

**AMENDMENT
TO
INTERNAL REVENUE CODE SECTION 457(b) PLAN
OF TAX-EXEMPT EMPLOYER**

The Employer hereby adopts this Amendment to the Plan identified below. Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning in this Amendment. 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. The purpose of this Amendment is to amend the Plan with the applicable provisions of the Setting Every Community Up for Retirement Enhancement Act of 2019 ("SECURE Act"). The provisions of this Amendment shall be interpreted and applied to be consistent with the SECURE Act and IRS guidance issued in connection therewith, whether such guidance is issued before or after the date of this Amendment. If the Employer restates the Plan, then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates these provisions).

NAME OF EMPLOYER: _____

NAME OF PLAN: _____

**ARTICLE 1
REQUIRED BEGINNING DATE**

- 1.1 **Application.** This Article 1 is effective with regard to RMDs required to be made after December 31, 2019.
- 1.2 **Delay of Required Beginning Date.** An Affected Participant's RBD shall not be earlier than April 1 of the calendar year following the year the Affected Participant attains age 72.
- 1.3 **Spousal Distributions.** If an Affected Participant dies prior to the Participant's RBD, and the Participant's sole Designated Beneficiary is the Participant's surviving spouse, then the RMDs to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 72, if later. However, this Section will apply only if the Plan, prior to this Amendment, permitted a surviving spouse to delay RMD distributions to December 31 of the calendar year in which the Participant would have attained age 70½.
- 1.4 **Definitions.** The following definitions apply for this Article 1:
- (a) A Participant is an "**Affected Participant**" if the Participant was born after June 30, 1949.
 - (b) An "**RMD**" is a Required Minimum Distribution as described in Code §401(a)(9).
 - (c) A Participant's "**RBD**" is the Participant's Required Beginning Date as described in Code §401(a)(9)(C), as amplified by Section 1.2.

**ARTICLE 2
BENEFICIARY RMDS**

- 2.1 **Effective Date.** Except as provided in Section 2.3, Article 2 will apply to Participants who die on or after the Effective Date of this Article. The Effective Date of this Article is January 1, 2020. See Section 2.4 regarding the limited application of this Article to certain accounts of Participants who died before the Effective Date of this Article.

- 2.2 **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 in accordance with the Plan's distribution provisions, but not later than as follows:
- (a) **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 in accordance with the 5-Year Rule.
- (b) **Eligible Designated Beneficiary.** If the distributee of a Participant's account is an Eligible Designated Beneficiary, the Beneficiary's entire interest will be distributed in accordance with the Life Expectancy Rule unless the 10-Year Rule applies. 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.
- (c) **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 in accordance with the 10-Year Rule.
- (d) **10-Year Rule.** If distribution of a deceased Participant's account thereof is subject to the "10-Year Rule," then the Plan will distribute the account in full no later than December 31 of the tenth year following the year of the Participant's death. No RMDs are required to be distributed from the account prior to that date.
- 2.3 **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, as, and to the extent, provided by applicable guidance. If the Beneficiary is a Designated Beneficiary that is not an Eligible Designated Beneficiary, 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.
- 2.4 **Beneficiary Death.** If an Eligible Designated Beneficiary 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 Eligible Designated Beneficiary's death. Similarly, if a Participant died before the Effective Date of this Article 2, 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.
- 2.5 **Age of Majority.** 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.
- 2.6 **Definitions; operating rules.** The following definitions and operating rules apply for this Article:
- (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 the Plan. Also see Section 1.2.
- (c) A distributee of a Participant's account is a "**Designated Beneficiary**" if the distributee is an individual or trust who is a beneficiary of the account (whether pursuant to a designation by the Participant or application of the Plan terms) and who is a designated beneficiary under Code §401(a)(9) and Treas. Reg. §1.401(a)(9)-4, Q&As-4 and -5.

(d) An individual is an “**Eligible Designated Beneficiary**” of a Participant if the individual qualifies as a Designated Beneficiary and is (1) the Participant’s spouse, (2) the Participant’s child who has not reached the age of Majority, (3) an individual not more than 10 years younger than the Participant, (4) a disabled individual, as defined in Code §72(m)(7), or (5) an individual who has been certified to be chronically ill (as defined in Code §7702B(c)(2)) for a reasonably lengthy period, or indefinitely. Certain trusts may be treated as Eligible Designated Beneficiaries pursuant to Code §401(a)(9)(H)(iv) and (v).

(e) Whether a child has reached the age of “**Majority**” is determined under Code §401(a)(9)(F) and applicable regulations and guidance issued thereunder.

(f) The “**Life Expectancy Rule**” for distributing RMDs is described in Code §401(a)(9)(B)(iii) and is further described in the Plan.

(g) The “**5-Year Rule**” for distributing RMDs is described in Code §401(a)(9)(B)(ii) and is further described in the Plan.

(h) The “**10-Year Rule**” is described in Section 2.2(d).

(i) **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, Q&A 2 and 3, and Code §401(a)(9)(H)(iv).

Date: _____, 2022

Name of Employer: _____

By: _____