Defined Benefit Plan Surplus Division Adoption Addendum

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The Municipal Employees' Retirement System of Michigan ("MERS")

and _____, #_____
(Municipality name) (Municipality number)

entered into an Adoption Agreement effective _____; and
(Month, Year)

Employer may elect to remit Contributions to its reserve account with MERS in excess of the annual required Employer Contributions as determined by MERS' actuary, or in excess of the amount currently due from Employer, without such amounts being immediately attributable to the reserve of its employee divisions ("Surplus Contributions"). MERS has advised Employer that in order to accomplish this, MERS must establish a Surplus Division to account such Surplus Contributions.

To establish the Surplus Division(s) and memorialize the terms and conditions agreed to by MERS and Employer concerning their establishment, Employer and MERS hereby enter into this Surplus Contribution Addendum to Employer's Adoption Agreement ("Addendum"), to be effective as of the date set out above.

I MERS Establishment of Surplus Division: Commencing on the effective date of this Addendum, MERS shall establish the following Surplus Division(s) for Employer:

☐ **Associated Surplus Divisions:**

		To be completed by MERS		List DB division number(s)
a)	Surplus Division	_____,	to be associated with	_____.
b)	Surplus Division	_____,	to be associated with	_____.
c)	Surplus Division	_____,	to be associated with	_____.

☐ **Unassociated Surplus Divisions:**

		To be completed by MERS	
d)	Surplus Division	_____,	to be unassociated with any Employee Division.
e)	Surplus Division	_____,	to be unassociated with any Employee Division.
f)	Surplus Division	_____,	to be unassociated with any Employee Division.

II Employer Remittance of Surplus Contributions: At Employer's sole and exclusive discretion (which shall include Employer's obligations under terms agreed to by Employer in the course of collective bargaining, if any), Employer may remit contributions to MERS that Employer expressly designates as Surplus Contributions, specifying the appropriate Surplus Division to which they are to be credited. It is understood by Employer that, once remitted to MERS, Surplus Contributions are not and shall never be refundable to Employer, nor used for any purpose other than the funding of its obligations for MERS benefits accrued by employees of Employer.

III MERS' Crediting of Surplus Contributions: Upon receipt from Employer of Employer Contributions designated as Surplus Contributions, MERS shall credit such amounts to the Surplus Division designated by Employer.

IV Treatment of Surplus Contributions for Actuarial Purposes: Surplus Contributions reflected in one or more Surplus Division established by MERS as directed by Employer shall be treated as follows for actuarial purposes:

a) They shall not be included in the determination of the annual Employer Contributions requirement for any Employee Division, and

b) They shall be included in the determination of the Employer's overall funded status.

V Employer Use of Surplus Contributions: At any time, upon 30 days' advance written notice to MERS, Employer may direct MERS to use the Surplus Contributions currently reflected in one or more established Surplus Division(s) be used by Employer as follows:

a) Employer may transfer Surplus Contributions reflected in an Unassociated Surplus Division to one or more Employee Division(s).

b) Employer may transfer Surplus Contributions reflected in an Assigned Surplus Division to such Employee Division.

c) Employer may redesignate any Surplus Division (whether Associated or Unassociated) to either an Associated Surplus Division or to an Unassociated Surplus Division, as applicable.

Employer is solely responsible for any decision(s) it makes under Section V, and Employer agrees that by entering into this Addendum, it shall indemnify and hold MERS harmless from any claim, challenge, or litigation arising from its actions under Section V, including costs and attorneys' fees.

Once Surplus Contributions are transferred to an Employee Division, they may not thereafter be recharacterized as Surplus Contributions or transferred back to a Surplus Division.

VI Recharacterization of Contributions: By written notice to MERS, Employer may make a one-time election to transfer Employer Contributions it remitted prior to the effective date of this Addendum that were in excess of the amount then due from Employer from an Employer Division to one or more Surplus Division(s) established by this Addendum, and recharacterize those amounts as Surplus Contributions. Employer may make the election described herein only once.

VII Rights of MERS: At any time following the occurrence of any or all of the following, MERS reserves the right to transfer some or all of the Surplus Contributions reflected in an Employer's Reserves to one or more Employee Division(s) of such Employer:

a) Employer has defaulted on some or all of its contribution obligations to MERS.

b) Employer has filed for or is otherwise subject to bankruptcy protection or receivership.

c) An emergency manager or similar oversight authority has been appointed to conduct Employer's financial affairs.

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VIII Execution

Authorized **Primary** or **Finance Contact** of Municipality (contact MERS if you do not know who your Primary or Finance Contacts are)

The foregoing Addendum 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)