

**ADOPTION AGREEMENT  
LIMITED SCOPE 403(b) PLAN**

**NOTE:** This Plan (Adoption Agreement and Basic Plan Document) has not been approved by the Internal Revenue Service. It must be reviewed by qualified counsel to ensure that it is appropriate for its intended use.

The undersigned adopting employer hereby adopts this Plan. The Plan is intended to qualify as a tax-exempt plan under Code section 403(b) and to be exempt from ERISA. The Plan shall consist of this Adoption Agreement, its related Basic Plan Document E05-403B and any related Appendix and Addendum to the Adoption Agreement. Unless otherwise indicated, all Section references are to Sections in the Basic Plan Document.

**COMPANY INFORMATION**

1. Name of adopting employer (Plan Sponsor): \_\_\_\_\_
2. Address \_\_\_\_\_
3. City:\_\_\_\_\_ 4. State:\_\_\_\_\_ 5. Zip:\_\_\_\_\_
6. Phone number: \_\_\_\_\_ 7. Fax number: \_\_\_\_\_
8. Plan Sponsor EIN: \_\_\_\_\_
9. Plan Sponsor fiscal year end: \_\_\_\_\_
- 10a. Plan Sponsor entity type:
  - i.  C Corporation
  - ii.  S Corporation
  - iii.  Non Profit Organization
  - iv.  Partnership
  - v.  Limited Liability Company
  - vi.  Limited Liability Partnership
  - vii.  Sole Proprietorship
  - viii.  Union
  - ix.  Government Agency
  - x.  Other: \_\_\_\_\_
- 10b. If 10a.viii (Union) is selected, enter name of the representative of the parties who established or maintain the Plan:  
\_\_\_\_\_
11. State of organization of Plan Sponsor:\_\_\_\_\_
- 12a. The Plan Sponsor is a member of an affiliated service group:  
 Yes  No
- 12b. If 12a is "Yes", list all members of the group (other than the Plan Sponsor): \_\_\_\_\_
- 13a. The Plan Sponsor is a member of a controlled group:  
 Yes  No
- 13b. If 13a is "Yes", list all members of the group (other than the Plan Sponsor): \_\_\_\_\_

**PLAN INFORMATION**

**A. GENERAL INFORMATION.**

1. **Plan Number:** \_\_\_\_\_
2. **Plan name:** a. \_\_\_\_\_  
b. \_\_\_\_\_
3. **Effective Date:**
  - 3a. Original effective date of Plan: \_\_\_\_\_  
**NOTE:** The date specified in **A.3a** for a new plan may not be earlier than the first day of the Plan Year during which the Plan is adopted by the Plan Sponsor.
  - 3b. Is this a restatement of a previously-adopted plan:  
 Yes  No
  - 3c. If **A.3b** is "Yes", effective date of Plan restatement: \_\_\_\_\_.  
**NOTE:** If **A.3b** is "No", the Effective Date of the terms of this document shall be the date specified in **A.3a**, otherwise the date specified in **A.3c**; provided, however, that when a provision of the Plan states another effective date, such stated specific effective date shall apply as to that provision. The date specified in **A.3c** for an amended and restated plan may not be earlier than the first day of the Plan Year during which the amended and restated Plan is adopted by the Plan Sponsor.
4. **Plan Year** means each 12-consecutive month period ending on \_\_\_\_\_(e.g. December 31). If the Plan Year changes, any special provisions regarding a short Plan Year should be placed in the Addendum to the Adoption Agreement.

5. **Type of Sponsor.**
- i.  **Public School.** A state, a political subdivision of a state, or an agency or instrumentality of a state but only with respect to an employee of the state performing services for an educational organization within the meaning of Code section 170(b)(1)(A)(ii).
  - ii.  **Non Profit Organization.** A Code section 501(c)(3) organization which is exempt from tax under Code section 501(a) with respect to any employee of the Code section 501(c)(3) organization.
  - iii.  **Minister.** Any employer of a minister described in Code section 414(e)(5)(A), but only with respect to the minister; or a minister described in Code section 414(e)(5)(A), but only with respect to a retirement income account established for the minister.
- NOTE:** 403(b) Plans are limited to the above types of sponsors.
6. **FICA Church Plan.** Is the Plan a FICA Church Plan? (Article 2)  
 Yes  No  
**NOTE:** Nondiscrimination and universal availability rules do not apply to FICA Church Plans.
7. **Church Plan.** Is the Plan a Church Plan? (Article 2)  
 Yes  No
8. **Governmental Plan.** Is the Plan a Governmental Plan? (Article 2)  
 Yes  No  
**NOTE:** Nondiscrimination rules do not apply to Governmental Plans except that the annual compensation limits of Code section 401(a)(17) do apply.

**Plan Features**

- 10a. **Elective Deferrals.** Elective Deferrals are permitted (Section 4.01).
- 10b. **Roth Elective Deferrals.** Roth Elective Deferrals are permitted (Section 4.01(c)):  
 Yes  No
- 10c. If A.10b is "Yes", enter the effective date for Roth Elective Deferrals: \_\_\_\_\_.  
**NOTE:** The effective date may not be earlier than January 1, 2006.

**B. ELIGIBILITY.**

**Exclusions - Elective Deferrals**

- 1a. For purposes of Elective Deferrals, the term "Eligible Employee" shall not include (Section 3.01, check items **B.1a.i - B.1a.vi** as appropriate):
- i.  Employees whose maximum Elective Deferrals would not exceed \$200.
  - ii.  Employees who are eligible to participate in an eligible governmental plan under section 457(b) which permits contributions or deferrals at the election of the employee.
  - iii.  Employees who are eligible to participate in a plan of the Employer offering a qualified cash or deferred election under Code section 401(k) or a contract described in Code section 403(b).
  - iv.  Employees who are non-resident aliens.
  - v.  Employees who are students performing services described in Code section 3121(b)(10).
  - vi.  Employees who normally work fewer than 20 hours per week as defined in Treas. Reg. section 1.403(b)-5(b)(4)(iii)(B).
- 1b. If A.6 is "Yes" (the Plan is a FICA Church Plan), indicate whether there are other exclusions from the term "Eligible Employee":
- i.  Eligible Employee will not include: \_\_\_\_\_.
  - ii.  No other exclusions
- NOTE:** The universal availability requirements do not apply to a FICA Church Plan.

**Eligibility - Elective Deferrals**

An Eligible Employee shall be eligible to make Elective Deferrals.

**C. CONTRIBUTIONS**

**Elective Deferrals**

- 6a. When may Participants modify/start/stop elections regarding Elective Deferrals/Voluntary Contributions? (Section 4.02)
- i.  Each pay period
  - ii.  Monthly
  - iii.  Quarterly

- iv.  Semi Annual
  - v.  Annual
  - vi.  Pursuant to Administrator procedures (At least once each calendar year)
  - vii.  Pursuant to the Individual Agreements (At least once each calendar year)
- 6b.** May Participants stop election to contribute at any time?  
 Yes  No
- 8a.** If the Plan is a Church Plan or a Governmental Plan (**A.7** or **A.8** is selected) , should the Plan provide for traditional automatic enrollment: (Section 4.01(b))
- i.  No
  - ii.  Yes - Static percentage
  - iii.  Yes - Increasing percentage
- NOTE:** Church Plans and Governmental Plans are exempt from ERISA. Other Plans that do not want to be subject to ERISA must make Participation "completely voluntary" in accordance with DOL Reg. section 2510.3-2(f) and the Field Assistance Bulletin No. 2007-02.
- 8b.** If **C.8a.ii** or **C.8a.iii** is selected, enter the initial amount of the automatic enrollment (as a percentage of pay): \_\_\_\_\_
- 8c.** If **C.8a.iii** is selected, the amount specified in **C.8b** shall increase in the following manner: \_\_\_\_\_.  
**NOTE:** For example, if the automatic enrollment amount is 3% for the first year and increases by 1% per year for five years, insert "3%" in **C.8b** and "increase by 1% in the second through sixth year to a maximum of 8%" in **C.8c**.
- 8d.** If **C.8a** is "Yes" (the Plan provides for automatic enrollment), does the Plan intend to be an eligible automatic contribution arrangement (EACA) (Section 4.01(b)(3))  
 Yes  No
- 8e.** If **C.8d** is "Yes", enter effective date of EACA refunds \_\_\_\_\_. (Enter January 1, 2008 or a later date).

#### Catchup Contributions

- 9a.** Allow Participants to make Age 50 catch-up contributions (Section 5.03):  
 Yes  No
- 9b.** If **C.9a** is "Yes", the election shall apply with respect to contributions on or after \_\_\_\_\_. (Enter January 1, 2002 or a later date).
- 9c.** Permit Participants with fifteen years of service to make special Code section 403(b) catch-up contributions (Section 5.02):
- i.  Yes
  - ii.  To the extent provided in the Individual Agreements
  - iii.  No
- 9d.** If **C.9c** is "Yes", the election shall apply with respect to contributions on or after \_\_\_\_\_. (Enter January 1, 2002 or a later date).

#### Rollovers

- 10.** Rollover Contributions are permitted (Section 4.03):  
 Yes  No
- 11a.** If **C.10** is "Yes", Rollover Contributions are permitted:
- i.  As provided in the Individual Agreements
  - ii.  From all qualified plans and tax favored vehicles listed in Section 4.03(b)
  - iii.  Only from plans qualified under Code section 403(b) and conduit IRAs
- 11b.** If **C.10** is "Yes" and **C.11a.ii** is selected, enter the effective date: \_\_\_\_\_ (must be after December 31, 2001)

#### Transfers To The Plan

- 15.** Should the Plan provide for transfers to the Plan: (Section 4.04)?  
 Yes  No
- 16.** If **C.15** is "Yes" Transfers to the Plan are permitted, indicate who will authorize transfers to the Plan:
- i.  Plan Vendor(s)
  - ii.  The Employer
  - iii.  Other \_\_\_\_\_.
- NOTE:** According to IRS regulations, these duties cannot be delegated to Participants. If the Plan is not a Church Plan and not a Governmental Plan and wishes to be exempt from ERISA, the Employer cannot have responsibilities greater than those permitted in DOL Reg. section 2510.3-2(f) and the Field Assistance Bulletin No. 2007-02.

#### **D. VESTING.**

All contributions are 100% vested.

**E. DISTRIBUTIONS.**

**In General**

A Participant may receive an in-service distribution any time after he attains age 59 1/2, Severance from Employment, dies, or becomes Disabled to the extent permitted by the Funding Vehicle.

**1a.** Does the Plan impose any limitations or conditions on distributions in addition to those specified in Section 7.01 and 7.03?

Yes  No

**1b.** If **E.1a** is "Yes", describe the limitations or conditions on distributions:\_\_\_\_\_.

**NOTE:** Except as provided in **E.1b**, distribution may be made in any form permissible under the Funding Vehicle.

**Cash Out**

**8.** Involuntary cash-out amount for purposes of Section 7.02: \$\_\_\_\_\_ (\$5,000 maximum)(\$5,000 unless otherwise specified. If zero, the Plan will not automatically cash out participants).

**9a.** It is necessary to provide an effective date for the cash out amount specified in **E.8:**

Yes  No

**9b.** If **E.9a** is "Yes", enter the effective date of the change in the cash-out amount: \_\_\_\_\_

**NOTE:** May not be earlier than the Effective Date.

**F. IN SERVICE WITHDRAWALS & LOANS.**

**Hardship**

**10.** Hardship withdrawals are allowed as follows (Section 8.01) (If "None", questions regarding Hardship withdrawals are disregarded.):

**i.**  **All Accounts.** A Participant may receive a distribution on account of hardship, except from earnings on his Elective Deferral Account credited after the later of December 31, 1988, and the end of the last Plan Year ending before July 1, 1989.

**ii.**  **Selected Accounts**

**iii.**  **None**

**iv.**  **Individual Agreements.** To the extent provided in the Individual Agreements controlling Account Assets to be withdrawn to satisfy the hardship.

**NOTE:** If the Plan is not a Church Plan and not a Governmental Plan and wishes to be exempt from ERISA, the Employer cannot have responsibility for, or make, discretionary determinations in administering the program like authorizing Hardship. Negotiating with annuity providers or account custodians to change the terms of their products as setting the conditions for hardship withdrawals would be form of employer involvement likely to make the plan subject to ERISA.

**11.** If **F.10.i** or **F.10.ii** is selected, what is the criteria used in determining whether a Participant is entitled to receive a Hardship withdrawal:

**i.**  Safe Harbor criteria set forth in Treas. Reg. section 1.401(k)- 1(d)(2)(iv)

**ii.**  Non Safe Harbor criteria set forth in Treas. Reg. section 1.401(k)-1(d)(2)(iii)

**12.** If **F.10.ii** (Selected Accounts) is selected, hardship withdrawals may be made from the following Accounts:

**a.**  Elective Deferral Account (excluding earnings on his Elective Deferral Account credited after the later of December 31, 1988, and the end of the last Plan Year ending before July 1, 1989).

**b.**  Rollover Contribution Account.

**c.**  Transfer Account.

**13.** If **A.10b** is "Yes", (Roth Elective Deferrals are permitted) and if a Participant may receive a hardship withdrawal from his Elective Deferral Account (**F.10.i** or **F.12** is selected), permit hardship withdrawals from the Participant's Roth Elective Deferral Account subject to the same terms and conditions as apply to the Participant's Elective Deferral Account:

**i.**  Yes

**ii.**  Yes - But only if the withdrawal from the Roth Elective Deferral Account qualifies as a "qualified distribution" within the meaning of Code section 402A(d)(2).

**iii.**  No

### Distributions from Rollover Account

14. Should the Plan provide for in service distributions from Rollover Account (Section 8.02)?
- i.  **Yes.** The Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account
  - ii.  **No.**
  - iii.  **Individual Agreements.** To the extent permitted by the Individual Agreements

### Transfers From The Plan

15. Should the Plan provide for transfers from the Plan: (Section 8.04)?  
 Yes  No
16. If **F.15** is "Yes" Transfers from the Plan are permitted, indicate who will authorize transfers from the Plan:
- i.  Plan Vendor(s)
  - ii.  Employer
  - iii.  Other \_\_\_\_\_.
- NOTE:** According to IRS regulations, these duties cannot be delegated to Participants. If the Plan is not a Church Plan and not a Governmental Plan and wishes to be exempt from ERISA, the Employer cannot have responsibilities greater than those permitted in DOL Reg. section 2510.3-2(f) and the Field Assistance Bulletin No. 2007-02.

### Loans

30. Loans are permitted (Section 8.03) (If "No", questions regarding loans are disregarded.):
- i.  Yes, to the extent permitted by the Administrator
  - ii.  Yes, to the extent permitted by the Individual Agreements controlling the Account assets from which the loan is made and by which the loan will be secured
  - iii.  No
- NOTE:** If the Plan is not a Church Plan and not a Governmental Plan and wishes to be exempt from ERISA, the Employer cannot have responsibility for, or make, discretionary determinations in administering the program including eligibility for and enforcement of loans.
31. If **F.30** is "Yes - to the extent permitted by the Administrator", minimum loan amount: \$\_\_\_\_\_ (Not greater than \$1,000 if the Plan is subject to ERISA or if the Plan is not a FICA Church Plan and not a Governmental Plan. Leave blank or enter "0" if none.)
32. If **F.30** is "Yes - to the extent permitted by the Administrator", maximum number of loans outstanding: \_\_\_\_\_.

### G. PLAN OPERATIONS.

#### Valuation Date

- 4a. Enter Valuation Date
- i.  Last day of Plan Year
  - ii.  Last day of each Plan quarter
  - iii.  Last day of each month
  - iv.  Each business day
  - v.  As provided in the Individual Agreements
  - vi.  Other
- 4b. If **G.4a.vi** is selected, enter Valuation Date: \_\_\_\_\_ (Must be at least annually).

#### Plan Administration

- 5a. Designation of Administrator (Article 2):
- i.  Plan Sponsor
  - ii.  Committee appointed by Plan Sponsor
  - iii.  Other
- 5b. If **G.5a.iii** is selected, Name of Administrator: \_\_\_\_\_
- NOTE:** **G.5b** may be used to designate more than one person as the Administrator. According to IRS regulations, these duties cannot be delegated to Participants. If the Plan is not a Church Plan and not a Governmental Plan and wishes to be exempt from ERISA, the Employer cannot have responsibilities greater than those permitted in DOL Reg. section 2510.3-2(f) and the Field Assistance Bulletin No. 2007-02.
- 6a. Designation of the Vendor(s) approved under the Plan (Article 2): \_\_\_\_\_.
- 6b. Will the Vendor perform all the duties specified for the Vendor in the Plan?  
 Yes  No

**6c.** If **G.6b** is "No", name the other person that will perform all or some of the duties of the Vendor: \_\_\_\_\_.

**6d.** If **G.6b** is "No", describe the duties of the person named in **G.6c**: \_\_\_\_\_.

**NOTE:** According to IRS regulations, these duties cannot be delegated to Participants. If the Plan is not a Church Plan and not Governmental Plan and wishes to be exempt from ERISA, the Employer cannot have responsibilities greater than those permitted in DOL Reg. section 2510.3-2(f) and the Field Assistance Bulletin No. 2007-02.

**NOTE:** The Plan Sponsor should add an Addendum to the Adoption Agreement to add any language that is necessary to satisfy Code section 415.

**H. MISCELLANEOUS.**

Failure to properly fill out the Adoption Agreement may result in the Plan not meeting the requirements of the Code and, if applicable, may cause the Plan to be subject to ERISA.

The Plan shall consist of this Adoption Agreement, its related Basic Plan Document E05-403B and any related Appendix and Addendum to the Adoption Agreement.

**I. EXECUTION PAGE.**

The undersigned agree to be bound by the terms of this Adoption Agreement and Basic Plan Document and acknowledge receipt of same. The parties have caused this Plan to be executed this \_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

PLAN SPONSOR (COMPANY):

\_\_\_\_\_

**EFFECTIVE DATE ADDENDUM**

**Use this Addendum to provide any effective dates for Plan provisions other than the Effective Date specified in A.3. Any date entered may not be before the Effective Date.**



**OTHER LAW ADDENDUM**

**Use this Addendum to add language that may be required if the Plan is subject to state or other applicable law.**