

# MERS Defined Contribution Plan Adoption Agreement



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The Employer, a participating municipality or court within the state of Michigan that has adopted MERS coverage, hereby establishes the following Defined Contribution Plan provided by MERS of Michigan, as authorized by 1996 PA 220 in accordance with the MERS Plan Document.

**I. Employer Name** \_\_\_\_\_ **Municipality #:** \_\_\_\_\_

## II. Effective Date

Check one:

- A. ☐ If this is the **initial** Adoption Agreement for this group, the effective date shall be the first day of \_\_\_\_\_, 20\_\_\_\_.

☐ This municipality or division is new to MERS, so vesting credit prior to the **initial** MERS effective date by each eligible employee shall be credited as follows (choose one):

☐ Vesting credit from date of hire ☐ No vesting credit

☐ This division is for new hires, rehires, and transfers of current Defined Benefit\* division #\_\_\_\_\_ and/or current Hybrid division #\_\_\_\_\_

**Closing this division will change future invoices to a flat dollar amount instead of a percentage of payroll, as provided in your most recent annual actuarial valuation.** (The amount may be adjusted for any benefit modifications that may have taken place since then.)

Current active (defined benefit or hybrid) employees (select one of the following and see [Plan Document](#), Section 64 for more information):

☐ Will have a one-time opportunity to convert the value of their current defined benefit from the existing defined benefit or hybrid plan into the new Defined Contribution Plan as a lump sum, or continue accruing service in the Defined Benefit. (Complete *MERS Defined Contribution Conversion Addendum*.)

☐ Will have a one-time opportunity to cease service accrual in the current plan and transfer to the new Defined Contribution plan for future service accrual, or continue accruing service in the Defined Benefit. The deadline for employees to make their election is: \_\_\_\_/\_\_\_\_/\_\_\_\_

☐ Will be required to cease service accrual in Defined Benefit and will transfer to Defined Contribution for future service accrual.

*\*By completing the section above, the Employer acknowledges receiving Projection Study results and understands the municipality's obligation to continue funding the liability associated with the closed Defined Benefit division.*

- B. ☐ If this is an **amendment** of an existing Adoption Agreement (existing division number \_\_\_\_\_), the effective date shall be the first day of \_\_\_\_\_, 20\_\_\_\_.

**Note:** You only need to mark **changes** to your plan throughout the remainder of this Agreement.

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- C. ☐ If this is to **separate employees** from an existing *Defined Contribution division* (existing division number(s) \_\_\_\_\_) into a new division, the effective date shall be the first day of \_\_\_\_\_, 20\_\_\_\_.
- D. ☐ If this is to **merge division(s)** \_\_\_\_\_ into division(s) \_\_\_\_\_, the effective date shall be the first of \_\_\_\_\_, 20\_\_\_\_.

### III. Eligible Employees

Only those Employees eligible for MERS membership may participate in the MERS Defined Contribution Plan. A copy of ALL employee enrollment forms must be submitted to MERS. The following groups of employees are eligible to participate:

\_\_\_\_\_  
(Name of Defined Contribution division – e.g. All Full Time Employees, or General After 7/01/13)

#### To further define eligibility, (check all that apply):

- ☐ **Probationary periods** are allowed in one-month increments, no longer than 12 months. During this introductory period the Employer will not report or make contributions for this period, including retroactively. Service will begin after the probationary period has been satisfied. The probationary period will be \_\_\_\_\_ month(s).
- ☐ **Temporary employees** in a position normally requiring less than a total of 12 whole months of work in the position may be *excluded* from membership. These employees must be notified in writing by the participating municipality that they are excluded from membership within 10 business days of date of hire or execution of this Agreement. The temporary exclusion period will be \_\_\_\_\_ month(s).

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## IV. Provisions

### 1. **Vesting (Check one):**

- ☐ Immediate
- ☐ Cliff Vesting (fully vested after below number years of service)
  - ☐ 1 year      ☐ 2 years      ☐ 3 years      ☐ 4 years      ☐ 5 years
- ☐ Graded Vesting
  - \_\_\_\_\_ % after 1 year of service
  - \_\_\_\_\_ % after 2 years of service
  - \_\_\_\_\_ % after 3 years of service (min 25%)
  - \_\_\_\_\_ % after 4 years of service (min 50%)
  - \_\_\_\_\_ % after 5 years of service (min 75%)
  - \_\_\_\_\_ % after 6 years of service (min 100%)

### **Vesting will be credited using (check one):**

- ☐ Elapsed time method – Employees will be credited with one vesting year for each 12 months of continuous employment from the date of hire.
- ☐ Hours reported method – Employees will be credited with one vesting year for each calendar year in which \_\_\_\_\_ hours are worked

In the event of disability or death, an employee's (or his/her beneficiary's) entire employer contribution account shall be 100% vested, to the extent that the balance of such account has not previously been forfeited.

### **Normal Retirement Age (presumed to be age 60 unless otherwise specified) \_\_\_\_\_**

*If an employee is still employed with the municipality at the age specified here, their entire employer contribution balance will become 100% vested regardless of years of service.*

### 2. **Contributions**

- a. Will be remitted according to Employer's payroll withholding which represents the actual period amounts are withheld from employee paychecks, or within the month during which amounts are withheld (check one):
  - ☐ Weekly
  - ☐ Bi-Weekly (every other week)
  - ☐ Semi-Monthly (twice each month)
  - ☐ Monthly
  - ☐ Other (must specify) \_\_\_\_\_
- b. Required Employee Contribution Structure to DC (subject to Internal Revenue Code 415(c) limitations). Select one:
  - ☐ Employees are required to contribute per payroll period, the percentage \_\_\_\_\_% OR flat dollar amount \$ \_\_\_\_\_
  - ☐ Employees are required to contribute within the following range for each payroll:  
Percentage range from \_\_\_\_\_% to \_\_\_\_\_% OR  
dollar amount range \$ \_\_\_\_\_ to \$ \_\_\_\_\_
  - ☐ Direct Required Employee Contributions pre-tax

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c. **Employer Contributions**

☐ **Non-Matching Contributions**

The Employer hereby elects to make contributions to the Program without regard to an employee's contribution to the Program. The Employer elects the following contribution formula (check one):

☐ **Annual Contributions:** A one-time annual contribution of \$\_\_\_\_\_ OR \_\_\_\_\_% of compensation per employee.

☐ \$ \_\_\_\_\_ or \_\_\_\_\_% of compensation per employee for each payroll period.

☐ **Matching Contributions**

The Participating Employer may make matching contributions and/or non-matching contributions into the Defined Contribution plan based on an employee's voluntary election as outlined in the *Matching Employer Contribution Addendum (MD-073)*.

- d. Post-tax voluntary employee contributions are allowable into a Defined Contribution account subject to Section 415(c) limitations of the Internal Revenue Code.

3. **Compensation**

Employers may designate the definition of compensation per division participating in Defined Contribution pursuant to section 49 of the MERS Plan Document (check one):

☐ All income subject to income tax reported in Box 1 of Form W-2, plus elective deferrals (Note: this definition aligns to MERS' 457 definition of compensation)

☐ Medicare taxable wages reported in Box 5 of Form W-2

☐ Base wages, to which any of the following may be included:

☐ Longevity pay

☐ Overtime pay

☐ Shift differentials

☐ Pay for periods of absence from work by reason of vacation, holiday, and sickness

☐ Workers' compensation weekly benefits (if reported and are higher than regular earnings)

☐ A member's pre-tax contributions to a plan established under Section 125 of the IRC

☐ Transcript fees paid to a court reporter

☐ A taxable car allowance

☐ Short term or long term disability payments

☐ Payments for achievement of established annual (or similar period) performance goals

☐ Payment for attainment of educational degrees from accredited colleges, universities, or for acquisition of job-related certifications

☐ Lump sum payments attributable to the member's personal service rendered during the FAC period

☐ Other: \_\_\_\_\_

☐ Other 2: \_\_\_\_\_

NOTE: For purposes of applying the Internal Revenue Code Section 415(c) limits on annual additions, compensation shall be defined as required under that law.

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4. **Loans:** ☐ shall be permitted ☐ shall not be permitted  
If Loans are elected, please complete and attach the *MERS Defined Contribution Loan Addendum*.
5. **Rollovers** from qualified plans are permitted and the plan will account separately for pre-tax and post-tax contributions and earnings thereon.

## V. Appointing MERS as the Plan Administrator

The Employer hereby agrees to the provisions of this *MERS Defined Contribution Plan Adoption Agreement* and appoints MERS as the Plan Administrator pursuant to the terms and conditions of the Plan. The Employer also agrees that in the event of any conflict between the MERS Plan Document and the MERS Defined Contribution Plan Adoption Agreement, the provisions of the Plan Document control.

## VI. Modification of the terms of the Adoption Agreement

If the Employer desires to amend any of its elections contained in this Adoption Agreement, including attachments, the Governing Body or Chief Judge, by resolution or official action accepted by MERS, must adopt a new Adoption Agreement. The amendment of the new Agreement is not effective until approved by MERS.

## VII. Enforcement

1. The Employer acknowledges that the Michigan Constitution of 1963, Article 9, Section 24, provides that accrued financial benefits arising under a public Employer's retirement plan are a contractual obligation of the Employer that may not be diminished or impaired.
2. The Employer agrees that, pursuant to the Michigan Constitution, its obligations to pay required contributions are contractual obligations to its employees and to MERS and may be enforced in a court of competent jurisdiction;
3. The Employer acknowledges that employee contributions (if any) and employer contributions must be submitted in accordance with the *MERS Reporting and Contribution Enforcement Policy*, the terms of which are incorporated herein by reference;
4. The Employer acknowledges that late or missed contributions will be required to be made up, including any applicable gains, pursuant to the Internal Revenue Code;
5. Should the Employer fail to make its required contribution(s) when due, MERS may implement any applicable interest charges and penalties pursuant to the *MERS Reporting and Contribution Enforcement Policy* and Plan Document Section 79, and take any appropriate legal action, including but not limited to filing a lawsuit and reporting the entity to the Treasurer of the State of Michigan in accordance with MCL 141.1544(d), Section 44 of PA 436 of 2012, as may be amended.
6. It is expressly agreed and understood as an integral and non-severable part of this Agreement that Section 43 of the Plan Document shall not apply to this Agreement and its administration or interpretation. In the event any alteration of the terms or conditions of this Agreement is made or occurs, under Section 43 or other plan provision or law, MERS and the Retirement Board, as sole trustee and fiduciary of the MERS plan and its trust reserves, and whose authority is non-delegable, shall have no obligation or duty to administer (or to have administered) the MERS Defined Contribution Plan, to authorize the transfer of any defined benefit assets to the MERS Defined Contribution Plan, or to continue administration by MERS or any third-party administrator of the MERS Defined Contribution Plan.

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## VIII. Execution

### Authorized Designee of Governing Body of Municipality or Chief Judge of Court

The foregoing Adoption Agreement is hereby approved by \_\_\_\_\_ on  
the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. (Name of Approving Employer)

Authorized signature: \_\_\_\_\_

Title: \_\_\_\_\_

### Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: \_\_\_\_\_, 20\_\_\_\_ Signature: \_\_\_\_\_  
(Authorized MERS Signatory)