

# 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 #:** \_\_\_\_\_

**Division name** \_\_\_\_\_

Note: This division should reflect how you currently define employees who are eligible to participate, for example, All full-time Employees, New hires after 1/1/2019, etc.

## 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 # \_\_\_\_\_

For divisions that are closing or freezing with or without conversion, the Employer must complete the Addendum for Plan Freeze, Closure and Conversions

- 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.

- 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\_\_\_\_.

- E. ☐ If this is an amendment to close Defined Benefit division(s) # \_\_\_\_\_ or Hybrid division(s) \_\_\_\_\_ with new hires, rehires, and transfers going into existing Defined Contribution division # \_\_\_\_\_, the effective date shall be \_\_\_\_\_ (month/year).

**Note: Closing this Defined Benefit or Hybrid division(s) 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).

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## III. Plan Eligibility

Only those employees eligible for MERS membership may participate in the MERS Defined Contribution Plan. If an employee classification is **included** in the plan, then employees that meet this definition are required to participate in the plan and earn time toward vesting. All eligible employees must be reported to MERS and earn time toward vesting. Some excluded classifications require additional information below. Please describe the specific classifications that are eligible for MERS within this division:

(For example: e.g., Full-time employees, Clerical staff, Union Employees participating in XXXX union)

This Division includes **public safety employees**: ☐ Yes ☐ No

To further define eligibility (select all that apply):

Employee Classification	Included	Excluded	Not Employed
<b>Temporary Employees:</b> Those who will work for the municipality fewer than ____ months in total	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Part-Time Employees:</b> Those who regularly work fewer than ____ per ____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Seasonal Employees:</b> Those who are employed for tasks that occur at specific times of the year	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Voter-Elected Officials</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Appointed Officials:</b> An official appointed to a voter-elected office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Contract Employees</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Other:</b> _____	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Other 2:</b> _____	<input type="checkbox"/>	<input type="checkbox"/>	

**Probationary Periods** (select one):

☐ Contributions will begin after the probationary period has been satisfied. Probationary periods are allowed in one-month increments, no longer than 12 months. During this probationary period, contributions will not be reported and service toward vesting will begin when probationary period has ended.

The probationary period will be \_\_\_\_ month(s).

Comments:

☐ Contributions will begin with the employee's date of hire (no Probationary Period). Effective with the date of hire, wages and any associated contributions must be submitted to MERS.

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## IV. Provisions

### 1. Leaves of Absence

Regardless of whether an employee is earning a wage while on the following types of leave:

- Third-party wages are not used in determining contributions for periods of leave.
- Vesting under elapsed time continues to accrue even if wages are not earned and contributions are zero.

*Note:* Employers who determine vesting based on an “hours-reported” method, should report actual worked hours for the month where there was a leave.

Types of leave include:

- Short Term and Long Term Disability
- Workers Compensation
- Unpaid Family Medical Leave Act (FMLA)

Leaves of absence due to military service are governed by the federal *Uniformed Services Employment and Reemployment Rights Act* of 1994 (USERRA), IRC 414(u), effective January 1, 2007, IRC 401(a)(37). Military reporting requires historical wage and contribution reporting for Defined Contribution as applicable.

### 2. Definition of Compensation

The Definition of Compensation selected must be used when determining both employer and employee contributions. Employers may include wage information along with employee and employer contributions when submitting wage/contribution reports to MERS.

Select your Definition of Compensation:

- ☐ Base Wages    ☐ Box 1 Wages of W-2    ☐ Gross Wages  
☐ Custom Definition

Click here to view details  
of Base, Box 1, and  
Gross Wages

(To customize your definition, please complete the [Custom Definition of Compensation Addendum](#).)

### 3. Forfeiture

A forfeiture occurs when a participant separates from employment prior to meeting the associated elapsed time (or hours reported) to receive vesting. The percentage of his/her employer contribution account balance that has not vested as of the date of termination will forfeit after 12 consecutive months following the termination date reported by the employer, or earlier, if the System distributes the participant's vested portion. MERS will utilize any available forfeiture balance as an automatic funding source applied to reported employer contributions at the time of reporting.

### 4. Vesting

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

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Vesting schedule will be (check one):

- ☐ Immediate
- ☐ Cliff vesting (fully vested after a specified number of years, not to exceed 15 years) will be \_\_\_\_ years.
- ☐ Graded Vesting (the % of vesting acquired after employment for the designated number of years, not to exceed 10 years; or, where full vesting is attained between 10 and 20 years, graded vesting must commence no later than 3 years of service)

% Vested	Years of Service

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.*

## 5. Contributions

- a. **Contributions will be submitted** (check one):

Contributions will be remitted according to Employer's "Payroll Period" which represents the actual period amounts are withheld from participant paychecks, or within the month during which amounts are withheld.

- ☐ Weekly ☐ Semi-Monthly (twice each month)
- ☐ Bi-Weekly (every other week) ☐ Monthly

- b. **Employer Contributions**

Required Employee Contributions and Employer Contributions are outlined using associated [Contribution Addendum for MERS Defined Contribution \(MD-073\)](#).

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

6. **Loans:** ☐ shall be permitted ☐ shall not be permitted

If Loans are elected, please refer to the [Defined Contribution & 457 Loan Addendum](#).

7. **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.

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## 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 this 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.

## 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)