

403(b) PLAN AMENDMENT FOR HARDSHIP DISTRIBUTIONS FOR 403(b) PLAN DOCUMENT #04

(Note: No signatures are required unless noted below. The Volume Submitter Plan Sponsor adopted these Amendments on the date indicated below.)

PLAN ADDENDUM FOR HARDSHIP DISTRIBUTION AMENDMENTS

SECTION 1

PREAMBLE - AMENDMENT OF THE PLAN FOR HARDSHIP DISTRIBUTIONS

- 1.01 **Adoption and Effective Date of Amendment:** This Amendment of the Plan is adopted to reflect certain provisions in Final Treasury Regulations issued September 23, 2019 under sections 401(k) and 401(m) relating to Hardship distributions. This Amendment is intended as good faith compliance with the requirements of the Treasury Regulations and is to be construed in accordance with the Treasury and guidance issued thereunder.
- 1.02 **Supersession of Inconsistent Provisions:** This Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.03 **Adoption by the Mass Submitter.** Pursuant to the provisions of the Plan and section 8.09 of Revenue Procedure 2013-22, the Mass Submitter hereby adopts this Amendment on behalf of all adopting Employers.
- 1.04 **Effective Date of the Amendment:** The Mass Submitter has adopted this amendment on behalf of all Volume Submitter Plan Sponsors and adopting Employers to be effective on the date of the intended provision as described in the Employer's hardship policy. No further action is required by the adopting Employer with respect to the Plan document.
- 1.05 **Construction.** Except as otherwise provided in this Amendment, any reference to "Section" in this Amendment refers only to sections within this Amendment, and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section or other numbering designations.
- 1.06 **Employer's Hardship Policy.** Notwithstanding the amendments to the Plan document that are outlined in this amendment, the Employer's hardship policy must describe the Employee's method of (a) representation on availability of cash and other liquid assets; (b) whether Hardship source documentation will be received by the Plan Administrator or summary of source documents is received from the Employee but documents maintained by the Employee; and (c) any optional provisions such as requiring a Participant Loan prior to a Hardship distribution.

SECTION 2

PLAN AMENDMENTS

- 2.01 **Section 2.25 of the Plan.** Section 2.25 of the Plan shall be amended to re-designate 2.25(g) as 2.25(h) and insert a new section 2.25(g) to read as follows:
- (g) Expenses and losses (including loss of income) incurred by the employee on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100-707, provided that the employee's principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster; or

Sections 2.02 through 2.04 below provide amendments to certain sections of the Plan that reference the 6-month suspension of all employee contributions, including Elective Deferrals and After-tax Contributions, to all Employer Plans after having elected to take a hardship distribution described in Section 9.04 of the Plan. If a Participant received a distribution under this provision prior to 1/1/2020, the Participant's Elective Deferrals (and Employee Contributions) may be suspended for 6 months after receipt of the distribution, if required by the Employer. After 12/31/2019, the 6-month suspension no longer applies. In addition, certain sections, where noted, have been amended to remove the mandate that loans must be taken prior to a hardship distribution.

2.02 **Section 3.03 of the Plan.** Section 3.03(c)(2) is amended and shall read as follows:

(c) Uniformity Requirement

- (1) Non-increasing Default Percentage. Except as provided in Section 3.03(c)(2) below or if the Employer has elected an increasing Default Percentage in the Adoption Agreement, the same percentage of Compensation will be withheld as Default Elective Deferrals from all Covered Employees subject to the Default Percentage.
- (2) Required Reduction or Cessation of Default Elective Deferrals. Default Elective Deferrals will be reduced or stopped to meet the limitations under §§ 402(g), and 415 of the Code.

2.03 **Section 7.05 of the Plan.** Sections 7.05(a) and (b) have been amended to remove references to the 6-month suspension of all employee contributions, including Elective Deferrals and After-tax Contributions to all Employer Plans.

Sections 7.05(b) and (d) have been amended to remove the mandate that loans must be taken prior to a Hardship distribution. The effective date of this section is for loans acquired after 12/31/2019. The Employer may continue to require loans pursuant to Section 7.05, if such requirement is outlined in the Employer's hardship policy.

Section 7.05(a) through (d), therefore, shall read as follows:

- (a) Hardship withdrawals shall be permitted under the Plan to the extent elected in the Adoption Agreement and permitted by the Individual Agreements controlling the Account assets to be withdrawn to satisfy the hardship;
- (b) The Individual Agreements shall provide for the exchange of information among the Employer and the Vendors or the Administrator to the extent necessary to implement the Individual Agreements. In addition, in the case of a hardship withdrawal that is not automatically deemed to be necessary to satisfy the financial need (pursuant to section 1.401(k)-1(d)(3)(iii)(B) of the Income Tax Regulations), the Vendor or the Administrator, if applicable shall obtain information from the Employer or other Vendors to determine the amount of any plan loans and rollover accounts, if applicable, that are available to the Participant under the Plan to satisfy the financial need;
- (c) The distribution is not in excess of the amount of the immediate and heavy financial need (including amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution); and
- (d) If required by Treasury regulations, the Participant has obtained all distributions, other than hardship distributions, and all nontaxable loans, if required by the Employer, under all plans maintained by the Employer (except to the extent such actions would be counterproductive to alleviating the financial need).

2.04 **Section 8.04 of the Plan.** Section 8.04(d)(1) subsection (2) is deleted as it references the 6-month suspension. Section 8.04(d)(1) subsection (3) is now subsection (2), and is amended to provide that the requirement that a loan be taken first before a hardship is requested is optional. Section 8.04(d)(1) shall read as follows:

- (1) Information necessary for the resulting contract or custodial account, or any other contract or custodial accounts to which contributions have been made by the Employer, to satisfy section 403(b) of the Code, including the following: (1) the Employer providing information as to whether the Participant's employment with the Employer is continuing, and notifying the Vendor when the Participant has had a Severance from Employment (for purposes of the distribution restrictions in Section 7.01); and (2) the Vendor providing information to the Employer or other Vendors concerning the Participant's or Beneficiary's section 403(b) contracts or custodial accounts or qualified employer plan benefits (to enable a Vendor to determine the amount of any plan loans and any rollover accounts, if applicable, that are available to the Participant under the Plan in order to satisfy the financial need under the hardship withdrawal rules of Section 7.05); and

AMENDMENT ADOPTION

The Mass Submitter has adopted this amendment on behalf of all adopting Employers on May 28, 2021, to be effective for Plan Years beginning on or after January 1, 2020, unless otherwise noted above. No further action is required by the adopting Employer with respect to the Plan document. Earlier effective dates may be applied to certain provisions if described and noted in the Employer's hardship policy.

INSTRUCTIONS TO EMPLOYERS

The enclosed amendment updates certain sections of your Plan document to reflect changes that were made under the Bipartisan Budget Act of 2018, the Final 401(k) Regulations in September of 2019 and Revenue Procedure 2020-9 issued December 12, 2019, which reflects the deadline to amend Plan documents for the new Hardship Distribution rules.

The deadline to amend Plans is December 31, 2021. The attached amendment meets this requirement. Keep this with your Plan documents file for future reference.

Some of the changes are mandatory, such as the 6-month suspension rule, which must be removed from hardship policies no later than 12/31/2019; some are optional, such as requiring a loan be taken first before a hardship is requested. All optional items should be highlighted in the Employer's hardship policy.