# AMENDMENT FOR CARES ACT

**ARTICLE 1**

**PREAMBLE; DEFINITIONS**

1.1 **Adoption of Amendment**. The Document Provider, on behalf of the Employer, hereby adopts this Amendment to the Employer's Plan to implement provisions of the Act which affect the Plan. All references to the Plan include the Plan’s loan program, policy, or procedure to the extent applicable.

1.2 **Superseding of inconsistent provisions**. This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.

1.3 **Construction.** Except as otherwise provided in this Amendment, any Article or Section reference in this Amendment refers only to this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment and does not relate to the Plan article, section, or other numbering designations.

1.4 **Effect of restatement of Plan.** If the Employer restates the Plan then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates these provisions).

1.5 **Definitions.** Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning in this Amendment. The following definitions apply specifically to this Amendment:

1. The “**Act**” is the Coronavirus Aid, Relief, and Economic Security Act, also known as the CARES Act. This Amendment shall be interpreted and applied to comply with the Act.
2. A “**Qualified Individual**” means any individual (1) who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention, (2) whose spouse or dependent (as defined in Code §152) is diagnosed with such virus or disease by such a test, or (3) who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to such virus or disease, being unable to work due to lack of child care due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease, or other factors as determined by Treasury or the Internal Revenue Service. Participants, alternate payees and beneficiaries of deceased participants can be treated as Qualified Individuals. The Plan Administrator may rely on an individual’s certification that the individual satisfies a condition to be a Qualified Individual unless the Plan Administrator has actual knowledge to the contrary.

1.6 **Adoption by Document Provider**. The Document Provider hereby adopts this Amendment on behalf of all of the Document Provider's plans adopted by its adopting employers. The adoption by the Document Provider becomes applicable with respect to an Employer's Plan on March 27, 2020 (or, if later, the Effective Date of the Plan), unless the Employer individually adopts this Amendment, or an alternative amendment, prior to the expiration of the remedial amendment period relating to this Amendment. The Document Provider means the Sponsor of a Prototype Plan or VS Practitioner or Volume Submitter Practitioner of a Volume Submitter Plan as defined in Rev. Proc. 2013-22 or 2015-36, or the Provider of a Pre-approved Plan, as defined in Rev. Proc. 2017-41. References to the Document Provider's plans or to pre-approved plans refer to the Prototype Plans, Volume Submitter Plans, and/or Pre-approved Plans sponsored by the Document Provider for use by adopting employers, as the case may be, except as limited in Section 2.1.

**ARTICLE 2**

**IDENTIFYING INFORMATION; EMPLOYER ELECTIONS**

**Instructions: The Document Provider should complete the elections at Sections 2.1 (if applicable), 2.3, and 2.4.** If the Employer is satisfied with those choices, the Employer does not need to execute this Amendment. Otherwise, the Employer must complete the information at Section 2.2 and may complete one or more of Sections 2.3 through 2.5 to indicate the Employer’s preferences.

2.1 **Application to Document Provider plans:** This amendment will apply to all preapproved plans (including Prototype and Volume Submitter plans) of the Document Provider except the following: *(Optional. List plan types, such as Defined Benefit Plans or 403(b) Plans, which the Document Provider does not wish to amend)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2.2 **Employer identifying information.** *(Complete only if Employer is separately adopting this amendment.)*

A. Name of Employer: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

C. Type of Plan (check one)

(1) [ ] 401(k) Plan

(2) [ ] Profit-Sharing Plan (other than a 401(k) plan)

(3) [ ] Money Purchase Pension Plan

(4) [ ] Defined Benefit Plan (including a cash balance plan)

(5) [ ] 403(b) Plan

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

**(a) [ ]** **No.** The Plan will not provide any of these relief provisions.

**(b) [ ] Yes.** The Plan will provide all of these relief provisions. The limitations on distributions described in Sections 2.3(d)(1) – (4) and the limitations on loans in Section 2.3(e)(1) – (2) and Section 2.3(f)(1) do not apply.

**(c) [ ] Some.** The Plan will provide those relief provisions selected in (d), (e), or (f) below.

**(d) [ ]** **The Coronavirus-Related Distribution provisions described in Article 3 (***If (d) is selected, the Employer or Document Provider may optionally select one or more of (1), (2), (3), or (4).)*

**(1)** [ ] Coronavirus-Related Distributions are not available from an account in which the Participant is not 100% vested.

**(2)** [ ] Coronavirus-Related Distributions may be made only from the following accounts: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**(3)** [ ] The maximum amount of Coronavirus-Related Distributions from the Plan to a Qualified Individual will not exceed: $\_\_\_\_\_\_\_\_\_\_. *(Enter amount less than $100,000*.)

**(4)** [ ] The following additional provisions apply to Coronavirus-Related Distributions: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. *(Enter limitations or restrictions which are nondiscriminatory and not subject to Employer discretion.)*

**(e) [ ] The increased loan limit described in Section 4.2 (***If (e) is selected, the Employer or Document Provider may optionally select one or both of (1), (2), or (3).)*

**(1)** [ ] The maximum dollar amount of loans pursuant to Section 4.2 will not exceed: $\_\_\_\_\_\_\_\_\_\_. *(Enter amount less than $100,000*.)

**(2)** [ ] The maximum percentage of the present value of the nonforfeitable accrued benefit that may be loaned pursuant to Section 4.2 will not exceed: \_\_\_\_\_\_\_\_\_\_%. *(Enter percentage less than 100%*.)

**(3)** [ ] The following additional provisions apply to the increased loan limit: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. *(Enter limitations or restrictions which are nondiscriminatory.)*

**(f) [ ] The loan repayment extension described in Section 4.3** *(If (f) is selected, the Employer or Document Provider may optionally select (1).)*

**(1)** [ ] The following additional provisions apply to the loan repayment extension: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. *(Enter limitations or restrictions which are nondiscriminatory.)*

2.4**RMD waivers for 2020.**The provisions of Section 5.2 apply (RMDs are suspended unless a Participant or Beneficiary elects otherwise) unless the Employer elects otherwise below:

**(a)** [ ]The provisions of Section 5.3 apply (RMDs continued unless otherwise elected by a Participant or Beneficiary).

**(b)** [ ] RMDs continued in accordance with the terms of the Plan without regard to this Amendment (i.e., no election available to Participants or Beneficiaries).

**(c)** [ ] Other:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

For purposes of Section 5.4, the Plan will also treat the following aseligible rollover distributions in 2020:(If no election is made, then a direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code §401(a)(9)(I)):

**(d)** [ ] 2020 RMDs and Extended 2020 RMDs (both as defined in Section 5.5).

**(e)** [ ] 2020 RMDs (as defined in Section 5.5) but only if paid with an additional amount that is an eligible rollover distribution without regard to Code §401(a)(9)(I).

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

**ARTICLE 3**

**CORONAVIRUS-RELATED DISTRIBUTIONS**

3.1 **Application.** This Article 3 will apply if Section 2.3(b) or Section 2.3(d) is selected.

3.2 **Coronavirus-Related Distribution(s)**. Subject to the provisions described in Section 2.3(d)(4), if any, a Qualified Individual may take one or more Coronavirus-Related Distributions. The accounts from which the amount may be distributed shall be limited if selected in Sections 2.3(d)(1) and (2). However, if the Plan is a Money Purchase Pension Plan or a Defined Benefit Plan, and the Qualified Individual has not separated from service, the Qualified Individual may not take a Coronavirus-Related Distribution prior to attaining the earlier of Normal Retirement Age or age 59½. The provisions of this Section will apply notwithstanding any limitation in the Plan on partial distributions or any otherwise applicable plan or administrative limits on the number of allowable distributions.

3.3 **Repayment of distribution**. If the Plan permits rollover contributions, then a Participant who receives a Coronavirus-Related Distribution (from this Plan and/or another eligible retirement plan as defined in Code §402(c)(8)(B)), at any time during the 3-year period beginning on the day after receipt of the distribution, may make one or more contributions to the Plan, as rollover contributions, in an aggregate amount not to exceed the amount of such distribution.

3.4 **Definition of Coronavirus-Related Distribution**. A “Coronavirus-Related Distribution” means a distribution to a Qualified Individual during the period beginning January 1, 2020 and ending December 30, 2020. The total amount of Coronavirus-Related Distributions to a Qualified Individual pursuant to this Amendment from all plans maintained by the Employer, or any related employer described in Code §414(b), (c), (m), or (o), shall not exceed $100,000, (or such lesser amount specified in Section 2.3(d)(3)). The Coronavirus-Related Distributions from the Plan to a Qualified Individual will not exceed the amount of the individual’s vested account balance or the present value of the individual’s vested accrued benefit.

**ARTICLE 4**

**PARTICIPANT LOAN RELIEF**

4.1 **Application.** This Article 4 will apply only if the Plan permits participant loans. Section 4.2 will apply if Section 2.3(b) or Section 2.3(e) is selected. Section 4.3 will apply if Section 2.3(b) or Section 2.3(f) is selected.

4.2 **Increased loan limit**. Notwithstanding the loan limitation that otherwise would apply, the Plan will determine the loan limit under Code §72(p)(2)(A) for a loan to a Qualified Individual, made during the period beginning March 27, 2020 and ending September 23, 2020, by substituting “$100,000” (or such lesser amount specified in Section 2.3(e)(1)) for “$50,000,” and by substituting “100% (or such lesser percentage specified in Section 2.3(e)(2)) of the present value of the nonforfeitable accrued benefit of the employee under the Plan” for “one-half of the present value of the nonforfeitable accrued benefit of the employee under the Plan” (or its equivalent). The provisions described in Section 2.3(e)(3), if any, will apply in connection with loans to Qualified Individuals.

4.3 **Extension of certain repayments**. If a Qualified Individual has an outstanding loan from the Plan on or after March 27, 2020, then: (1) if the date for any repayment of such loan occurs during the period from March 27, 2020 and ending December 31, 2020, the due date is extended for one year; (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 provisions described in Section 2.3(f)(1), if any, will apply in connection with the extension described in this Section.

**ARTICLE 5**

**WAIVER OF 2020 REQUIRED MINIMUM DISTRIBUTIONS (RMDs)**

5.1 **Application.** This Article 5 will apply only to defined contribution plans, including 401(k) plans, Profit-Sharing Plans, Money Purchase Pension Plans, 403(b) Plans, and 457(b) Plans sponsored by governmental employers.

5.2 **Waiver; default provision.** This Section 5.2 will apply unless the Employer has selected Section 2.4(a), (b), or (c). Notwithstanding the provisions of the Plan relating to RMDs, 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 not** **receive** those distributions for 2020 unless the Participant or Beneficiary chooses to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the distributions described in the preceding sentence.

5.3 **Continuation of RMDs absent election**. This paragraph applies if Section 2.4(a) is selected. Notwithstanding the provisions of the Plan relating to RMDs, 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 for 2020 unless the Participant or Beneficiary chooses not to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence.

5.4 **Direct rollovers.** Notwithstanding the provisions of the Plan relating to required minimum distributions under Code §401(a)(9), and solely for purposes of applying the direct rollover provisions of the Plan, certain additional distributions in 2020, as elected by the Employer in Section 2.4, will be treated as eligible rollover distributions. If no election is made by the Employer in Section 2.4, then a direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code §401(a)(9)(I).

5.5 **Definitions. “RMDs”** means required minimum distributions described in Code §401(a)(9). **“2020 RMDs”** means required minimum distributions the Plan would have been required to distribute in 2020 but for the enactment of Code §401(a)(9)(I) (including RMDs relating to Participants with a required beginning date of April 1, 2020, which were not distributed in 2019). **“2020 Extended RMDs”** means one or more payments in a series of substantially equal distributions (that include the 2020 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant’s designated Beneficiary, or for a period of at least 10 years.

5.6 **Installment payments.** A Participant or Beneficiary receiving payment of 2020 RMDs or 2020 Extended RMDs pursuant to this Article 5 may receive them in any method (including installments or partial distributions) which would have been permitted under the terms of the Plan if the amounts would have been RMDs but for the enactment of Code §401(a)(9)(I).

\* \* \* \* \* \*

Document Provider Name:

By:

*(Authorized signer for Document Provider)*

The Document Provider executed this Amendment this day of , .

Complete the information below if the Employer is signing the Amendment.

By:

*(Authorized signer for Employer)*

The Employer executed this Amendment this day of , .

**CERTIFICATE OF ADOPTING RESOLUTION**

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

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

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

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

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

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