# AMENDMENT FOR TAXPAYER CERTAINTY AND DISASTER TAX RELIEF ACT OF 2020

**ARTICLE 1**

**PREAMBLE; DEFINITIONS**

1.1 **Adoption of Amendment**. The Employer adopts this Amendment to implement provisions of the Act which affect the Plan and/or the Plan’s loan program or any related administrative policy.

1.2 **Superseding of inconsistent provisions**. This Amendment supersedes the provisions of the Plan (and if applicable, the Plan’s loan program or policy) to the extent those provisions are inconsistent with the provisions of this Amendment.

1.3 **Construction.** Except as otherwise provided in this Amendment, any “Section” reference in this Amendment refers only to this Amendment and is not a reference to the Plan (or loan program or policy). The Article and Section numbering in this Amendment is solely for purposes of this Amendment and does not relate to the Plan (or loan program or policy) 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 Taxpayer Certainty and Disaster Tax Relief Act of 2020. This Amendment shall be interpreted and applied to comply with the Act.
2. A “**Qualified Disaster Area**” means a qualified disaster area as defined in Section 301(1) of the Act. It is any area with respect to which a major disaster (other than COVID-19) was declared, during the period beginning on January 1, 2020, and ending February 25, 2021, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, but only if the Incident Period of the disaster began between December 28, 2019 and December 27, 2020.
3. A “**Qualified Disaster**” means a qualified disaster as defined in Section 301(3) of the Act. It is, with respect to any Qualified Disaster Area, the disaster by reason of which a major disaster was declared with respect to such area. Section 2.3 may limit the application of Qualified Disaster.
4. A “**Qualified Individual**” means an individual described in Section 302(a)(4)(A)(ii). It is an individual (1) whose principal place of abode at any time during the Incident Period of any Qualified Disaster is located in the corresponding Qualified Disaster Area, and (2) who has sustained an economic loss by reason of such Qualified Disaster. Participants, alternate payees, and beneficiaries of deceased participants can be treated as Qualified Individuals.
5. The “**Incident Period**” means the incident period as defined in Section 301(4) of the Act. It is, with respect to any Qualified Disaster, the period FEMA specified such disaster occurred. The Incident Period shall in no case be treated as ending after January 26, 2021.
6. The “**Applicable Incident Period**” with regard to a Qualified Individual is the Incident Period for the Qualified Disaster causing the individual’s economic loss.

**ARTICLE 2**

**IDENTIFYING INFORMATION; EMPLOYER ELECTIONS**

2.1 **Identifying information.**

 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

 (6) [ ] 457(b) Plan sponsored by a governmental employer

2.2 **Disaster Relief***.*The Employer elects to use the following relief provisions *(must select at least one of (a) – (d))*:

**(a) [ ]** **The Qualified Disaster Distribution provisions described in Article 3 (***If the employer selects (a), the employer may optionally select one or more of (1), (2), or (3))*

(1) **[** ] Repayment of Qualified Disaster Distributions described in Section 3.3 shall apply.

(2) [ ] Qualified Disaster Distributions are not available from an account in which the individual is not 100% vested.

(3) [ ] Qualified Disaster Distributions may be made only from the following accounts: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**(b) [ ] The increased loan limit described in Section 4.2**

**(c) [ ] The loan repayment extension described in Section 4.3**

**(d) [ ] The recontribution for home purchases described in Article 5**

2.3 **[ ] Limitation** The Employer elects to limit the definition of Qualified Disaster to the following event(s):

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2.4 **Effective Date.** This Amendment is effective with regard to a Qualified Disaster on the first day of that disaster’s Incident Period, or, if later, the following date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. *(Optional. Enter a date not later than June 25, 2021.)*

**ARTICLE 3**

**QUALIFIED DISASTER DISTRIBUTIONS**

3.1 **Application.** This Article 3 will apply only if the Employer elects in Section 2.2(a) for this Article 3 to apply.

3.2 **Qualified Disaster Distribution(s)**. A Qualified Individual may take one or more Qualified Disaster Distributions. The accounts from which the amount may be distributed shall be limited if selected in Sections 2.2(a)(2) and (3). However, if the Plan is a Defined Benefit Plan, and the Qualified Individual has not separated from service, the Qualified Individual may not take a Qualified Disaster Distribution prior to attaining the earlier of Normal Retirement Age or age 59½.

3.3 **Repayment of distribution**. If the Employer elects Amendment Section 2.2(a)(1), and the Plan permits rollover contributions, then 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.

3.4 **Definition of Qualified Disaster Distribution**. A "Qualified Disaster Distribution" means a distribution to a Qualified Individual during the period beginning on the first day of the Applicable Incident Period and ending on June 25, 2021. The total amount of Qualified Disaster 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 per Qualified Disaster. 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.

**ARTICLE 4**

**PARTICIPANT LOAN RELIEF**

4.1 **Application.** This Article 4 will apply only if the Plan permits participant loans.

4.2 **Increased loan limit**. If the Employer elects Amendment Section 2.2(b) then 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 December 27, 2020 and ending June 25, 2021, 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."

4.3 **Extension of certain repayments**. If the Employer elects Amendment Section 2.2(c) and a Qualified Individual has an outstanding loan from the Plan on or after the first day of the Loan Relief Period, then: (1) if the date for any repayment of such loan occurs during the Loan Relief Period, the due date is extended for one year, or if later, until June 25, 2020; (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).

4.4 **Definition of Loan Relief Period**. The "Loan Relief Period" means, with regard to a Qualified Individual, the period beginning on the first day of the Applicable Incident Period and ending 180 days after the last day of the Applicable Incident Period.

**ARTICLE 5**

**HOME PURCHASE RELIEF**

5.1 **Application.** This Article 5 will apply only if (1) the Plan is a 401(k) Plan, a Profit-Sharing Plan, or a 403(b) Plan, (2) the Plan permits rollover contributions, and (3) the Employer elects in Section 2.2(d) for this Article 5 to apply.

5.2 **Recontribution of home purchase withdrawal**. A Participant who received a hardship distribution during the 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 make one or more contributions to the Plan, as rollover contributions, during the Applicable Period, in an aggregate amount not to exceed the amount of such hardship distribution.

5.3 **Definitions**. The “Distribution Period” for purposes of Section 5.2 means the period beginning 180 days before the first day of Applicable Incident Period and ending 30 days after the last day of the Applicable Incident Period. The “Applicable Period” for purposes of Section 5.2 means the period beginning on the first day of Applicable Incident Period and ending June 25, 2021.

This Amendment has been executed this day of , .

Name of Plan:

Name of Employer:

By:

 EMPLOYER

**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 AMENDMENT FOR TAXPAYER CERTAINTY AND DISASTER TAX RELIEF ACT OF 2020 (the Amendment) is hereby approved and adopted and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Plan Administrator the Amendment and to take any and all actions as it may deem necessary to effectuate this resolution.

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

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

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 [print name/title]