b) Plans.** With regard to a 403(b) Plan, an **“LTPT Employee”** means a long-term part-time employee described in ERISA § 202(c) and Prop. Treas. Reg. §1.401(k)-5(b)(1). Specifically, an LTPT Employee is an Employee, other than an LTPT Excluded Employee, who has not entered the Plan as a Regular Participant, but who is credited with at least two (2) consecutive LTPT Years beginning after December 31, 2022 with at least 500 Hours of Service in each and who has attained age 21 on or before the last day of the last such LTPT Year.

(b) With regard to an LTPT Employee, the **“LTPT Entry Date,”** unless otherwise specified in Section 2.5(c), is the earlier of (i) the first day of the first month of the Plan Year or (ii) the first day of the seventh month of the Plan Year immediately following the date the Employee becomes an LTPT Employee. In no event will the LTPT Entry Date exceed the maximum delay in participation specified in Code §410(a)(4) and Prop. Treas. Reg. §1.401(k)-5(c)(1)(i).

(c) An **“LTPT Excluded Employee”** refers to a Union Employee or a Nonresident Alien or those individuals who do not satisfy the Other Conditions of the Plan. However, an Employee will not be an LTPT Excluded Employee merely because the Employee failed to satisfy a service condition, or is a part-time, seasonal, or temporary employee. Nor will an Employee be excluded to the extent such exclusion is not permitted under applicable IRS guidance.

(d) The “**Other Conditions**” of the Plan are the eligibility conditions of the Plan other than those related to, or a proxy for, age and/or service, as more fully discussed in Prop. Treas. Reg. § 1.401(k)-5(c)(3).

(1) **403(b) Plans:** If the Plan is a 403(b) Plan, the exclusion described in Treas. Reg. § 1.403(b)-5(b)(4)(ii)(E) for employees who work fewer than 20 hours per week is a service-related exclusion. All other exclusions described in Treas. Reg. § 1.403(b)-5(b)(4) are Other Conditions.

(e) “**Regular Participant**” is defined as follows:

(1) **401(k) Plans:** An Employee is a “**Regular Participant**” if the Employee has satisfied the age and service conditions to enter the Plan (or any portion thereof) determined without regard to this Article 5, including those relating to the Employee’s entry date. An LTPT Employee becomes a Regular Participant on the first day of the first Plan Year following the date the LTPT Employee satisfies those conditions and the Other Conditions of the Plan.

(2) **403(b) Plans:** With regard to a 403(b) Plan, an Employee becomes a Regular Participant on the first day of the first Plan Year following the first plan year in which the LTPT Employee has satisfied the Other Conditions of the Plan and was credited with at least 1,000 hours in the preceding year, such that the LTPT Employee is no longer described in Treas. Reg. § 1.403(b)-5(b)(4)(iii)(B).

(f) A “**Union Employee**” is an employee described in Code §410(b)(3)(A).

(g) A “**Nonresident Alien**” is an employee described in Code §410(b)(3)(C).

(h) With regard to any LTPT Employee, the first “**LTPT Year**” is the 12-month period beginning on the employment commencement date, as described in DOL Reg. §2530.202-2. Unless otherwise specified in Section 2.5(e), subsequent LTPT Years will be determined in accordance with eligibility computation periods as described in the Plan for Regular Participants, or, if none, will be based on the Plan Year. LTPT Years will be determined in accordance with Prop. Treas. Reg. § 1.401(k)-5(c)(2).

(1) **401(k) Plans:** With regard to a 401(k) Plan, LTPT Years do not include years beginning before January 1, 2021.

(2) **403(b) Plans:** With regard to a 403(b) Plan, LTPT Years do not include years beginning before January 1, 2023.

(i) Unless otherwise specified in Section 2.5(d), “**Hours of Service**” under Section 5.8(a) will be determined under the same method as is used in the Plan for determining Hours of Service for the eligibility of Regular Participants, or, if none, will be determined based on actual Hours of Service as provided in DOL Reg. §2530.200b-2(a). The elapsed time rule of Treas. Reg. §1.410(b)-7 will not apply to determinations under Section 5.5 or Section 5.8(a).

(j) A “**Former LTPT Employee**” means an Employee described in Prop. Treas. Reg. §1.401(k)-5(d)(2).

(1) **403(b) Plans:** With regard to a 403(b) Plan, status as a Former LTPT Employee will also be determined by reference to Notice 2024-73, Q&A 6.

ARTICLE 6 -- DC MILITARY SPOUSE PROVISIONS – SECURE 2.0 §112

6.1 **Application.** This Article 6 applies only if (1) the Plan is a Defined Contribution Plan and (2) the Employer elects in Section 2.6(a) to apply this Article. It is effective on the date indicated in Section 2.6(a).

6.2 **Special Provisions for Military Spouses.** The following provisions shall apply to each Military Spouse.

(a) Except as otherwise specified in Section 2.6, a Military Spouse shall enter the Plan on the earlier of the date the Military Spouse would otherwise enter the plan or the date which is 2 months after the Hire Date.

(b) A Military Spouse shall be 100% vested (nonforfeitable) in all Employer contributions under the Plan.

(c) Upon entry into the Plan, a Military Spouse shall be immediately eligible to receive Employer contributions under the Plan at the same rate as a similarly situated Participant (who is not a Military Spouse) would be eligible to receive under the Plan after two Years of Service.

6.3 **Definitions.** The following definitions apply for this Article 6 and Section 2.6:

(a) A “**Military Spouse**” is an individual who (1) is an Employee of the Employer, (2) is not a Highly Compensated Employee of the Employer, (3) is married as of the Employee’s date of hire to an individual who is a member of the uniformed services (as defined in 10 U.S.C. §101(a)(5)) serving on active duty. The Employer may rely on the Employee’s certification that the Employee’s spouse is a member of the uniformed services if such certification provides the name, rank, and service branch of the spouse.

(b) The “**Employer**” includes the Employer maintaining the Plan and all businesses related to the Employer under Code §414(b), (c), (m), or (o).

(c) The “**Hire Date**” is the date on which the Military Spouse begins employment with the Employer.

ARTICLE 7 – 401(k), 403(b)
MANDATORY AUTOMATIC ENROLLMENT – SECURE 2.0 §101

7.1 **Application; Effective Date.** This Article 7 will apply to 401(k) Plans and to 403(b) Plans which permit elective deferrals, other than SIMPLE plans which comply with Code §401(k)(11), governmental plans described in Code §414(d), and church plans described in Code §414(e). It is effective as of the first day of the first Plan Year beginning in 2025 unless an earlier effective date is specified in Section 2.7.

7.2 **Compliance.** The Plan shall comply with the requirements of Code §414A(b) unless the Plan is exempted from doing so pursuant to Code §414A(c). If the Plan is exempted, the balance of this Article will not apply unless otherwise specified in Section 2.7. The Plan Administrator may adopt policies and procedures as needed or useful to implement and apply this Article. If the Plan is a multiple employer plan (including a pooled employer plan), then, except as otherwise provided in Section 2.7, this Article will apply to each participating employer not exempted pursuant to Code § 414A(c) and applicable IRS guidance.

(a) **Application of defaults and elections.** The elections in Section 2.7 shall govern to the extent affirmatively selected. If any such election is not made, and the corresponding Plan provisions in effect before this Amendment comply with Code § 414A, those provisions shall continue to apply. The default provisions in Section 2.7 shall apply only as needed to supply any missing or noncompliant provisions.

7.3 **EACA.** This Plan will be administered as an Eligible Automatic Contribution Arrangement (EACA), as described in Code §414(w) and Treas. Reg. §1.414(w)-1, which may be further described in the Plan. Subject to Section 2.7, all Employees eligible to make elective deferrals are “covered employees,” as that term is used in Treas. Reg. §1.414(w)-1(e)(3), whether or not they file or have filed an affirmative deferral election. In the absence of other elections in Section 2.7, (a) the Automatic Deferral Percentage is the amount otherwise determined under the automatic deferral provisions of the Plan, to the extent those provisions comply with Code §414A(b), or in the absence of such provisions, 3% for each payroll period increasing by 1% of Compensation on the first day of each Plan Year up to a maximum of 10% of Compensation; and (b) the Automatic Deferral will apply to all Participants, except those who have in effect a salary reduction agreement on the Notice Date regardless of the Elective Deferral amount under the Agreement.

7.4 **Permissible Withdrawals.** Participants shall be eligible to demand and receive Permissible Withdrawals described in Code §414(w) and Treas. Reg. §1.414(w)-1, which may be further described in the Plan.

- 7.5 **QDIAs.** Elective deferrals contributed under the Plan, for which no investment is elected by the Participant, shall be invested in a Qualified Default Investment Alternative in accordance with the requirements of DOL Reg. §2550.404c-5 (or any successor regulation).
- 7.6 **Definitions.** The following definitions apply for this Article 7 and Section 2.7:
- (b) The “**Notice Date**” is the date the Plan provides the first EACA Notice described in Treas. Reg. §1.414(w)-1(b)(3) pursuant to this Article.
 - (c) An “**Automatic Deferral**” is an Elective Deferral that results from the operation of this Article. Under the Automatic Deferral, the Employer automatically will reduce by the Automatic Deferral Percentage the Compensation of each Participant subject to the Automatic Deferral, except those Participants who timely make a Contrary Election.
 - (d) “**Compensation**” for purposes of determining the amount of Automatic Deferrals means Compensation for purposes of allocating Elective Deferrals under the Plan.
 - (e) A “**Contrary Election**” is a Participant's election made after the Notice Date not to be subject to Automatic Deferrals, including an election not to defer any Compensation or to defer an amount which is more or less than the Automatic Deferral Percentage.

ARTICLE 8 – 401(k), 403(b), Gov’t 457(b)
INCREASE IN CATCH-UP CONTRIBUTIONS – SECURE 2.0 §109

- 8.1 **Application.** This Article 8 will apply if the Plan is a 401(k) Plan, 403(b) Plan, or a Governmental 457(b) Plan, unless the Employer elects in Section 2.8(a) that this Article will not apply. It is effective January 1, 2025, unless otherwise specified in Section 2.8.
- 8.2 **Increased Limits.** If a Participant turns 60, 61, 62 or 63 during a calendar year, the limit on catch-up contributions, as defined in Code §414(v), is the adjusted dollar amount described in Code §414(v)(2)(E), which is generally 150% of the limit which would otherwise apply.

ARTICLE 9 – SIMPLE 401(k)
INCREASE IN SIMPLE 401(K) DEFERRAL LIMIT – SECURE 2.0 §117

- 9.1 **Application.** This Article 9 will apply only if the Plan is a SIMPLE 401(k) plan subject to Code §401(k)(11) and Employer elects in Section 2.9(a) or (b) for this Article to apply. It is effective as of January 1, 2024, unless otherwise specified in Section 2.9(c).
- 9.2 **Increased Limits.** The maximum amount of elective deferrals a Participant can make to the Plan in a calendar year is the adjusted dollar amount described in Code §408(p)(2)(E)(ii). If the plan permits catch-up contributions described in Code §414(v), the maximum catch-up contribution is the applicable dollar amount described in Code §414(v)(2)(iii). In general, the increased deferral and catch-up limits are 10% higher than the limits which would otherwise apply. However, the increased catch-up contribution under this Section 9.2 does not apply in any year in which the participant is subject to the provisions of Article 8. For example, if the SIMPLE catch-up limit for a calendar year is \$4,000, a participant turns 60 in that year, and both Articles 8 and 9 apply, then the catch-up limit for that participant is \$6,000.
- 9.3 **Increased Contributions.** If the Employer exceeds the Employee Threshold for a calendar year, then the required Employer Contribution for that year shall be (a) a nonelective contribution of 3% of SIMPLE Compensation (as defined in Treas. Reg. §1.401(k)-4(e)(5)) for each Participant whose SIMPLE Compensation is at least \$5,000, or (b) a matching contribution equal to 100% of each such Participant's elective deferrals but not exceeding 4% of SIMPLE Compensation or such lower percentage as the Employer may elect under Code §408(p)(2)(C)(ii)(II).

9.4 **Participant Notice.** The annual notice to Participants described in Treas. Reg. §1.401(k)-4(d)(3) will include a description of the increased limits pursuant to Section 9.2 and, if applicable, the increased Employer contributions under Section 9.3.

9.5 **Definitions.** The following definition applies for this Article 9 and Section 2.9:

(a) The Employer exceeds “**the Employee Threshold**” for a calendar year if the Employer had more than 25 Employees who received at least \$5,000 of Compensation from the Employer for the preceding calendar year, as determined under the rules of Notice 2024-2, Q&A E-3.

ARTICLE 10 – 401(k), 403(b), Gov’t 457(b) ROTH CATCH-UP DEFERRALS – SECURE 2.0 §603

10.1 **Application.** This Article 10 will apply if the Plan is a 401(k) Plan, a 403(b) Plan, or a Governmental 457(b) Plan which permits Catch-Up Deferrals. This Article is effective January 1, 2026, unless an earlier effective date is specified in Section 2.10(a).

10.2 **Definitions.** The following definitions apply to this Article and to Section 2.10:

(a) A “**Deferral**” is an elective deferral, sometimes described as an elective contribution or a salary reduction agreement contribution. All Deferrals are Pre-Tax Deferrals unless they are Roth Deferrals. The Plan may describe Deferrals as “Elective Deferrals.”

(b) A “**Roth Deferral**” is a Deferral which a Participant irrevocably designates as a Roth Deferral under Code §402A at the time of deferral and which is subject to income tax when made to the Plan or is treated as a Roth Deferral under the provisions of this Article.

(c) A “**Catch-Up Deferral**” is a Deferral by a Catch-Up Eligible Participant which exceeds an applicable limit, as defined in Treas. Reg. §1.414(v)-1(b). Catch-Up Deferrals do not include contributions described in Code §402(g)(7) or Code §457(b)(3) (special catch-ups for 403(b) and 457(b) plans, respectively).

(d) “**Catch-Up Eligible**” describes Participant defined in Treas. Reg. §1.414(v)-1(g)(3), subject to the provisions of this Article. A person who is not Catch-Up Eligible cannot make Catch-Up Deferrals.

(e) An “**HPI**” (or Highly Paid Individual) with regard to any calendar year is a Participant whose FICA Wages from the Employer for the preceding calendar year exceeded \$145,000 as adjusted under Code §414(v)(7)(E) and as determined in accordance with IRS guidance, including Treas. Reg. §1.414(v)-2 or any successor rule.

(f) A **Self-Employed HPI** with regard to any calendar year is a Highly Compensated Employee—defined under Code §414(q) and further defined in the Plan—who would be an HPI under subsection (e) if “net earnings from self-employment” for purposes of Code §1402(a) were used in place of FICA Wages to determine HPI status. Except as provided in Section 2.10(b), this Article does not limit the ability of Self-Employed HPis who are not otherwise HPis described in subsection (e) to make Catch-Up Deferrals.

(g) An individual’s “**FICA Wages**” are the individual’s wages as defined in Code §3121(a) for purposes of the taxes imposed by Code §§3101(a) and 3111(a). In determining FICA Wages, the Plan Administrator may elect to apply one or more of the optional rules described in Treas. Reg. § 1.414(v)-2(b)(4).

(h) A “**Roth Rollover**” is a rollover described in Code §402A(c)(4) (including rollovers with regard to amounts not otherwise distributable, as described in Code §402A(c)(4)(E)). The Plan may refer to these rollovers as “In-Plan Roth Rollovers” (IRRs) and/or “In-Plan Roth Transfers” (IRTs).

10.3 **No Catch-Up Deferrals.** If Section 2.10(b)(2) is selected, then this Section will apply. Catch-Up Deferrals are not permitted in the Plan. All Participants shall be treated as though they were not Catch-Up Eligible. The balance of this Article will not apply to the Plan.

- 10.4 **No HPI Catch-Up Deferrals.** If Section 2.10(b)(3) is selected, then this Section will apply. HPIs are not Catch-Up Eligible. If Section 2.10(b)(3)a. is selected, then Self-Employed HPIs are not Catch-Up Eligible, regardless of whether they are also HPIs described in Section 10.2(e). If Section 2.10(b)(3)a. is not selected, then the Plan Administrator may operationally determine, in its discretion, that one or more Self-Employed HPIs are not Catch-Up Eligible and shall notify the affected Self-Employed HPIs before the beginning of the calendar year that they are not Catch-Up Eligible. The balance of this Article will not apply to the Plan.
- 10.5 **Roth Catch-Ups.** If Section 2.10(b)(2) or 2.10(b)(3) are not selected, then this Section shall apply.
- (a) **Roth Deferrals Available.** All Participants who are eligible to make Pre-Tax Deferrals are also eligible to make Roth Deferrals. However, if Section 2.10(b)(1)a. is selected, then Roth Deferrals are limited to Catch-Up Deferrals; and Participants may not elect Roth Deferrals other than Catch-Up Deferrals. See Section 2.10(b)(1) regarding the effective date of this subsection.
- (b) **HPI Catch-Ups Must Be Roth.** All Catch-Up Deferrals of HPIs must be Roth Deferrals. Unless Section 2.10(c)(1) is selected, all HPIs are deemed to have irrevocably elected Roth treatment for any Catch-Up Deferrals. However, the Plan shall provide to HPIs the effective opportunity to opt out of such a deemed election with regard to future deferrals. The determination of whether an HPI's Deferrals satisfy this Section shall be made with regard to the timing rules of Treas. Reg. §1.414(v)-2(b)(1) and the correction rules of Treas. Reg. §1.414(v)-2(c). Any deemed Roth election shall cease to apply in accordance with Treas. Reg. §1.401(k)-1(f)(5)(iv)(B).
- (c) **Roth Rollovers.** If Section 2.10(d)(2) is selected, Participants may make Roth Rollovers, subject to the limitations of Section 2.10(d) and any applicable existing Plan provisions relating to Roth Rollovers. See Section 2.10(d) regarding the effective date of this subsection. If Section 2.10(d)(2) is not selected, then this Amendment does not modify Plan provisions relating to Roth Rollovers.
- (d) **Treatment of Roth Deferrals.** Except to the extent explicitly provided in the Plan or as described in the applicable Section 2.10(e) elections, Plan provisions that apply to Pre-Tax Deferrals—including distribution provisions—shall also apply to Roth Deferrals. However, this subsection (d) shall not modify any Plan provision that expressly provides for different treatment of Roth and Pre-Tax Deferrals.

ARTICLE 11 – DC, 403(b), Gov’t 457(b)
ROTH EMPLOYER CONTRIBUTIONS – SECURE 2.0 §604

- 11.1 **Application.** This Article 11 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 2.11(a) for this Article 11 to apply, effective on the date specified in Section 2.11(a).
- 11.2 **Election Authorized.** A Participant may elect—subject to the limitations provided in this Article, in Section 2.11, and in any additional policies adopted by the Employer or Plan Administrator—that some or all Employer Contributions for the Participant which are nonforfeitable at the time contributed will be characterized as Roth Employer Contributions. The Participant may make an election with regard to an Employer Contribution only if the Participant is fully vested in that contribution. For example, if a Participant is only 40% vested in Matching Contributions, the Participant cannot elect Roth treatment for any portion of those contributions.
- 11.3 **Treatment; Separate Accounting.** The Plan Administrator will establish one or more Roth Employer Contribution Accounts for each Participant who elects Roth Employer Contributions. The Plan Administrator will credit only Roth Employer Contributions and earnings thereon (allocated on a reasonable and consistent basis) to such an Account. Except as otherwise provided by law or as the circumstances may require, the Plan Administrator will treat a Roth Employer Contribution the same as the corresponding Pretax Employer Contribution. For example, a safe harbor matching contribution that the Participant has elected to treat as a Roth Employer Contribution shall be subject to the same rules that apply to other safe harbor matching contributions.
- 11.4 **Operating Rules.** Participant elections under this Article will be governed by the principles of Treas. Reg. §1.401(k)-1(f). The Participant must make any designation of an Employer Contribution as a Roth contribution no later than the time that the contribution is allocated to the Participant’s account and the election must be irrevocable. Roth Employer Contributions are included in the Participant’s gross income when made and are subject to separate accounting rules. In addition, to the extent the Plan permits a Participant to designate Employer Contributions as Roth contributions, the Participant must have an effective opportunity to make (or change) that designation at least once during each Plan Year. If a Participant validly elected to receive a Pretax or Roth Employer Contribution, but the Plan Administrator or a vendor mistakenly classified it incorrectly, the Plan Administrator will re-classify the contribution, plus the earnings thereon, consistent with the Participant’s election. The Plan will not treat Roth Employer Contributions as Compensation for any purpose.
- 11.5 **Definitions.** The following definitions apply for this Article 11 and Section 2.11:
- (a) An “**Employer Contribution**” is a Matching Contribution or a Nonelective Contribution.
 - (b) A “**Matching Contribution**” is (1) any matching contribution described in section 401(m)(4)(A), and (2) any matching-type contribution to a Governmental 457(b) Plan on account of a Participant’s elective deferral under that Plan.
 - (c) A “**Nonelective Contribution**” is a contribution made by the Employer which is not an elective deferral or a Matching Contribution.
 - (d) A “**Roth Employer Contribution**” is a contribution described in Code §402A(a)(2) or (3). Such contributions are not excludable from the Participant’s income and are nonforfeitable.
 - (e) A “**Pretax Employer Contribution**” is an Employer Contribution which is not a Roth Employer Contribution.

ARTICLE 12 – 401(k)
STARTER 401(k) – SECURE 2.0 §121

- 12.1 **Application.** This Article 12 will apply only if the Plan is a 401(k) plan and Employer elects in Section 2.12(a) for this Article to apply. It is effective as of the date specified in Section 2.12(a).
- 12.2 **Contributions.** The Plan is an Automatic Contribution Arrangement as more fully set forth in the Plan (after application of Article 7 of this Amendment, if applicable). The automatic contribution provisions of the Plan call for a uniformly determined default Elective Deferral percentage that is not less than 3% or more than 15% of compensation, and those provisions apply to all Participants (other than those who make an affirmative deferral election or who have filed an election not to defer). In no event shall the default deferral percentage fall outside that range. No contributions other than Elective Deferrals and rollover contributions may be made to the Plan.
- 12.3 **Only Plan.** The Plan is and shall be the only Retirement Plan with respect to which contributions are made or benefits are accrued after the Effective Date in Section 2.12(a). However, if the Employer is involved in an acquisition, disposition, or similar transaction described in Code §410(b)(6)(C)(i), the Employer remains eligible to maintain the Plan under this amendment for two additional Plan Years following the Plan Year in which the Employer last satisfied the requirements. For purposes of this section, the term “Retirement Plan” refers to a plan described under Code §§401(a), 403(b), 457(b) or 219(g)(5), other than a plan covering only collectively bargained employees described in Code §410(b)(3)(A).
- 12.4 **Participation.** Each Employee of the Employer who meets the age and service conditions specified in the Plan, which may not exceed the limitations of Code §410(a)(1) (age 21/1 Year of Service) shall enter the Plan on his or her entry date (or such earlier time as may be specified in the Plan), other than Employees described in Code §410(b)(3) or (4) (nonresident aliens without US Source income and certain collective bargaining employees). Other exclusions, such as those which apply to leased employees, reclassified employees, or employees of nonparticipating related employers, will not apply.
- 12.5 **Deferral Limitation.** A Participant's annual Elective Deferrals may not exceed the amount as in effect under Code §401(k)(16)(D) (\$6,000 in 2024) under which the Treasury adjusts the limit in \$500 increments. However, if the Plan permits Catch-Up Deferrals, a Catch-up Eligible Participant may also make Catch-up Deferrals not in excess of the limitation determined under Code §401(k)(16)(D)(iii) (\$1,000 in 2024).
- 12.6 **Annual Notice.** The Plan will provide to each Participant an annual notice which complies with the timing and content requirements which apply to a qualified automatic contribution arrangement (QACA) under Code §401(k)(13)(E) and Treas. Reg. §1.401(k)-3(d), (k)(4).
- 12.7 **Testing Exemptions.** The Plan is not subject to nondiscrimination testing under Code §401(k)(3) or the corresponding Plan provisions. The Plan is not subject to the top-heavy provisions of Code §416 or the corresponding Plan provisions.
- 12.8 **Definitions.** The following definitions will apply for purposes of Section 2.12 and this Article.
- (a) **“Elective Deferrals”** means elective contributions that are made by the Employer on behalf of the Participants that are not includible in gross income under Code §§125, 402(e)(3), 402(h), or 403(b), and Roth elective deferrals described under Code §402A.
 - (b) **“Catch-up Deferrals”** means additional Elective Deferrals described in Code §414(v).
 - (c) **“Catch-up Eligible Participant”** means an eligible participant described in Code §414(v)(5) who would attain age 50 before the end of the calendar year.
 - (d) **“Employer”** includes any Related Employer or Affiliated Employer described in Code §414(b), (c), (m), or (o).

ARTICLE 13 - DC
TOP-HEAVY CONTRIBUTIONS – SECURE 2.0 §310

- 13.1 **Application.** This Article 13 applies if the Plan is a Defined Contribution Plan, unless the Employer elects in Section 2.13(a) that it shall not apply. It is effective for Plan Years beginning after December 31, 2023, unless a different effective date is specified in Section 2.13(b).
- 13.2 **No Top-heavy Contributions for Otherwise Excludable Employees.** The Employer is not required to make a Top-heavy Contribution for a Participant who is an Otherwise Excludable Employee. This Article does not affect the eligibility of an Otherwise Excludable Employee to any other contribution or benefit under the Plan.
- 13.3 **Definitions.** The following definitions apply for this Article 13 and Section 2.13:
- (a) A “**Top-heavy Contribution**” is a contribution described in Code §416(c). The Plan may describe this as a “Top-heavy Minimum Allocation.”
- (b) An “**Otherwise Excludable Employee**” means any Employee not meeting the age or service requirements of Code §410(a)(1) (without regard to subparagraph (B) thereof).
- 13.4 **Exclusion from Integrated Formula Tier 1.** If the Plan uses a four-tier permitted disparity allocation formula, then for any plan year in which this Article 13 is effective, Otherwise Excludable Employees who are not otherwise eligible to receive an allocation of nonelective contributions shall be excluded from the first tier of the allocation formula.

ARTICLE 14 – 401(k), 403(b), Gov’t 457(b)
MATCH STUDENT LOAN REPAYMENTS – SECURE 2.0 §110

- 14.1 **Application.** This Article 14 will apply only if (1) the Plan is a 401(k) Plan, a 403(b) plan or a Governmental 457(b) plan and (2) the Employer elects in Section 2.14(a) for this Article to apply. It is effective on the date indicated in Section 2.14(a). The Plan Administrator may establish reasonable administrative procedures to implement this Article.
- 14.2 **Student loan matching contributions.** The Employer will make Student Loan Matching Contributions for a Plan Year at the same rate as Deferral Matching Contributions for that Plan Year. Such contributions shall vest at the same rate as Deferral Matching Contributions. All Participants eligible to receive allocations of Deferral Matching Contributions, and only such Participants, are eligible to receive allocations of Student Loan Matching Contributions. However, the Employer, in Section 2.14(b), may specify that Participants in a disaggregated plan under Treas. Reg. §1.410(b)-7(c)(4) with regard to collectively bargained employees (see Treas. Reg. §1.410(b)-7(c)(4)(ii)(B)) will not be eligible to receive allocations of Student Loan Matching Contributions.
- 14.3 **Nondiscrimination and related rules.** The following rules apply to Student Loan Matching Contributions:
- (a) For purposes of Section 14.2, and the coverage and nondiscrimination requirements of Code §401(a)(4) and §410(b), and any related Plan provisions, Student Loan Matching Contributions shall not be treated as being unavailable to a Participant solely because the Participant does not have a Qualified Education Loan.
- (b) Student Loan Payments shall be treated as elective deferrals solely for purposes of satisfying safe harbor requirements of Code §401(k)(11), (12), (13), or (16), or §401(m)(11), (12), or (13) and any related Plan provisions. They shall not otherwise be treated as elective deferrals or as contributions to the Plan.
- (c) In determining whether the Plan, if it is a 401(k) plan, satisfies the requirements of the ADP Test, the Plan may apply the Test separately with regard to all the employees who receive allocations of Student Loan Matching Contributions, in accordance with Notice 2024-63 or any subsequent guidance.

- (d) The Plan Administrator may rely on a Participant's certification of Qualified Student Loan Payments. The Plan Administrator may establish reasonable procedures to verify Qualified Student Loan Payments and for a Participant to claim Student Loan Matching Contributions. In connection with such procedures, the Plan Administrator may impose an annual deadline, not sooner than three months after the close of the Plan Year, by which a claim must be made.
 - (e) The Plan may allocate Student Loan Matching Contributions annually, or more often, even if that differs from the frequency of allocating Deferral Matching Contributions.
- 14.4 **Limitation.** The maximum QSLP for a Plan Year is the excess of the applicable limitation under Section 402(g) on the first day of the Plan Year (or, if less, the Participant's total compensation as described under Code §415(c)(3)), reduced by the Participant's elective deferrals for the year.
- 14.5 **Certification.** A payment is a QSLP for a Plan Year only if the Plan receives certification of the following information with regard to the payment: (1) the amount of the loan payment; (2) the date on which the loan payment was made; (3) that the payment was made by the Participant; (4) that the loan being repaid is a qualified education loan and was used to pay for qualified higher education expenses of the Participant, the Participant's spouse, or the Participant's dependent; and (5) that the loan was incurred by the Participant. This certification may be provided in any manner consistent with Notice 2024-63, or any subsequent guidance.
- 14.6 **Definitions.** The following definitions apply for this Article 14 and Section 2.14:
- (a) A **"Student Loan Matching Contribution"** is a matching contribution on account of a Participant's Qualified Student Loan Payments.
 - (b) A **"Qualified Student Loan Payment"** or **"QSLP"** means a payment made by a Participant during a Plan Year in repayment of a Qualified Education Loan incurred by the Participant to pay Qualified Higher Education Expenses of the Participant, the Participant's spouse, or the Participant's dependent, but only (1) if the employee completes the certification requirements of Section 14.5 with regard to such loan, and (2) to the extent such payments in the aggregate for the Plan Year do not exceed the limitation described in Section 14.4. A loan is incurred by the participant only if the Participant has a legal obligation to make the payment under the terms of the loan. A payment qualifies as a QSLP only for the Plan Year in which the payment is made. The Employer may require, as a condition of treating a payment as a QSLP, that the payment be made through payroll deduction.
 - (c) A **"Qualified Education Loan"** means a loan defined in Code §221(d)(1).
 - (d) **"Qualified Higher Education Expenses"** means the cost of attendance (as defined in §472 of the Higher Education Act of 1965, as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997) at an eligible educational institution (as defined in Code §221(d)(2)).
 - (e) A **"Deferral Matching Contribution"** is a matching contribution on account of a Participant's elective deferrals.
 - (f) The **"ADP Test"** means the test described in Code §401(k)(3)(A)(ii), and the corresponding Plan provisions.

**ARTICLE 15 – All
INCREASE IN CASH-OUT LIMIT – SECURE 2.0 §304**

- 15.1 **Application.** This Article 15 will apply unless the Employer elects in Section 2.15(a) that it shall not apply. It is otherwise effective for distributions made after December 31, 2023, unless Section 2.15(b), (c) or (g) is selected.
- 15.2 **\$7,000 Limit.** Any reference in the Plan to a Cash-Out Limit of \$5,000 shall be increased to \$7,000. If Section 2.15(d) is selected, the \$7,000 Cash-Out Limit applies regardless of the corresponding limit prior to this amendment. This Article is subject to any modifications described in Section 2.15. In no event shall the limit on automatic rollovers of Mandatory Distributions under Code §401(a)(31)(B) be less than the limit on Mandatory Distributions.
- 15.3 **Definitions.** The following definitions apply for this Article 15 and Section 2.15:
- (a) For a Qualified Plan or a 403(b) Plan, the “**Cash-Out Limits**” are the limit on Mandatory Distributions, QJSA Provisions, and any limit on the availability of distribution options other than lump sum distributions. For a 457(b) Plan, the “Cash-Out Limits” are Mandatory Distributions and the limit on *de minimis* distributions under Treas. Reg. §1.457-6(e).
- (b) “**Mandatory Distributions**” refer to distributions described in Code §411(a)(11), or otherwise provided under a 457(b) Plan, which may be immediately distributed without the consent of the Participant.
- (c) “**QJSA Provisions**” refer to the ability to immediately distribute (pursuant to Code §417(e)(1)) amounts that would otherwise be subject to the qualified joint and survivor annuity or qualified preretirement survivor annuity provisions of Code §401(a)(11) and Code §417 or to any analogous provision in the Plan. The QJSA Provisions include the limitation on making certain loans without spousal consent provided under Treas. Reg. §1.401(a)-20, Q&A 24.

**ARTICLE 16 - ALL
REQUIRED MINIMUM DISTRIBUTIONS – SECURE §§ 114, 401; SECURE 2.0 §§107, 201, 202, 204**

- 16.1 **Application.** This Article 16 will apply to all plans, regardless of type. The Plan will comply with the provisions of Code § 401(a)(9), as amended by SECURE and SECURE 2.0, effective as of the dates specified in those statutes. For calendar years beginning after 2024, the plan will make RMDs as required by Treas. Reg. §1.401(a)(9)-1 through -9, and, to the extent they are consistent with such regulations, the provisions of the Plan as amended by this Article. The purpose of Section 2.16 and this Article 16 is to delineate optional provisions which relate to RMDs and to provide a frame of reference for practitioners in applying the law. Except as otherwise provided in Section 2.16, this Article specifically supersedes any prior or contemporaneous amendment addressing RMDs.
- 16.2 **Delay of Required Beginning Date.** A Participant’s RBD shall not be earlier than April 1 of the calendar year following the year the Participant attains RMD Age as determined in accordance with Treas. Reg. § 1.401(a)(9)-2. This Amendment does not modify any Plan provision implementing a uniform RBD, as described in Treas. Reg. § 1.401(a)(9)-2(b)(4). This Section is effective for distributions after December 31, 2019.
- 16.3 **Spousal Distributions.** If a 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 RMD Age, if later. However, this Section will apply only if the Plan, prior to this Amendment, permitted a surviving spouse to delay RMD distributions as described in Code § 401(a)(9)(B)(iv). This Section is effective for distributions after December 31, 2019.

- 16.4 **Optional Distribution Timing.** The Employer operationally may delay implementation of Sections 16.2 and 16.3 with regard to the timing and form of some or all distributions paid in 2020 or between January 1, 2023 and July 31, 2023. Distributions pursuant to this Section, which are not RMDs, will be treated as eligible rollover distributions for purposes of the direct rollover provisions of Code §401(a)(31), except to the extent otherwise permitted in IRS guidance. See Notice 2023-54, § IV.
- 16.5 **Spouse Using ULT.** This Section 16.5 applies if the Plan is a Defined Contribution Plan and is effective January 1, 2024. It is limited to situations in which a Participant dies and his or her surviving spouse is the sole designated beneficiary.
- (a) If the Participant dies before the RBD, then any RMDs paid under the Life Expectancy Rule to the spouse shall be determined under the ULT if the Participant would have attained RMD Age after 2023.
 - (b) If the Participant dies after 2022 and on or after the RBD, then, unless the surviving spouse elects otherwise, any RMDs paid under the Life Expectancy Rule to the spouse shall be determined under the ULT, as described more fully in Prop. Treas. Reg. §1.401(a)(9)-5(g)(3)(ii)(C).
- 16.6 **Roth accounts.**
- (a) **Amount of RMD.** In determining the amount of an RMD to be paid to a Participant from a Defined Contribution Plan for a DCY beginning after December 31, 2023, the Plan shall disregard amounts in designated Roth accounts (as defined in Code §402A(b)(2)). This provision will not apply to DCYs beginning after the Participant's death.
 - (b) **Amounts which satisfy RMD.** Distributions from a Participant's designated Roth account may not be used to satisfy the RMD rules for DCYs which begin prior to the Participant's death. This limitation applies generally for DCYs beginning after December 31, 2023, but the Employer operationally may delay implementation of this paragraph 16.6(b) until such time as Prop. Treas. Reg. § 1.401(a)(9)-5(g)(2)(iii) is finalized and applicable.
- 16.7 **Commercial Annuities.** The Plan Administrator may adopt and implement nondiscriminatory policies relating to the purchase and use of commercial annuities in connection with RMDs. Such policies shall comply with Code §401(a)(9), and with IRS guidance as modified by SECURE §§201, 202, and 204.
- 16.8 **New RMD Tables.** Effective January 1, 2022, any Plan reference to the life expectancy tables detailed in Treas. Reg. §1.401(a)(9), such as the ULT, the Single Life Table, or the Joint and Last Survivor Table, refers to these tables as published in Treas. Reg. §1.401(a)(9)-9 from time to time, and is subject to adjustment as described in Treas. Reg. §1.401(a)(9)-9(f).
- 16.9 **CARES Extension.** This Section 16.9 will apply to all plans other than Defined Benefit Plans and 457(b) Plans sponsored by tax-exempt employers and is effective for plan years beginning after December 31, 2019. It does not apply if the Employer has selected Section 2.16(h). The beneficiary of a CARES 5-Year Account will have the option to extend the deadline to distribute the account for one year. The default in the absence of a beneficiary election will be to extend the distribution, unless the Employer elects in Section 2.16(g) for the default to be not to extend unless the beneficiary requests it. A CARES 5-Year Account is the remaining account of a Participant who died during the years 2015-2019, to the extent the account is subject to the 5-Year Rule. Also see Article 24 regarding the CARES 2020 RMD Holiday.
- 16.10 **Beneficiary Distributions.** This Section 16.10 will apply to all plans other than Defined Benefit Plans. This Article will not apply to qualified annuities described in SECURE §401(b)(4)(B). In general, this Section applies to Participants who die on or after the SECURE 410 Effective Date. See Section 16.10(c) regarding the limited application of this Section to certain accounts of Participants who died before the SECURE 410 Effective Date.
- (a) **Death before RBD.** If the Participant dies before the Participant's RBD, the Plan will distribute or commence distribution of the Participant's Vested Accrued Benefit not later than as follows:

(1) **No Designated Beneficiary.** If there is no Designated Beneficiary as of September 30 of the year following the calendar year of the Participant's death, the Beneficiary's entire interest will be distributed under the 5-Year Rule.

(2) **Eligible Designated Beneficiary (EDB).** If the distributee of a Participant's account is an EDB, the Beneficiary's entire interest will be distributed under the Life Expectancy Rule unless the 10-Year Rule applies. The Employer may elect application of the Life Expectancy Rule or the 10-Year Rule in Section 2.16. In the absence of an election in Section 2.16, the Plan's provisions with regard to election of the 5-Year Rule will apply, substituting the 10-Year Rule for the 5-Year Rule. A permitted Beneficiary election must be made no later than the earlier of December 31 of the calendar year in which distribution would be required to begin under the Life Expectancy Rule, or by December 31 of the calendar year which contains the tenth anniversary of the Participant's (or, if applicable, surviving spouse's) death.

(3) **Other Designated Beneficiaries.** If the distributee of the Participant's account is a Designated Beneficiary who is not an Eligible Designated Beneficiary, then the Beneficiary's entire interest will be distributed under the 10-Year Rule.

- (b) **Death after RBD.** If the Participant dies on or after the Participant's RBD, the Participant's remaining interest will be distributed at least as rapidly as under the method of distribution being used as of the date of the participant's death, using the Life Expectancy Rule. See Treas. Reg. § 1.401(a)(9)-5(d). If the Beneficiary is not an EDB, the Plan will distribute the remaining account in full no later than December 31 of the tenth year following the year of the Participant's death.
- (c) **Beneficiary Death.** If an EDB receiving distributions under the Life Expectancy Rule 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 10th year following the year of the EDB's death. Similarly, if a Participant died before the SECURE 410 Effective Date, and the Beneficiary died after such Effective Date, but prior to receiving full distribution of the Beneficiary's interest, the Plan will distribute that interest in full no later than December 31 of the tenth year following the year of the Beneficiary's death.
- (d) **Minor child.** If a child of the Participant was receiving distributions under the Life Expectancy Rule, when the child reaches the age of Majority, the Plan will distribute the child's account in full no later than 10 years after that date, provided the child is not otherwise an Eligible Designated Beneficiary, such as a disabled or chronically ill individual (as defined in Treas. Reg. § 1.401(a)(9)-4(e)(4) and (5)).
- (e) **Optional Relief.** The Plan operationally may apply the relief granted in Notices 2022-53, 2023-54, and 2024-35.

16.11 **Definitions.** The following definitions apply for this Article 16 and Section 2.16:

- (a) An "**RMD**" is a Required Minimum Distribution as described in Code §401(a)(9).
- (b) A Participant's "**RBD**" is the Participant's Required Beginning Date as described in Code §401(a)(9)(C), and Treas. Reg. § 1.401(a)(9)-2.
- (c) With regard to RMDs during the 2020, 2021, and 2022 calendar years, a Participant's "**RMD Age**" is age 70½ if the Participant was born before July 1, 1949, and age 72 if the Participant was born after June 30, 1949. With regard to distributions after December 31, 2022, a Participant's "**RMD Age**" is age 70½ if the Participant was born before July 1, 1949, age 72 if the Participant was born between July 1, 1949 and December 31, 1950, age 73 if the Participant was born between January 1, 1951 and December 31, 1959, and otherwise age 75.
- (d) A "**DCY**" is a Distribution Calendar Year as defined in Treas. Reg. §1.401(a)(9)-5.

- (e) The “**Life Expectancy Rule**” for distributing RMDs is described in Treas. Reg. § 1.401(a)(9)-3(c)(4).
- (f) The “**5-Year Rule**” for distributing RMDs is described in Treas. Reg. § 1.401(a)(9)-3(c)(2).
- (g) The “**10-Year Rule**” for distributing RMDs is described in Treas. Reg. § 1.401(a)(9)-3(c)(3).
- (h) The “**SECURE 410 Effective Date**” is the date determined under SECURE § 410(b). For most plans that date is January 1, 2020. In the case of a governmental plan (as defined in Code §414(d)), the date is January 1, 2022. The SECURE 410 Effective Date in the case of a collectively-bargained plan will be the date determined in SECURE §401(b)(2).
- (i) The “**ULT**” is the Uniform Lifetime Table in Treas. Reg. §1.401(a)(9)-9(c).
- (j) Whether a distributee of a Participant’s account is a “**Designated Beneficiary**” is determined under Treas. Reg. § 1.401(a)(9)-4.
- (k) An “**EDB**” is an Eligible Designated Beneficiary as determined under Treas. Reg. § 1.401(a)(9)-4(e).
- (l) Whether a child has reached the age of “**Majority**” is determined under Code §401(a)(9)(F) and applicable regulations and guidance issued thereunder. Generally, a child reaches the age of Majority on his or her 21st birthday.
- (m) **Separate share rule.** All references in this Article to a Participant’s Account and a Beneficiary’s interest in that account will be applied separately to each separate account determined under Treas. Reg. §1.401(a)(9)-8(a).
- (n) A “**CARES 5-Year Account**” means the remaining account of a Participant who died during the years 2015-2019, to the extent the account is subject to the 5-Year Rule.

ARTICLE 17 – DC, 403(b), Gov’t 457(b)
EMERGENCY PERSONAL EXPENSE DISTRIBUTION (EPED) – SECURE 2.0 §115

- 17.1 **Application.** This Article 17 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 2.17(a) for this Article to apply. It is effective on the date indicated in Section 2.17(a).
- 17.2 **Distribution Authorized.** Except as limited by Section 2.17, a Participant may request a distribution of up to the Maximum Amount as an EPED. The Participant may request the distribution whether or not the Participant has severed employment unless Section 2.17(d) is selected. However, if the Plan is a Money Purchase Pension Plan (or the account from which the distribution is withdrawn was transferred from a Money Purchase Pension Plan), and the Participant has not separated from service, the Participant may not take an EPED prior to attaining the earlier of Normal Retirement Age or age 59½. The Plan Administrator may adopt a policy imposing reasonable administrative conditions for EPEDs.
- 17.3 **Rollover.** A Participant who received one or more EPEDs 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 EPEDs. Such contributions may be made at any time during the 3-year period beginning on the day after the date on which such distribution was received. The Plan will treat such a contribution as a rollover contribution made by direct trustee-to-trustee transfer within 60 days of distribution.
- 17.4 **Reliance.** The Plan Administrator may rely on an individual’s written or electronic representation that the individual is eligible to receive an EPED.
- 17.5 **Timing.** In no event shall a Participant receive more than one EPED in a calendar year from any plan maintained by the Related Employer Group. If a Participant receives an EPED during a calendar year, the Participant shall not be eligible to receive another EPED during the following three calendar years if (1)

Section 2.17(f) is selected, or (2) the Participant has not “repaid” the distribution. The Participant will be treated as having repaid the distribution if the sum of the Participant’s elective deferrals, after-tax contributions, and rollover contributions made under Section 17.3 and made after receiving the EPED are at least equal to the amount of the EPED.

17.6 **Definitions.** The following definitions apply for this Article 17 and Section 2.17:

(a) An “**EPED**” is an Emergency Personal Expense Distribution described in Code §72(t)(2)(I)(iv) and Notice 2024-55, §A for the purposes of meeting unforeseeable or immediate financial needs relating to necessary personal or family emergency expenses.

(b) The “**Maximum Amount**” with regard to any Participant is the lesser of (i) \$1,000 or (ii) the excess of the Participant’s vested interest in the accounts available for an EPED (as limited in Section 2.17) over \$1,000. The Maximum Amount shall be reduced by EPEDs to the Participant from any plan maintained by the Related Employer Group.

(c) A plan maintained by the “**Related Employer Group**” includes any plan maintained by the Employer or by any related employer described in Code §414(b), (c), (m), or (o).

ARTICLE 18 – 401(k), PS, 403(b), Gov’t 457(b)
DOMESTIC ABUSE VICTIM DISTRIBUTION (DAVD) – SECURE 2.0 §314

18.1 **Application.** This Article 18 will apply only if (1) the Plan is a 401(k), a Profit-Sharing Plan, a 403(b) plan or a Governmental 457(b) plan and (2) the Employer elects in Section 2.18(a) for this Article to apply. However, it will not apply to accounts subject to the joint and survivor annuity rules of Code §401(a)(11) and Code §417. It is effective on the date indicated in Section 2.18(a)

18.2 **Distribution Authorized.** Except as limited by Section 2.18, a Participant may request a distribution of up to the Maximum Amount as a DAVD. The Participant may request the distribution whether or not the Participant has severed employment unless Section 2.18(d) is selected. The Plan Administrator may adopt a policy imposing reasonable administrative conditions for DAVDs. Such policy may include frequency limitations on the number of such distributions separate from limitations which apply to other in-service distributions.

18.3 **Rollover.** A Participant who received one or more DAVDs 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 DAVDs. Such contributions may be made at any time during the 3-year period beginning on the day after the date on which such distribution was received. The Plan will treat such a contribution as a rollover contribution made by direct trustee-to-trustee transfer within 60 days of distribution.

18.4 **Reliance.** The Plan Administrator may rely on an individual’s written or electronic representation that (1) the individual is eligible for a domestic abuse victim distribution and (2) the distribution is made during the 1-year period beginning on any date on which the individual is a victim of Domestic Abuse.

18.5 **Definitions.** The following definitions apply for this Article 18 and Section 2.18:

(a) A “**DAVD**” is an “eligible distribution to a domestic abuse victim” described in Code §72(t)(2)(K)(iii) and Notice 2024-55, §B. A distribution is a DAVD only if it is made to an individual during the one-year period beginning on any date on which the individual is a victim of Domestic Abuse by a spouse or domestic partner.

(b) “**Domestic Abuse**” means physical, psychological, sexual, emotional, or economic abuse, including efforts to control, isolate, humiliate, or intimidate the victim, or to undermine the victim’s ability to reason independently, including by means of abuse of the victim’s child or another family member living in the household.

(c) The “**Maximum Amount**” with regard to any Participant is the lesser of (i) \$10,000 (adjusted for changes in the cost-of-living under Code §72(t)(2)(K)(vii)) or (ii) 50% of the Participant’s vested interest in the accounts available for a DAVD (as limited in Section 2.18). The Maximum Amount shall be reduced by DAVDs to the Participant from any plan maintained by the Employer or by any related employer described in Code §414(b), (c), (m), or (o).

ARTICLE 19 – Qualified, 403(b)
TERMINALLY ILL INDIVIDUAL DISTRIBUTION (TIID) – SECURE 2.0 §326

- 19.1 **Application.** This Article 19 will apply only if the Employer elects in Section 2.19(a) for this Article to apply and the Plan is a Qualified Plan or a 403(b) Plan. It is effective on the date indicated in Section 2.19(a).
- 19.2 **Distribution Authorized.** Except as limited by Section 2.19, a Participant who is otherwise eligible under the terms of the Plan to an in-service distribution may request that the in-service distribution be characterized as a Terminally Ill Individual Distribution (TIID). This provision is subject to any applicable limitations or special rules in Section 2.19(b). The Plan will not characterize a distribution as a TIID if it is made after the Participant has severed employment with the Employer. The Plan Administrator may adopt a policy imposing reasonable administrative conditions for TIIDs. Note that this Article does not create a new distributable event.
- 19.3 **Rollover.** A Participant who received one or more TIIDs 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 TIIDs. Such contributions may be made at any time during the 3-year period beginning on the day after the date on which such distribution was received. The Plan will treat such a contribution as a rollover contribution made by direct trustee-to-trustee transfer within 60 days of distribution.
- 19.4 **Definition.** The following definition applies for this Article 19 and Section 2.19:
- (a) A “**TIID**” is a distribution described in Code §72(t)(2)(L) and Notice 2024-2, §F, made to a terminally ill individual (as defined in Notice 2024-2, Q&A F-4 or any successor guidance) on or after the date the individual is certified by a physician as terminally ill. The Participant must provide the Plan Administrator with a copy of the physician’s certificate, as described in Notice 2024-2 Q&A F-6 and F-13, before the distribution is made.

ARTICLE 20 – All
DISASTER RELIEF – SECURE 2.0 §331

- 20.1 **Application; Effective Date.** This Article 20 will apply to all plans. Sections 20.4, 20.5, and 20.6 will not apply to a 457(b) Plan of a Tax-Exempt Employer. In general, the effective date of this Article is January 1, 2020, but see Section 20.8.
- 20.2 **Disaster Relief Policy.** The Plan may make Qualified Disaster Recovery Distributions (QDRDs), unless otherwise specified in Section 2.20(a). In Section 2.20, the Employer may limit the accounts from which QDRDs are available and specify whether QDRDs are limited to accounts in which the Participant is fully vested. If QDRDs are authorized, the Plan Administrator shall adopt a uniform, nondiscriminatory disaster relief policy authorizing Qualified Individuals to receive the relief described in this Article, as authorized in the policy. The disaster relief policy may (1) specify the Qualified Disasters for which relief applies, (2) limit the amount available with respect to a Qualified Disaster Distribution to an amount less the Maximum Amount, (3) provide lower loan limits than those described in Section 20.5, (4) impose (within the limitations described in this Section and the Adoption Agreement) different conditions or different relief for different Qualified Disasters, or (5) impose other reasonable nondiscriminatory limitations. Relief shall be available on a consistent basis for all Participants impacted by a covered disaster. With regard to disasters declared after the adoption of this Amendment, the Plan will inform impacted Participants of the relief available under this Article. The requirement that policies and relief under this Article not be discriminatory is automatically satisfied with regard to 457(b) Plans and other plans that are not subject to Code §401(a)(4).

- 20.3 **QDRD Availability; Limitation.** A Qualified Individual may take one or more QDRDs as authorized in the Plan's disaster relief policy. The total amount of QDRDs to a Qualified Individual pursuant to this Amendment from all plans maintained by the Employer, or any Affiliated Employer, will not exceed the Maximum Amount per Qualified Disaster, or such lesser amount as prescribed in the policy. The Qualified Disaster 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. If the Plan is a Defined Benefit Plan, and the Participant has not separated from service, the Participant may not take a QDRD prior to attaining the earlier of Normal Retirement Age or age 59½. To the extent the Plan is subject to the joint and survivor annuity rules of Code §401(a)(11) and §417, those rules shall apply to QDRDs.
- 20.4 **Repayment of QDRDs.** If the Plan permits rollover contributions, then, in accordance with the Plan's disaster relief policy, an individual who receives a Qualified Disaster Distribution (from this Plan 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.
- 20.5 **Increased Loan Limit.** Notwithstanding the loan limitation that otherwise would apply under the plan's loan policy, if the Plan's disaster relief policy so provides, the Plan may determine the loan limit under Code §72(p)(2)(A) for a loan to a Qualified Individual, made during the Loan Relief Period, by substituting "\$100,000" for "\$50,000," and by substituting "the present value of the nonforfeitable accrued benefit of the employee under the Plan (or loan program or policy)" for "one-half of the present value of the nonforfeitable accrued benefit of the employee under the Plan."
- 20.6 **Suspension and Extension of Repayments.** If a Qualified Individual has an outstanding loan from the Plan on or after the first day of the Loan Suspension Period, then, to the extent provided in the Plan's disaster relief policy: (1) if the date for any repayment of such loan occurs during the Loan Relief Period, the due date is extended for the Extension Period; (2) the Plan will adjust any subsequent repayments to reflect the extension of the due date under (1) and any interest accrued during the extension; and (3) the Plan will disregard the period of extension described in (1) in determining the 5-year period and the loan term under Code §72(p)(2)(B) or (C). The disaster relief policy may specify whether the suspension and extension described herein will apply automatically or will be available upon the Qualified Individual's request.
- 20.7 **Recontribution of Home Purchase Withdrawal.** A Participant who received a hardship distribution during the Hardship Distribution Period to purchase or construct a principal residence in a Qualified Disaster Area, but who, on account of the disaster, did not use the funds to purchase or construct a principal residence, may, to the extent provided in the Plan's disaster relief policy, make one or more contributions to the Plan, as rollover contributions, during the Recontribution Period, in an aggregate amount not to exceed the amount of such hardship distribution. This Section 20.7 will not apply to CARES or to 457(b) Plans.
- 20.8 **Construction; Effective Date.** This Article will be interpreted and applied in accordance with the provisions of the Disaster Laws and IRS Guidance related thereto. The effective date of this Article with regard to any Qualified Disaster is the date the disaster was declared, or such later date specified in the Plan's disaster relief policy. If the Plan has previously been amended to provide for the disaster relief described in this Section, such amendment shall be treated as part of the Plan's disaster relief policy and amended to the extent necessary to conform to this Article.
- 20.9 **Definitions.** This Section is intended to provide relief authorized in the Laws specified in this subsection (F), as provided in the Plan's disaster relief policy. There are definitions which vary with regard to the Laws, which are described in this subsection.
- (a) The “**Maximum Amount**” with regard to any Qualified Disaster is \$100,000 except as provided in Section 20.9(d), or a lesser amount specified in the Disaster Law or the Plan's disaster relief policy.
- (b) A “**Major Disaster**” is a disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(c) **“Qualified Individuals.”** Participants, alternate payees and beneficiaries of deceased participants can be treated as Qualified Individuals, as defined in the relevant Disaster Law. 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.

(d) **“Disaster Laws.”** This Article provides for the relief outlined in the disaster relief laws (the "Disaster Laws"). In general, each Disaster Law defines the **Major Disasters** to be treated as **Qualified Disasters**, the persons who can be treated as **Qualified Individuals**, the distributions which can be **Qualified Disaster Distributions**, the **Loan Relief Period**, the **Loan Suspension Period**, the **Extension Period**, the **Hardship Distribution Period** and the **Recontribution Period**. Different laws use different terms to describe these concepts, but the underlying concepts are the same. The Disaster Laws include: (1) The Taxpayer Certainty and Disaster Tax Relief Act of 2020, §301 et seq.; (2) the Coronavirus Aid, Relief, and Economic Security Act (**CARES**), §2201 et seq and IRS Notice 2020-50; and (3) the SECURE 2.0, §331, which relates to Major Disasters declared by the President after December 27, 2020. The Maximum Amount with regard to this Act shall not exceed \$22,000.

ARTICLE 21 – 403(b) INCREASE IN 403(b) HARDSHIP SOURCES – SECURE 2.0 §602

- 21.1 **Application.** This Article 21 will apply if the Plan is a 403(b) Plan unless the Employer elects in Section 2.21(a) for this Article not to apply or the Plan does not provide for hardship distributions. It applies for distributions after December 31, 2023, unless 2.21(b) or (c) is selected.
- 21.2 **Modification of amounts that may be withdrawn on account of a hardship.** Except as otherwise provided in Section 2.21, in addition to amounts which can be withdrawn on account of hardship prior to this amendment, the following amounts are available for hardship distributions: QNECs (defined in Code §401(k)(3)(D)(ii)(I)), QMACs (defined in Code §401(m)(4)(C)), and the earnings on such amounts and on elective deferrals.

ARTICLE 22 – DC, 403(b), 457(b) QUALIFIED LONG-TERM CARE DISTRIBUTION (QLTCD) – SECURE 2.0 §334

- 22.1 **Application.** This Article 22 will apply only if the Employer elects in Section 2.22(a) for this Article to apply and the Plan is a Defined Contribution Plan, a 403(b) Plan, or a 457(b) Plan. It is effective on the date indicated in Section 2.22(a).
- 22.2 **Distribution Authorized.** Except as limited by Section 2.22, a Participant may receive a QLTCD from amounts that are fully taxable, as described in Code § 402(l)(3).
- 22.3 **Definition.** The following definition applies for this Article 22 and Section 2.22:
- (a) A **“QLTCD”** is a qualified long-term care distribution described in Code § 401(a)(39). The total QLTCDs distributed to a Participant during a calendar year cannot exceed the least of (1) the amount paid by or assessed to the Participant during the year for or with respect to certified long-term care insurance for the Participant, the Participant's spouse, or such other family member of the Participant as permitted by Treasury regulations, (2) 10% of the Participant's vested account balance, or (3) \$2,500, adjusted for inflation under Code § 401(a)(39)(B)(ii). No distribution shall be treated as a QLTCD unless a long-term care premium statement with respect to the employee has been filed with the Plan as provided in Code § 401(a)(39)(E).
- (b) **“Certified long-term care insurance”** has the meaning provided in Code § 401(a)(39)(C).

ARTICLE 23 – Qualified, 403(b), Gov't 457(b) PENSION-LINKED EMERGENCY SAVINGS ACCOUNT – SECURE 2.0 §127

- 23.1 **Application.** This Article 23 will apply only if (a) the Plan is a Qualified Plan, a 403(b) Plan, or a

Governmental 457(b) Plan and (b) the Employer elects in Section 2.23(a) that this Article applies. If applicable, this Article applies effective as of the date specified in Section 2.23(a)

23.2 **Definitions.** The following definitions apply to this Article and to Section 2.23:

(a) A “**PLESA**” is a Pension-Linked Emergency Savings Account, as described more fully in Code §402A(e). The Plan Administrator shall establish a PLESA for each Participant who makes PLESA contributions.

(b) An “**HCE**” is a Highly Compensated Employee, defined under Code §414(q), and as may be further defined in the Plan.

(c) A “**PLESA Participant**” is an Employee who is not then an HCE and is eligible to contribute to a PLESA under the terms of this Article and as elected in Section 2.23(b).

(d) A “**PLESA Holder**” is an individual with a balance in a PLESA, which could include HCEs and former Employees.

23.3 **PLESAs Established.** The Plan permits PLESA Participants to contribute to a PLESA. The Plan Administrator will establish a PLESA for each Participant who contributes to a PLESA. HCEs are not PLESA Participants. HCEs who are PLESA Holders may withdraw from their PLESA, but may not make PLESA contributions unless and until they are no longer HCEs. To the extent not specifically addressed in this Article, the principles of Code §402A(e) will apply in interpreting and applying this Article. If the Plan is subject to ERISA, also see ERISA §801-804.

23.4 **PLESA Contributions.** PLESA contributions are salary reduction contributions, similar to Roth elective deferrals to a 401(k) Plan. The Plan Administrator may prescribe such forms, notices, and nondiscriminatory policies as it deems necessary or desirable to implement this Article.

23.5 **Automatic Enrollment.** If selected at Section 2.23(c), PLESA Participants will be deemed to have elected to contribute to their PLESA an amount equal to the automatic contribution rate times their Compensation. PLESA Participants shall have the effective opportunity to opt out of that contribution or to contribute at a different rate. The Plan Administrator may establish procedures for implementing automatic contributions and opt-outs in accordance with Code §402A(e)(2)(C).

23.6 **Contribution Limitations.** The following limitations shall apply to PLESA contributions:

(a) **Maximum Amount.** The Plan will not accept PLESA contributions which would cause a PLESA Participant’s PLESA to exceed the lesser of the statutory maximum (initially \$2,500, as adjusted under Code § 402A(e)(3)(A)) or the limit elected under Section 2.23(d). The Plan Administrator, may, in its discretion, choose to disregard earnings on PLESA investments in computing this limitation. If a PLESA contribution would cause this limitation to be exceeded, the Plan Administrator may take any action authorized under Code §402A(e)(3)(B).

(b) **402(g) Limit (Qualified and 403(b) Plans).** PLESA contributions will be treated as elective deferrals subject to the limitations of Code §402(g) and Code §401(a)(30) and aggregated with other elective deferrals (if any) subject to that limit in the Plan. If any excess deferrals are distributed under Code §402(g)(2)(A) to a participant, such amounts shall be distributed first from any PLESA of the Participant to the extent contributions were made to such account for the calendar year. This Paragraph (b) does not apply to 457(b) Plans.

23.7 **Matching Contributions.** If the Employer makes matching contributions with regard to elective deferrals in the Plan, the Employer shall take a Participant’s PLESA contributions in determining the amount of the matching contribution as though they were elective deferrals. Such matching contributions shall be allocated to the same account as other matching contributions; they are not allocated to the Participant’s PLESA. Matching contributions on account of a Participant’s PLESA contributions during a plan year shall not

exceed the maximum amount under Section 23.6(a). For purposes of calculating this limit, matching contributions are treated first as attributable to elective deferrals other than PLESA contributions. The Plan may, but is not required to, establish reasonable restrictions on the frequency or amount of matching contributions with respect to PLESA contributions, solely to the extent necessary to prevent manipulation of the rules of the plan to cause matching contributions to exceed the intended amounts or frequency, to the extent permitted under Notice 2024-22 or other IRS guidance.

- 23.8 **Withdrawals.** A PLESA Holder may withdraw from his or her PLESA, in whole or in part, at the PLESA Holder's discretion. The Plan shall permit at least one such withdrawal each calendar month and shall distribute the amount of such withdrawal as soon as practicable. The Plan Administrator may establish procedures for requesting and processing withdrawals, provided that such procedures comply with Code §402A(e)(2)(D) and applicable guidance.

ARTICLE 24 – DC, 403(b), Gov't 457(b)
WAIVER OF 2020 REQUIRED MINIMUM DISTRIBUTIONS (RMDs) – CARES § 2203

- 24.1 **Application.** This Article 24 will apply only to defined contribution plans, including 401(k) Plans, Profit-Sharing Plans, Money Purchase Pension Plans, 403(b) Plans, and Governmental 457(b) Plans. It applies only if not excluded under Section 1.6(a) and subject to the elections in Section 2.24.
- 24.2 **Waiver; default provision.** This Section 24.2 will apply unless Section 2.24(c) is selected or to the extent 2.24(d) overrides it. 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 in Section 2.24. Notwithstanding the option chosen in Section 2.24, 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 may be extended to reflect the adoption of Code §401(a)(9)(I). (Also see Section 16.9.)
- 24.3 **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 2.24(e)-(h), will be treated as eligible rollover distributions. If no election is made by the Employer in Section 2.24, then a direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code §401(a)(9)(I).
- 24.4 **Definitions.** The following definitions apply for purposes of this Article and Section 2.24:
- (a) **“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).
 - (b) **“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.
 - (c) **“RMD”** means a required minimum distribution under Code § 401(a)(9).
- 24.5 **Distribution methods.** 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).

ARTICLE 25 – 401(k), 403(b)
QACA MAXIMUM AUTOMATIC DEFERRAL – SECURE §102

- 25.1 **Application.** This Article 25 will apply only if (1) the Plan is a 401(k) Plan or a 403(b) Plan, and (2) the Employer elects in Section 2.25 for this Article 25 to apply, effective on the date specified in Section 2.25(a). It applies only if not excluded under Section 1.6(b).
- 25.2 **Higher Maximum Contribution.** If the Plan includes a QACA, 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.
- 25.3 **Validation; Policy.** If the Employer amends or has amended the plan (effective for a Plan Year beginning on or after the effective date specified in Section 2.25) to provide for an automatic deferral percentage which does not exceed the limitations of Section 25.2, the amendment is valid notwithstanding any contrary limitations in the Plan which would limit the automatic deferral percentage to 10%. The Plan Administrator may adopt a reasonable, uniform policy in applying the increased limit provided by this Article 25 to QACA automatic escalation provisions in effect prior to the effective date of the Article.
- 25.4 **Relationship to Article 7.** If, when, and to the extent that the Plan is subject to the mandatory automatic enrollment provisions of Article 7, then the provisions of Article 7 and Section 2.7 shall govern to the extent of any inconsistency with this Article and Section 2.25.
- 25.5 **Definitions.** The following definitions apply for this Article 25 and Section 2.25:
- (a) “**QACA**” means a Qualified Automatic Contribution Arrangement described in Code §401(k)(13).
- (b) 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.

ARTICLE 26 – DC, 403(b), Gov’t 457(b)
QUALIFIED BIRTH/ADOPTION DISTRIBUTION (QBAD) – SECURE §113

- 26.1 **Application.** This Article 26 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 2.26(a) for this Article 26 to apply, effective on the date specified in Section 2.26(a). It applies only if not excluded under Section 1.6(b).
- 26.2 **Distribution Authorized.** Except as limited by Section 2.26 (b), (c), (e), a Participant may request a distribution of up to \$5,000 (per child or Eligible Adoptee) as a QBAD, whether or not the Participant has severed employment (unless Section 2.26(d) applies). 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 (or the account from which the distribution is withdrawn was transferred from 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. The Plan Administrator may adopt a policy imposing frequency limitations or other reasonable administrative conditions for QBADs.
- 26.3 **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. Also see Article 36.
- 26.4 **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.
- 26.5 **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).

26.6 **Definitions.** The following definitions apply for this Article 26 and Section 2.26:

(a) A “**QBAD**” is a Qualified Birth or Adoption Distribution described in Code §72(t)(2)(H)(iii). A QBAD must be made during the 1-year period beginning on 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.

(b) 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. An 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.

ARTICLE 27 – Qualified, Gov’t 457(b) IN-SERVICE PENSION DISTRIBUTIONS – BAMA §104

27.1 **Application.** This Article 27 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 Section 27.3, a 401(k) or Profit-Sharing Plan, and (2) the Employer elects in Section 2.27 for this Article 27 to apply, effective on the date specified in Section 2.27(a). It applies only if not excluded under Section 1.6(b) or (c).

27.2 **Distribution at 59½.** A Participant can take an in-service distribution at age 59½, or, if later, the age (if any) specified in Section 2.27(b). Such a distribution will be limited to the vested portion of the Participant’s accrued benefit or account and will be subject to all Plan provisions related to in-service distributions, including any applicable frequency or vesting limitations. 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).

27.3 **Limited application to transferred assets in Profit-Sharing and 401(k) Plans.** If the Employer elects in Section 2.27 for this Article 27 to apply, this Article 27 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 28 - Qualified ADOPTION OF PLAN AFTER YEAR END – SECURE §201

28.1 **Application.** This Article 28 will apply only if the Plan is a Qualified Plan. It is effective for Plan Years beginning after December 31, 2019.

28.2 **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, except as provided in Article 29.

ARTICLE 29 – 401(k) SOLE PROPRIETOR RETROACTIVE DEFERRALS – SECURE 2.0 §317

29.1 **Application.** This Article 29 will apply only if the Plan is a 401(k) Plan. It is limited to a plan retroactively adopted (pursuant to Code §401(b)(2) and Article 28) by a sole proprietor with regard to a sole proprietorship which has no employees (other than the sole proprietor). It is effective for Plan Years beginning after December 29, 2022.

- 29.2 **Deadline for First Year Deferral.** Any elective deferrals under the Plan for the first Plan Year which are made by the sole proprietor before the deadline (determined without regard to any extensions) for filing his or her income tax return for the tax year for which the Plan is treated as adopted under Code § 401(b) shall be treated as having been made before the end of such first plan year.

**ARTICLE 30 - Qualified
RETROACTIVE INCREASE IN EMPLOYER CONTRIBUTIONS – SECURE 2.0 §316**

- 30.1 **Application.** This Article 30 will apply only if the Plan is a Qualified Plan. It is effective for Plan Years beginning after December 31, 2023.
- 30.2 **Optional Amendment.** After the close of a Plan Year, the Employer may amend the Plan to increase benefits or contributions with regard to the immediately prior Plan Year. The amendment may provide that it shall be effective as of any date within the prior Plan Year. Any such amendment shall not increase the amount of matching contributions (as described in Code §401(m)(4)(A).) Such an amendment must be adopted before the time prescribed by law (including extensions) for filing the return of the Employer for the taxable year which includes the date of the amendment. Such an amendment must otherwise comply with all applicable qualification requirements, including nondiscrimination and contribution limits.

**ARTICLE 31 – DC, 403(b)
DIFFICULTY OF CARE PAYMENTS – SECURE §116**

- 31.1 **Application.** This Article 31 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.
- 31.2 **Inclusion in 415 Compensation.** The amount of a Participant’s Compensation solely 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.
- 31.3 **Definition.** A “**Difficulty of Care Payment**” is a payment described in Code §131(c)(1) made in connection with qualified foster individuals.

**ARTICLE 32 – 401(k), 403(b)
ADP SAFE HARBOR NONELECTIVE PLANS – SECURE §103; SECURE 2.0 §401**

- 32.1 **Application.** This Article 32 will apply only if the Plan is a 401(k) or a 403(b) Plan. It is effective for Plan Years beginning after December 31, 2019.
- 32.2 **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, and the Plan Administrator is not required to provide 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).
- 32.3 **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 30th day before the close of the Plan Year, the Safe Harbor Nonelective Contribution must be at least 4% of the Participant’s Compensation.
- 32.4 **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) 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.

- (b) The “**ADP Test**” means the test provided in Code §401(k)(3)(ii).
- (c) The “**ADP Safe Harbor**” means the safe harbor provided by Code §401(k)(12)(A) or Code §401(k)(13).
- (d) 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).
- (e) A “**Safe Harbor Notice**” is a notice described in Code §401(k)(12)(D) or Code §401(k)(13)(E).
- (f) A “**QACA**” is a Qualified Automatic Contribution Arrangement described in Code §401(k)(13).

ARTICLE 33 – 457(b)
457(b) DEFERRAL ELECTIONS – SECURE 2.0 §306

- 33.1 **Application; Effective Date.** This Article 33 will apply to 457(b) Plans. It is effective January 1, 2023.
- 33.2 **Policy.** The Plan Administrator may adopt or revise a salary reduction agreement policy addressing contributions pursuant to salary reduction agreements of Participants. With regard to a Governmental 457(b) Plan, the policy may provide that a Participant’s salary reduction agreement may take effect at any time prior to the date the compensation is currently available to the Participant.

ARTICLE 34 – 401(k), 403(b)
DE MINIMIS FINANCIAL INCENTIVES – SECURE 2.0 §113

- 34.1 **Application.** This Article 34 will apply only if the Plan is a 401(k) Plan or a 403(b) Plan. It is effective for Plan Years beginning after December 29, 2022.
- 34.2 **Optional Provision of De Minimis Financial Incentives.** A de minimis financial incentive (not paid for with plan assets) may be provided to Participants who elect to have the Employer make contributions under the arrangement in lieu of receiving cash, as described in Notice 2024-2, § D or any subsequent guidance.

ARTICLE 35 – DC, 403(b), Gov’t 457(b)
REPEAL OF DEEMED IRA MAXIMUM AGE – SECURE §107

- 35.1 **Application.** This Article 35 will apply only if the Plan permits deemed IRA contributions (sometimes called “designated IRA” contributions) described in Code §408(q). It is effective January 1, 2020.
- 35.2 **No Maximum Age.** To the extent the Plan otherwise permits a Participant to make deemed IRA contributions, the Participant may make such contributions regardless of whether the Participant has attained age 70½ or any other age. This provision does not create new deemed IRA contribution rights, but removes any age-based restriction if such contributions are otherwise permitted under the Plan.

ARTICLE 36 - DC, 403(b), Gov’t 457(b)
QUALIFIED BIRTH/ADOPTION DISTRIBUTION (QBAD) – SECURE 2.0 §311

- 36.1 **Application.** This Article 36 will apply only if the Plan permits Qualified Birth and Adoption Distributions (“QBADs”) as described in Code §72(t)(2)(H). It is effective as of December 29, 2022. Also see Article 26.
- 36.2 **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. Such contributions may be made at any time during the 3-year period beginning on the day after the date on which such distribution was received. 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. QBADs received from the Plan prior to December 29, 2022 can be rolled over

to the Plan if received by the Plan no later than December 31, 2025, or prior to Plan termination (if earlier than December 31, 2025).

**ARTICLE 37 – 401(k), 403(b), Gov’t 457(b), PS
HARDSHIP DOCUMENTATION POLICY – SECURE 2.0 §312**

37.1 **Application.** This Article 37 will apply to any plan that permits Hardship Distributions, including 401(k) Plans, 403(b) Plans, and Governmental 457(b) plans, and Profit-Sharing Plans. It is effective for Plan Years beginning after December 29, 2022.

37.2 **Policy.** The Plan Administrator may adopt and modify from time to time a uniform policy regarding the documentation required in connection with a Hardship Distribution. Such a policy may, but is not required to, provide for reliance upon an employee’s written certification as described in Code §§401(k)(14)(C), 403(b)(7)(D), 403(b)(11), or 457(d)(4) (or as otherwise determined by the Plan Administrator for Hardship Distributions not subject to these Code provisions) in the absence of the Plan Administrator’s actual knowledge to the contrary.

37.3 **Definition.** The following definition applies for this Article 37:

(a) A “**Hardship Distribution**” is (1) a distribution from a 401(k) Plan or a 403(b) Plan which is on account of an immediate and heavy financial need described in Treas. Reg. §1.401(k)-1(d)(3)(ii)(B); (2) a distribution from a Governmental 457(b) Plan which is on account of an unforeseeable emergency described in Treas. Reg. §1.457-6(c)(2)(i); or (3) a distribution on account of hardship from a profit-sharing plan or other qualified plan under the stated event standard of Treas. Reg. § 1.401-1(b)(1)(ii).

**ARTICLE 38 – Governmental
INSURANCE DISTRIBUTIONS FROM GOVERNMENTAL PLANS – SECURE 2.0 §328**

38.1 **Application.** This Article 38 will apply only if the Plan is a Governmental Plan. It is effective for distributions made after December 29, 2022.

38.2 **Optional Direct Distribution.** If and to the extent the Plan permits plan distributions to pay for certain insurance of eligible retired public safety officers pursuant to Code §402(l), such payment may be made directly to the provider of the insurance by deduction from a distribution from the Plan or made directly to the Participant.

**ARTICLE 39 – 401(k), 403(b)
ROLLOVERS FROM SIMPLE IRA ACCOUNTS PERMITTED – SECURE 2.0 §332(B)**

39.1 **Application.** This Article 39 will apply only if the Plan is a 401(k) Plan or 403(b) Plan. It is effective for rollovers after December 31, 2023.

39.2 **SIMPLE IRA Rollovers.** The Plan Administrator may adopt a policy permitting the plan to accept rollover contributions from terminated SIMPLE IRA arrangements described in Code §72(t)(6)(B). Such rollover contributions will thereafter be subject to the distribution restrictions which apply to elective deferrals.

**ARTICLE 40 – DC, 403(b), Gov’t 457(b)
DISTRIBUTIONS OF DISCONTINUED LIFETIME INCOME INVESTMENTS – SECURE §109**

40.1 **Application.** This Article 40 will apply only if (1) the Plan is a Defined Contribution Plan, a 403(b) Plan, or a Governmental 457(b) Plan. It is effective for Plan Years beginning after December 31, 2019.

40.2 **Distributions authorized.** The Plan Administrator may authorize Participants to request, and as soon as practicable after a Participant makes the request, the Plan will make, a distribution of a Discontinued Lifetime Income Investment. Distribution under this Article is limited to the 90-day period 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 in the form of a Qualified Plan Distribution Annuity Contract, as determined by the Plan Administrator. The Plan Administrator will administer this section in a reasonable, nondiscriminatory manner, and may authorize distributions of some Discontinued Lifetime Income Investments and not others.

- 40.3 **Definitions.** The terms “**Lifetime Income Investment**,” “**Qualified Distribution**” and “**Qualified Plan Distribution Annuity Contract**” have the meanings set forth in Code §401(a)(38)(B). A “**Discontinued Lifetime Income Investment**” is a Lifetime Income Investment which will no longer be authorized to be held as an investment option under the Plan.

ARTICLE 41 – DC, 403(b)
COLLECTION OF PEP CONTRIBUTIONS – SECURE 2.0 §105

- 41.1 **Application.** This Article 41 will apply only if the Plan is a Pooled Employer Plan (“PEP”) described in ERISA §3(43). It is effective for Plan Years beginning after December 31, 2022.
- 41.2 **Named Fiduciary.** The Pooled Plan Provider (“PPP”) of the Plan or another Named Fiduciary, other than an Employer in the Plan, will 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.

ARTICLE 42 – 403(b)
403(b) TERMINATION DISTRIBUTIONS – SECURE §110

- 42.1 **Application.** This Article 42 will apply only if the Plan is a 403(b) Plan. It is effective January 1, 2009.
- 42.2 **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 Rev. Rul. 2020-83.

ARTICLE 43 – 401(k)
ADDITIONAL SIMPLE NONELECTIVE CONTRIBUTIONS – SECURE 2.0 §116

- 43.1 **Application.** This Article 43 will apply only if the Plan is a 401(k) Plan which satisfies the requirements of a SIMPLE plan in Code § 401(k)(11) and Treas. Reg. § 1.401(k)-4. It is effective for calendar years beginning on or after January 1, 2024.
- 43.2 **Nonelective contributions.** The Employer may make nonelective contributions of a uniform percentage (up to 10%) of Compensation, but not to exceed the limit in Code § 408(p)(2)(A)(iv) in any year, for each Participant who has at least \$5,000 of Compensation from the Employer for the year.

ARTICLE 44 – All
TRIBAL QDROS – SECURE 2.0 §339

- 44.1 **Application.** This Article 44 is effective for domestic relations orders received after December 31, 2022.
- 44.2 **Tribal QDROs.** The term “QDRO” means an order described in Code § 414(p)(1)(B) and includes an order issued pursuant to a domestic relations law of an Indian tribal government, a subdivision thereof, or an agency or instrumentality of either, which otherwise meets the requirements of Code § 414(p)(1)(A).

This Amendment has been executed effective _____.

Name of Employer: County of San Mateo

By: