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MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM OF MICHIGAN

PLAN DOCUMENT

Effective June 11, 2025

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MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM OF MICHIGAN

PLAN DOCUMENT

As restated effective June 1, 2017, including amendments adopted through June 11, 2025

The Municipal Employees' Retirement System of Michigan operates under the authority of the Municipal Employees Retirement Act, MCL 38.1501 *et seq.* Effective August 15, 1996, the legislature amended the retirement act and granted the Board of the Municipal Employees' Retirement System the power to establish all Retirement System provisions, including additional programs not limited to Defined Benefit and Defined Contribution programs. Effective October 15, 1996, the Retirement Board adopted the Plan Document of 1996. From time to time, the Retirement Board has amended the Plan Document pursuant to its authority under MCL 38.1536(2)(a).

The Municipal Employees' Retirement System of Michigan Plan Document, as amended, provides:

ARTICLE I – DEFINITIONS

Sec. 1. Short Title; Severability; Meanings of Words and Phrases; Applicability where Employer Adoption/Election Required.

(1) This Plan Document shall be known and may be cited as the "Municipal Employees' Retirement System Plan Document." Act No. 427 of the Public Acts of 1984 shall be known and may be cited as the "Municipal Employees Retirement Act of 1984." [MCL 38.1501].

(2) If any Section or part of a Section of this Plan Document is for any reason held to be invalid or unconstitutional, such holding shall not be construed as affecting the validity of the remaining Sections of the Plan Document or the Plan Document in its entirety.

(3) For the purposes of this Plan Document and Municipal Employees Retirement Act of 1984, the words and phrases defined in Section 2 have the meanings ascribed to them in that Section. [MCL 38.1502].

(4) If, in the sole and exclusive discretion of the System, the applicability of an amendment to this or a prior version of this Plan Document requires the adoption or affirmative election of a participating municipality or court, the benefits of applicable members and participants of any participating municipality or court that has failed to make such adoption or affirmative election shall be governed by the provision(s) of such prior version of the Plan Document as shall be applicable until/unless the required adoption or election is made, or otherwise, as determined by the System.

Sec. 2. Definitions.

(1) "Account balance" or "accumulated balance" means the total balance in a member's individual account under the Defined Contribution Plan or the Defined Contribution

component of the Hybrid Plan. References to "account" shall also include a participant's Deemed IRAs which include the Deemed Traditional IRA and/or Deemed Roth IRA accounts, as defined in Article VIII of the Plan Document, but only to the extent the reference is not in contradiction to Article VIII. "Account" as used throughout in this Plan shall refer to nominal general ledger accounts and/or bookkeeping entries only, and not to any separation of the assets of the System.

(2) "Accumulated contributions" means the sum of all amounts credited to a member's individual account in the reserve for member contributions.

(3) "Adoption Agreement" means the agreement, in one or more forms prescribed by the System, entered into between the System and a municipality or court that has elected to become a participating municipality or a participating court, which sets forth the terms and conditions of that participating municipality's or participating court's participation in the System, as such agreement may be amended from time to time. The Adoption Agreement shall include, but not be limited, to the following information:

(a) the effective date of participation;

(b) the benefit programs, contribution programs and other specifics that shall apply to the employees;

(c) the employees to be covered in each employee division of the plan; and

(d) for purposes of the Defined Contribution and Defined Contribution Component of the Hybrid Plan only, any employee classifications within employee divisions, specifying contribution types and rates, definitions of compensation and other features.

(4) "Beneficiary" means an individual or otherwise, as provided by law and permitted by the System, being paid or with entitlement to the future payment of a retirement benefit or a return of contributions on account of a reason other than membership in the System.

(5) "Board" means the Retirement Board.

(6) "Break in membership" means that period of time immediately following the date on which a member has terminated his/her covered employment with a participating municipality or court during which the member is not employed by any participating municipality or court.

(7) "Certification date" means August 15, 1996. [MCL 38.1502a(1)].

(8) "Chief judge" means the chief judge of a judicial circuit court, a judicial district court, or a judicial probate court as provided in the Revised Judicature Act of 1961, MCL 600.101 to 600.9948. [MCL 38.1502a(2)].

(9) "Child" means a dependent child who is the natural child or adopted child of a member, except as otherwise provided by regulation or guidance, including, but not limited to, the final regulations relating to required minimum distributions from qualified plans..

(10) To “close” an employee division or Plan means to maintain an employee division or Plan exclusively for current and former members/participants or retirees of that employee division or Plan, with benefit accruals and additions continuing for current members/participants, but with no new members/participants being enrolled by virtue of new hire, rehire or transfer into that closed division or Plan, under such terms and conditions as the System shall require.

(11) “Conversion” means the conversion of past benefits of current members/participants of a closed or frozen employee division/Plan into benefits under the employee division/plan to which closed or frozen employee division/Plan has been closed/frozen, under such terms, conditions, limitations and actuarial requirements provided by this Plan, and policies and procedures adopted by the Board or the System.

(12) “Deemed IRA” means a Deemed Roth IRA and/or a Deemed Traditional IRA.

(13) “Deemed Roth IRA” means an individual retirement account described in IRC Section408A maintained by the System on behalf of a participant or beneficiary.

(14) “Deemed Traditional IRA” means an individual retirement account described in IRC Section 408 maintained by the System on behalf of a participant or beneficiary.

(15) “Defined Contribution,” “DC,” or “DC Program” means the Defined Contribution Plan established under Article IV, or the Defined Contribution component of the Hybrid Plan established under Article V.

(16) “Direct rollover” means a distribution of a benefit payable by the System that is paid to an eligible retirement plan specified by the distributee.

(17) “Distributee” is an individual who has received, is receiving or will receive a benefit from the System. Distributee can include members, vested former members, a member’s or vested former member’s surviving spouse or the member’s or vested former member’s spouse or former spouse under a domestic relations order, with regard to the interest of the spouse or former spouse. Effective July 15, 2009, a distributee can also include a nonspouse beneficiary who is a designated beneficiary as defined by Section 401(a)(9)(E) of the IRC.

(18) “Eligible retirement plan” means, effective January 1, 2002, except as otherwise provided in this subsection, the following types of plans established under the listed sections of the IRC:

(a) A qualified trust described in Section 401(a);

(b) An annuity plan described in Section 403(a);

(c) A tax-sheltered annuity described in Section 403(b);

(d) An individual retirement account described in Section 408(a);

(e) An individual retirement annuity described in Section 408(b);

(f) A Roth IRA individual retirement account described in Section 408A; and

(g) A deferred compensation plan under Section 457(b) that is maintained by a state, or an agency or instrumentality of a state, a political subdivision of a state, or an agency or instrumentality of a political subdivision of a state,

that accepts the distributee's eligible rollover distribution. In the case of an eligible rollover distribution payable to a nonspouse beneficiary on and after July 15, 2009, "eligible retirement plan" means an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and such account or annuity will be designated as an "inherited" individual retirement account or annuity.

(19) "Eligible rollover distribution" means, effective January 1, 2002, a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:

(a) A distribution made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary.

(b) A distribution for a specified period of 10 years or more.

(c) A distribution to the extent that the distribution is required under Section 401(a)(9) of the IRC.

(d) The portion of any distribution that is not includable in federal gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities; provided, that any portion of a distribution that is not included in federal gross income may be an eligible rollover distribution for purposes of a rollover to: (1)(i) an eligible retirement plan listed in subsection (18)(a) or (b) provided that the plan is a defined contribution plan that will separately account for the distribution, including the taxable and non-taxable portions of the distribution, and that the rollover is a direct trustee-to-trustee transfer, and (ii) beginning January 1, 2007, an eligible retirement plan listed in subsection (18)(a) that is a defined benefit plan or (18)(c) provided that the plan will separately account for the distribution, including the taxable and non-taxable portions of the distribution, and that the rollover is a direct trustee-to-trustee transfer, or; (2) an eligible retirement plan listed in subsection (18)(d) or (e), or; (3) beginning January 1, 2008, an eligible retirement plan listed in subsection (18)(f).

(20) "Employee contribution," "member contribution" and "participant contribution" mean a contribution described under this Plan that is made either voluntarily or mandatorily by or on behalf of an employee, member or participant, on either a pre-tax or a post-tax basis, as set out herein.

(21) "Employee division" means a grouping of employees established by the employer. An employer may establish one or more than one employee division.

For purposes of the Defined Benefit Plan and the Defined Benefit Component of the Hybrid Plan, an employee division shall share contribution and benefit features, for which the System establishes a bookkeeping entry in the reserve for employer contributions

corresponding to such employee division to determine contributions (plus/less investment gains or losses, and less administrative expenses) for purposes of actuarially tracking amounts due for benefits owed to the employees of such employee division.

For purposes of the Defined Contribution Plan and the Defined Contribution Component of the Hybrid Plan, an employee division shall share benefit features including, but not limited to, normal retirement age, vesting requirements and the availability of loans. An employer may establish employee classifications within an employee division that share contribution types and rates, definitions of compensation and other features.

(22) "Fiscal year" means the twelve-month period selected by the participating municipality, participating court or the System, as specified, for purposes of its budgeting, financial forecasting and financial reporting.

(23) "Former member" and "former participant" means an individual who was formerly included in the membership of the System as a municipal employee or judicial employee, as determined by the System [MCL 38.1502b(1)], but is no longer so included.

(24) To "freeze" an employee division or Plan means to maintain an employee division or Plan exclusively for current and former members/participants and retirees of that employee division or Plan, with the complete cessation of benefit accruals (and, in the case of the Defined Benefit Plan or the Hybrid Plan Defined Benefit Component, no changes to the determined final average compensation after the date of the freeze), and with no new members/participants being enrolled into the frozen employee division or Plan by virtue of new hire, rehire or transfer, under such terms and conditions as the System shall require. Current members/participants shall be credited with continuous vesting service solely for the purposes of satisfying vesting and eligibility requirements. However, upon the cessation of service credit for benefit accrual purposes, no further service in the frozen employee division of Plan for the participating employer performed after a freeze shall be recognized for purposes of combining service under Section 17.

(25) "Governing body" means the representative legislative body of a municipality, or the administrative board or commission of a public corporation or instrumentality that does not have a representative legislative body. [MCL 38.1502a(3)].

(26) "Hybrid" or "Hybrid Program" means the Hybrid Plan established under Article V.

(27) "Internal Revenue Code" or "IRC" means the United States Internal Revenue Code of 1986, as it may be amended from time to time.

(28) "Judicial circuit court" means a judicial circuit of the circuit court as provided in Section 11 of Article VI of the State Constitution of 1963. [MCL 38.1502a(4)].

(29) "Judicial district court" means a judicial district of the district court as provided in Section 8101 of the Revised Judicature Act of 1961, MCL 600.8101. [MCL 38.1502a(5)].

(30) "Judicial employee" means an individual who is employed by and paid compensation for personal services rendered to a participating court. Judicial employee does not include anyone who is a municipal employee under subsection (31) or anyone who is specifically excluded as a municipal employee under subsection (31).

(31) "Judicial probate court" means a county probate court or probate court district as provided in Section 15 of Article VI of the State Constitution of 1963. [MCL 38.1502a(6)].

(32) "Limitation year" means, for purposes of Section 415 of the IRC, the calendar year.

(33) "Member," "active member," "participant" and "active participant" means a municipal employee or a judicial employee who is included in the membership of the System as determined by the System. [MCL 38.1502b(1)]. With respect to the Defined Contribution Plan under Article IV and the Defined Contribution Component of the Hybrid Plan under Article V, "participant" also means an employee or former employee with a participant account balance who participates in the Plan. In addition, "participant" for purposes of the Deemed IRAs means any individual who is or was employed by a municipality as defined in subsection (36) of this Section 2, and who establishes a Deemed IRA under Article VIII. A participant under the Deemed IRAs shall continue to be a participant until all benefits to which he or she is entitled under Article VIII have been paid.

(34) "Membership" shall mean the period of time during which a member accrues service based on covered paid employment during which personal services are rendered to a municipality or a court while it is a participating municipality or a participating court.

(35) "Municipal employee" means an individual who is employed by and paid compensation for personal services rendered to a participating municipality. Municipal employee does not include any of the following:

(a) An individual who is employed on a basis that exempts the participating municipality from the withholding provisions of the IRC, or who is compensated solely on a fee basis.

(b) An individual who was an active member as of January 1, 1983 of the State of Michigan Probate Judges Retirement System created by the former Probate Judges Retirement Act, being MCL 38.901 to 38.933 and who continued in service as a probate judge under the successor act, the Judges' Retirement Act of 1992, MCL 38.2101 to 38.2670.

(c) An individual who is, on the effective date of the municipality's or court's participation under this Plan or the predecessor Act, a member of another retirement system that is sponsored by the participating municipality or court if that individual remains as a member of the other retirement system.

(36) "Municipality" means 1 or more of the following:

(a) A county, county road commission, city, village, or township.

(b) A public corporation or instrumentality established by 1 or more counties, cities, villages**,** or townships.

(c) A public corporation or instrumentality charged by law with the performance of a governmental function and whose jurisdiction is coextensive with 1 or more counties, cities, villages, or townships.

(d) A political subdivision located in this state or located in this and another adjacent state of the United States including, but not limited to, the entities named in subdivision (a), (b), or (c), or any combination of these units.

(e) A political subdivision located in this state and a metropolitan government borough, or other political subdivision of the province of Ontario, an agency of the United States, or a similar entity of adjacent states of the United States and the province of Ontario.

(f) A state university, community college, or junior college whose employees are not public school employees who are members under the Public School Employees Retirement Act of 1979, MCL 38.1301 et seq.

(g) Any municipal corporation as defined in Section 1 of MCL 124.1, or other governmental entity that is eligible to join the System and participate in any program under this Act, as determined by the Retirement Board.

[MCL 38.1502b(2)]

(37) "Optional freeze" means, for current members/participants of a closed employee division or Plan who so elect in the time and manner required by the System, the complete cessation of benefit accruals and termination of coverage under the closed employee division or Plan (including, in the case of the Defined Benefit Plan or the Hybrid Plan Defined Benefit Component, no change to the determined Final Average Compensation after the effective date of their optional freeze election), and commencement of benefit accrual under the terms of the employee division or plan to which the closed employee division was closed, under such terms and conditions as the System shall require. Current members/participants of a closed employee division who are offered and timely elect an optional freeze to a MERS Defined Benefit, Defined Contribution or Hybrid Plan shall be credited with continuous service credit, solely for the purposes of satisfying vesting and eligibility requirements, with respect to their now-frozen benefit as they accrue service credit under the employee division in the MERS Defined Benefit, Defined Contribution or Hybrid Plan into which such current members/participants have elected to enroll. However, upon the cessation of service credit for benefit accrual purposes, no further service in the frozen employee division or Plan for the participating employer performed after a freeze shall be recognized for purposes of combining service under Section 17. If any, the mandatory employee contribution rate in the closing employee division(s)/Plan must be identical to the mandatory employee contribution rate in the plan to which the closing division(s)/Plan is closing in order for an optional freeze to be elected.

(38) "Participating court" means a judicial circuit court, a judicial district court, or a judicial probate court that has elected to be governed by the provisions of this Plan Document. [MCL 38.1502c(1)].

(39) "Participating employer" means a participating municipality or a participating court.

(40) "Participating municipality" means a municipality that has elected to be governed by the provisions of this Plan Document and has signed an Adoption Agreement. Two or more municipalities may enter into an agreement with each other and the System to participate as a combined unit. [MCL 38.1502c(2)].

(41) "Plan year" means the twelve-month period beginning on January 1 and ending on December 31.

(42) "Prior service" means a member's accrued service with a municipality or a court (circuit, district, or probate) prior to the date the municipality or court became a participating municipality or court.

(43) "Qualified military service" means any service in the uniformed services as defined in Uniformed Services Employment and Reemployment Rights Act of 1994, as such act may be amended from time to time, and as codified in IRC Section 414(u) ("USERRA"), by any individual if such individual is entitled to reemployment rights with respect to such service.

(44) "Required beginning date" means, for all purposes except deemed IRAs, April 1 of the calendar year following the later of the calendar year in which the member or vested former member attains the applicable age or the calendar year in which the member or vested former member retires. For purposes of deemed IRAs, required beginning date means April 1 of the calendar year following the calendar year in which the participant attains the applicable age. For purposes of this definition, Deemed IRAs, and compliance with IRC Section 401(a)(9) and Treasury Regulations, the "applicable age" means:

(a) age 70½ (if the member/participant or vested former member was born before July 1, 1949),

(b) age 72 (if the member/participant or vested former member was born on or after July 1, 1949 but before January 1, 1951),

(c) age 73 (if the member/participant or vested former member was born on or after January 1, 1951 but before January 1, 1960),

(d) age 75 (if the member/participant or vested former member was born on or after January 1, 1960; or

(e) other applicable age as set forth under the IRC Section 401(a)(9)(C)(v).

(45) "Retire" means for an employee to stop performing all services for his/her employer with the intention that such termination is permanent, and there exists no understanding between the employer and employee that the employee will return to service with the employer. For an employee to "retire," there must be a bona fide termination of employment in which the employer/employee relationship is completely severed. For purposes of this Plan, eligibility for participation in the Judges Retirement System as provided for in the Michigan Judges Retirement Act, MCL 38.2101 et seq., as amended, shall constitute a bona fide termination of employment.

(46) "Retiree" means, for purposes of the Defined Benefit Plan and the Hybrid Plan, an individual who is being paid a retirement allowance on account of the individual's membership in the Retirement System and, for purposes of the Defined Contribution Plan, a participant or former participant who has separated from service with the participating municipality or court on or after attaining normal retirement age.

(47) "Retirement allowance" means an annual amount determined under the terms of the Defined Benefit Plan or the Defined Benefit component of the Hybrid Plan Sections of the Plan Document in effect at the time of retirement, payable to a retiree in monthly installments, by the System.

(48) "Retirement benefit" means a retirement allowance or refund of accumulated contributions (for purposes of the Defined Benefit Plan and the Defined Benefit portion of the Hybrid Plan), or distribution of accumulated balance (for purposes of the Defined Contribution Plan and the Defined Contribution portion of the Hybrid Plan) payable to a retiree. The term does not include any post-retirement or other ancillary benefit or payment, which may become available under the Plan Document or the Retirement System.

(49) "Retirement Board" means the retirement board provided for in Section 71 to administer the System. [MCL 38.1502c(4)].

(50) "Retirement System" or "System" or "MERS" means the Municipal Employees' Retirement System of Michigan, established, continued and restated by the legislature, and this Plan Document on and after the certification date. [MCL 38.1502c(5)].

(51) "Service credit qualification" means the minimum number of hours in a calendar month that a member must work or for which a member is paid without working (under paid time off arrangements occurring during the period in which the member is an active member, such as for vacation and/or sick days) in order to accrue service credit for such month under the Defined Benefit plan and Defined Benefit Component of the Hybrid Plan, as specified by the participating municipality or court in its Adoption Agreement(s).

(52) "Surplus division" means a classification established by or for a participating municipality or court in the Defined Benefit Plan to receive employer contributions the participating municipality or court may make in excess of amounts actuarially required, designated for the surplus division, and for which the System establishes a bookkeeping entry in the reserve of employer contributions corresponding to such employer contributions made in excess of amounts actuarially required (plus/less investment gains or losses, and less administrative expenses) for purposes of tracking the participating municipality or court's overall funding level. A participating municipality or court or the System may establish one or more than one surplus division, and may designate such surplus division(s) as being associated exclusively with a designated employee division(s).

(53) "Vested former member," "vested former participant," "deferred vested member" and "deferred vested participant" mean a former member/former participant who has met the vesting requirements of Section 21 or Section 53, as applicable.

(54) "Voluntary employee contribution" means any contribution (other than a mandatory contribution within the meaning of IRC Section 411(c)(2)) that is made by the participant and which the participant has designated, at or prior to the time of making the contribution, as a contribution to which Article VIII applies.

(55) "Written" or "writing" shall also include electronic transmissions, provided that the electronic format has verification and authentication protocols that comply with Uniform Electronic Transaction Act, Act 305 of 2000, Michigan Compiled Laws Section 450.831 et seq., or any other similarly secure and verifiable method of communication that the System

shall authorize. Notwithstanding anything to the contrary herein, “written” or “writing” shall not include transmission of information by electronic mail or any form of text messaging.

ARTICLE II – GENERAL PROVISIONS

Sec. 3. Plan Provisions of General Application.

Except as otherwise provided in this Article or Plan Document, the provisions of this Article apply to all benefit plans.

Sec. 4. Election to Become a Participating Municipality; Adoption of Plan; Establishment of Benefit and Contribution Programs; Requirements.

(1) A municipality may elect to become a participating municipality by

(a) an affirmative vote by a majority of the members on the municipality's governing body,

(b) an affirmative vote by the qualified electors of the municipality, or

(c) by resolution of the joint board or commission of the municipalities that are required by law to fund the participating municipality if those municipalities have entered into a contract to transfer functions and responsibilities pursuant to MCL 124.531 to 124.536.

The governing body of the municipality must approve and execute the Adoption Agreement and any other agreements that may be required by the System. All employees of a municipality who are in the same employee division (or, if applicable, the same employee classification of such employee division) shall be covered by the same plan and benefit programs. All employees of a participating municipality who are in the same employee division (or, if applicable, the same employee classification of such employee division) shall be covered by the same contribution program.

(2) The clerk or secretary of the municipality shall certify to the System, in the manner and form prescribed by the Retirement Board, the election of the municipality to participate in the System. The certification shall be made within 10 days from the date of the vote by the governing body or the date of the canvass of votes of the qualified electors.

(3) A municipality (or, if the municipality seeks to adopt MERS for a specific unit of employees, such unit) shall not become a participating municipality unless, on the effective date of participation, 10% or more of all employees of the municipality or unit are included as members of the System. However, a municipality that includes less than 10% of all municipal employees or unit as members of the System under this Plan may participate if the municipality has elected to include in System membership all employees first hired or rehired after the effective date of the municipality's participation.

(4) The participating municipality shall certify to the System, in writing, the amount of prior service, if any, to be credited each member in its employ. The participating municipality or court may limit the period of certified prior service to either a percentage of members’ total period of prior service or a maximum number of years. The participating municipality shall specify for what purposes prior service is recognized (for purposes of

vesting credit only, vesting credit with or without benefit credit, and with or without eligibility credit for purposes of unreduced early retirement benefits). Certification of prior service shall be made prior to the retirement of a member, in the form and at the time prescribed by the Retirement Board. Prior service credit shall not be recognized for the purpose of calculating a retirement allowance under this Plan unless all of the following requirements are met:

(a) The participating municipality transfers to the System assets equal to the amount set forth under the MERS' Actuarial Policy. Should assets actually transferred be less than the amount required by the MERS' Actuarial Policy, then all prior service shall be recognized in strict proportion to the assets transferred.

(b) Unfunded actuarial accrued liabilities, if any, shall be funded over the period required by MERS' Actuarial Policy, as amended.

(c) In the event of any alteration of this subsection through collective bargaining, MERS prior service shall not be recognized, other than in accordance with this subsection.

Sec. 5. Election to Become a Participating Court; Adoption of Plan; Establishment of Benefit and Contribution Programs; Requirements.

(1) A judicial circuit, district , or probate court may elect to become a participating court by administrative order of the court's chief judge that is concurred in by resolution of the governing bodies of the municipalities that are required by law to fund the circuit, district, or probate court, or by resolution of the joint board or commission of the municipalities that are required by law to fund the relevant court if those municipalities have entered into a contract to transfer functions and responsibilities pursuant to MCL 124.531 to 124.536. The chief judge must approve and execute the Adoption Agreement and any other agreements that may be required by the System. All employees of a participating court who are in the same employee division (or, if applicable, the same employee classification of such employee division) shall be covered by the same plan and benefit program. All employees of a participating court who are in the same employee division (or, if applicable, the same employee classification of such employee division) shall be covered by the same contribution program.

(2) The chief judge of the circuit, district, or probate court shall certify to the System, in the manner and form prescribed by the Retirement Board, the election of the court to participate in the System. The certification shall be made within 10 days after the date of concurrence of the governing bodies of the municipalities that are required by law to fund the court or the joint board or commission of the municipalities that are required by law to fund the court.

(3) A court (or, if the court seeks to adopt MERS for a specific unit of employees, such unit) shall not participate in the System unless, on the effective date of participation, 10% or more of all employees of the court or unit are included as members of the System. However, a court that includes less than 10% of all court employees or unit as members of the System under this Plan may participate if the court has elected to include in System membership all employees first hired or rehired after the effective date of the court's participation.

(4) The participating court shall certify to the System, in writing, the amount of prior service, if any, to be credited each member in its employ. The participating court may limit the period of certified prior service to either a percentage of members' total period of prior service or a maximum number of years. The participating court shall specify for what purposes prior service is recognized (for purposes of vesting credit only, vesting credit with or without benefit credit, and with or without eligibility credit for purposes of unreduced early retirement benefits). Certification of prior service shall be made prior to the retirement of a member, in the form and at the time prescribed by the Retirement Board. Prior service credit shall not be recognized for the purpose of calculating a retirement allowance under this Plan unless all of the following requirements are met:

(a) The participating court transfers to the System assets from the preceding qualified plan and/or other source equal to the amount set out in the Actuarial Policy. Should assets actually transferred be less than the amount required by the Actuarial Policy, then all prior service shall be recognized in strict proportion to the assets transferred.

(b) Unfunded actuarial accrued liabilities, if any, shall be funded over the period required by MERS' Actuarial Policy, as amended.

(c) In the event of any alteration of this subsection through collective bargaining, MERS prior service shall not be recognized, other than in accordance with this subsection.

Sec. 6. Membership.

(1) Plan Eligibility.

(a) Municipal employees and judicial employees of a participating municipality or court who are included in an employee division established by such participating municipality or court, and are not excluded from membership pursuant to subsection (c) below in the participating municipality's or court's Adoption Agreement(s) are eligible to become members of MERS. Municipal employees and judicial employees of a participating municipality or court who are not included in an employee division established by such participating municipality or court, or who are excluded from membership pursuant to subsection (c) below, shall not be eligible to become members of MERS. Compensation as defined by the participating municipality's or court's Adoption Agreement(s) and paid to all municipal employees and judicial employees described above must be reported to MERS for purposes of the Defined Benefit Plan and the Defined Benefit Component of the Hybrid Plan.

(b) Participating municipalities or courts shall indicate on their Adoption Agreement(s) whether an employee division includes public safety employees (which may include law enforcement, firefighters, emergency responders, corrections officers, and other classifications as determined by the System), to facilitate actuarial valuation.

(c) Participating municipalities or courts may specify that one or more of the following exclusions from membership applies to one or more employee divisions established in their Adoption Agreement(s):

(i) Temporary employees, defined as employees who work for the participating municipality or court fewer than the number of months in total specified in the Adoption Agreement(s). If a temporary employee is subsequently engaged by the participating municipality or court as a permanent employee in an employee division established by such participating municipality or court, such employee will become a member of MERS commencing on the earlier of (1) the first day of the month following the end of the temporary employment period specified in the Adoption Agreement(s), or (2) the date of such change of status.

(ii) Part-time employees, defined as employees who regularly work for the participating municipality or court fewer than the number of hours per day, week, month or year specified in the Adoption Agreement(s).

(iii) Seasonal employees, defined as employees who regularly work for the participating municipality or court during only limited months of each year as specified in the Adoption Agreement(s).

(iv) Voter-elected officials or officials appointed to voter-elected offices.

(v) Contract employees.

(vi) Probationary employees, defined as employees who have not satisfied the probationary period established by the participating municipality or court. The probationary period shall be a whole number of months following an employee's date of hire, not to exceed 12 months, as specified in the Adoption Agreement(s). No additional probationary period shall be imposed in the case of a participant who is transferred from one employee division to another employee division of the same participating municipality or court.

For purposes of the Defined Benefit Plan and the Defined Benefit component of the Hybrid Plan, during the probationary period, the participating municipality or court will not be required to submit reports regarding a probationary employee, and neither benefit nor vesting and eligibility credit shall be granted during the probationary period. Plan eligibility and participation for an employee who completes a probationary period shall commence on the day following the date on which their probationary period ends.

For purposes of the Defined Contribution Plan and the Defined Contribution component of the Hybrid Plan, during the probationary period, probationary employees shall be participants solely for purposes of the accrual of vesting service and for the System's acceptance of eligible rollover distributions on behalf of the probationary employee. The participating municipality or court shall not be required to submit either employer or employee contributions during the probationary period on behalf of the probationary employee. The participating municipality or court shall report the probationary employee's date of hire to the System.

At the end of their probationary period, all regular contribution submission and reporting shall commence.

Municipal or judicial employees described by one or more exclusions listed above that a participating municipality or court has elected in the Adoption Agreement(s) with respect to an employee division to which such employees would otherwise belong are not included for any purpose in such employee division, and they shall not become members, nor earn service credit or eligibility credit, irrespective of whether they work the number of hours that would otherwise have fulfilled the applicable service credit qualification for that employee division for one or more month(s).

(2) Membership shall:

(a) Include a circuit, district or probate judge first elected or appointed before March 31, 1997, who was a MERS member (including a non-vested member, a deferred vested member or a retiree) on that date, and who had elected with the Judges Retirement System to not participate in Tier 2 for the local (indirect, non-State) paid compensation reported to MERS by the member's participating municipality or court.

(b) Exclude a circuit, district or probate judge first elected or appointed on or after March 31, 1997, who participates exclusively in Tier 2 of the Judges Retirement Act of 1992, MCL 38.2101 to 38.2670, and such judge shall not be a member of MERS for such judicial service. Where a judge has elected to not participate (or discontinue participation) in Tier 2 pursuant to Section 712 of the Judges Retirement Act, MCL 38.2662, the judge shall remain or become a MERS member if the judge would otherwise be a MERS member, but for the judge's Tier 2 eligibility. If the judge opts out of Tier 2, then "compensation" reportable to MERS:

(i) For a circuit or district judge shall include indirect salary only paid to the judge by the participating municipality or court; or

(ii) For a probate judge, shall include direct and indirect "salary" paid to the judge by the MERS-participating County as provided in the Revised Judicature Act, Section 821; MCL 600.821.

(3) A member shall become a former member upon the earliest of the following to occur:

(a) Termination of employment with his/her participating municipality or court, or

(b) Transfer to a status that is not included in any employee division, or to a status that is excluded from the employee division to which the member would otherwise belong, as the participating municipality or court has adopted with respect to the member's employee division pursuant to subsection (1)(c) above.

A member who has been laid off by a participating municipality or court and whose layoff status continues for a period of at least 30 days may make written request to the System for a return of the member's accumulated contributions pursuant to Section 42.

(4) A member who is transferred to the employ of the state, another municipality, or another circuit, district, or probate court (or similar court, comprised of any combination of the courts mentioned, such as a family court, or trial court) by reason of a function of the member's participating municipality or court being transferred to the state, the other municipality, or the other circuit, district, probate, or similar court, shall remain a member of this System, notwithstanding subsection (3), subject to the following conditions:

(a) Service rendered to the state, the other municipality, or the other circuit, district, probate, or similar court subsequent to the transfer and standing to the member's credit in a retirement system of the state, the other municipality, or the other circuit, district, probate or similar court, may be combined with the member's credited service in this System. The combined credited service may be used only for eligibility for meeting the credited service requirements for retirement or survivor benefits of this System, and not for benefit credit.

(b) The amount of a retirement allowance that may become payable by this System shall be computed on the basis of the member's credited service and final average compensation, and the benefit program applicable to the member, at the time of the member's transfer of employment.

(c) The member may not retire prior to termination of all employment with the state, the other municipality, or the other circuit, district, probate, or similar court.

(5) Continuity upon Transfer/Rehire.

(a) Unless the participating municipality or court has made the election set out in subsection (b), if a participating municipality or court transfers a member from one employee division to another employee division, or rehires a former member, and enrolls the member/rehired former member in an employee division, the member/rehired former member shall be enrolled in the open Plan(s) of the employee division in which they are transferred or rehired.

(b) Alternatively, if the participating municipality or court elects a plan continuity provision (formerly known as an alternate transfer provision), in the manner and on a form provided by the System, the following rules shall apply:

(i) If there is an open and/or a closed Plan provided under the employee division to which the member is transferred or to which the former member is rehired that is of the same type in which the member was enrolled prior to the member's transfer or in which the rehired former member was enrolled in the prior employment, the member/rehired former member shall be enrolled in the open Plan of the same type, if available, or the closed Plan of the same type, if not.

(ii) If there is neither an open nor a closed Plan provided under the employee division to which the member is transferred or to which the former member is rehired that is of the same type in which the member was enrolled prior to the member's transfer or in which the rehired former member was enrolled in the prior employment, the member or rehired former member shall be enrolled in that employee division's open Plan.

(c) Nothing in the foregoing shall be construed to change the additional requirements of Section 9 with respect to rehired retirees.

(6) Notwithstanding anything to the contrary herein, no reemployed retiree as described in Section 9 shall become a member of the System based upon such reemployment for any purpose except as provided under Section 9(2)(b).

Sec. 7. Reciprocal Retirement Act; Retroactive Application.

A participating municipality or court which has adopted the provisions of the Reciprocal Retirement Act, MCL 38.1101 to 38.1106 ("Act 88"), by resolution of its governing body or administrative order of the chief judge, may make such provisions applicable to former members who left the employ of the participating municipality or court before the date the participating municipality or court elected to come under such provisions. The resolution or administrative order shall specify the date of termination, on or after which former members may be eligible. Service shall not be recognized unless the member repays the System any withdrawn accumulated contributions applicable to such service, plus regular interest as determined by the System from the date of withdrawal to the date of repayment. The amount shall be repaid within 2 years after the participating municipality or court has adopted Act 88.

Sec. 8. Military Service.

A member who leaves the employ of a participating municipality or court because of qualified military service in the uniformed services of the United States, and is reemployed by the same participating municipality or court after completion of the qualified military service, shall be treated as receiving compensation from the employer during such period of qualified military service equal to (i) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service, or (ii) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service) within the time limits specified under USERRA. If a member or former member dies while performing qualified military service, the member's or former member's beneficiary shall be entitled to any benefits (including employer contributions relating to the period of qualified military service), and the rights and features associated with those benefits, that would have been provided if the member or former member had been reemployed by a participating municipality or court and died while an active eligible member. (IRC Section 401(a)(37), as amended from time to time.)

For members of a Defined Benefit Plan employee division that requires mandatory employee contributions, if a member who was a servicemember returns to covered employment within the time frame provided under USERRA, the missed mandatory employee contributions may be made up in one of the following three ways, at the participating employer's election, to be applicable to all similarly situated members:

(1) The member will be permitted to choose to remit some or all missed mandatory employee contributions within a time period equal to three times the duration of the military service from the date of reemployment, but not to exceed five years, and years of service credit shall be granted in proportion to the employee contributions received.

(2) The participating employer shall remit an additional employer contribution equal to the sum of the missed mandatory employee contributions due to military service.

(3) Additional liability for the missed mandatory employee contributions shall be reflected in the participating employer's overall liability in the next annual actuarial valuation and thereafter.

In the absence of an affirmative election by the participating employer, the default method shall be that set out in subsection (3) above.

Sec. 9. Reemployment of Retiree by Participating Municipality or Court.

(1) Retirement benefits paid to any retiree who is employed by a different participating municipality or court than the one from which the retiree retired shall not be affected by such employment.

(2) The following conditions shall apply if a retiree is employed in any capacity (including being retained as an independent contractor or leased employee) by the same participating municipality or court from which the retiree retired (except during any period of reemployment during which the retiree is eligible to participate in the Judges Retirement System as provided for in the Michigan Judges Retirement Act, MCL 38.2101 et seq., as amended):

(a) Reporting Requirements.

(i) A participating municipality or court that reemploys a retiree shall include in the monthly wage and service reports to the System the hours of service for such reemployed retiree, except that such requirement shall not apply in the case of a reemployed retiree who is elected, re-elected, appointed or re-appointed to elective office.

(ii) A reemployed retiree shall file a certification form with the System, in the form and manner provided by the System, prior to the date of reemployment, acknowledging that the retiree retired, as defined in Section 2(45), and that there existed no pre-retirement agreement or understanding regarding any resumption of the provision of services by the retiree for the participating municipality or court.

(b) No reemployed retiree shall become a member or participant of, or accrue service or vesting/eligibility credit under, the Defined Benefit Plan or the Hybrid Plan based upon such reemployment. A reemployed retiree shall become a participant in the Defined Contribution Plan if the Defined Contribution Plan is an open plan of the employee division to which the reemployed retiree belongs, and upon meeting all applicable eligibility requirements for enrollment.

(c) For a Defined Benefit Plan or Hybrid Plan retiree (including a disability retiree on and after attainment of normal or unreduced early retirement age), the following additional conditions and rules shall apply:

(i) A retiree who retired as a voter-elected official or an appointed official (defined as an official appointed to an elective office) who is then

A. elected, re-elected, appointed, or re-appointed to the same elective or appointed office (whether in a new term of office or not) shall have their pension suspended during service in such office and shall repay to the System all benefits paid during such period of reemployment, unless at least twenty-four calendar months elapsed between the date the retiree retired, and the date the retiree was elected, re-elected, appointed, or re-appointed to the same elective or appointed office (whether in a new term of office or not).

B. employed in any other capacity (elective, appointive (as long as it is not the same elective or appointed office), or otherwise) shall have their pension suspended during service in such office or other employment and shall repay to the System all benefits paid during such period of reemployment, unless at least 60 days elapsed between the date the retiree retired and the date the retiree was reemployed.

(ii) A retiree who retired from a position not described in subsection (i) above shall have their pension suspended during any period(s) of reemployment (including both reemployment either as an elected or appointed official and reemployment in any other capacity) and shall repay to the System all benefits paid during such period of reemployment, unless at least 60 calendar days elapsed between the date the retiree retired and the date the retiree was reemployed.

(iii) Any retiree, except a retiree who is elected, re-elected, appointed or re-appointed to an elective office, who works in excess of 1,000 hours in any calendar year shall have his/her pension suspended during any period(s) of future reemployment. For retirees who retired between January 1, 2011 and January 1, 2016, the 720 hours per calendar year limitation that was previously in effect under the terms of the Plan Document at that time is replaced with the 1,000 hours per calendar year limitation above. Subject to the foregoing exception, for retirees who retired prior to January 1, 2016, the terms of the Plan Document in effect at the time of their retirement with respect to reemployment shall control.

(iv) For a retiree whose benefit has been suspended, upon the System's receipt of notification by the participating municipality or court from which the retiree retired that the retiree has terminated service or reemployment described in this subsection (c), monthly pension payments shall resume the first day of the month following such termination of service or employment without change in amount, and no payment for any amount of the suspended benefit shall accrue, be due or otherwise be made by the System.

(d) For a Defined Contribution Plan retiree, at least 60 days must elapse between the date of termination of employment and the date on which the retiree returns

to employment by the same participating municipality or court from which the retirement occurred.

(3) The provisions of this Section constitute Board action in its exclusive capacity of fiduciary and trustee for the System and all MERS trust assets, as provided in MCL 38.1536(2)(a) and 38.1539(1); Plan Sections 71(1)(a) and 76(1). In the event of any alteration of this Section through collective bargaining, MERS shall not recognize such action, other than in accordance with this Section.

(4) For retirees with an effective date of retirement between January 1, 2020 and April 1, 2020, the requirement of this Section 9 that at least 60 days elapse between the date the retiree terminated employment and retired (as that term is defined in Section 2(45)), and the date the retiree was reemployed by the same participating municipality or court is waived. Also, for retirees with an effective date of retirement after January 1, 2020, the hours limitations of subsection (2)(c)(iii) of this Section 9 are waived from January 1, 2020 through December 31, 2027. Further, for retirees with an effective date of retirement prior to January 1, 2020, the hours limitations of subsection (2)(c)(iii) of this Section are waived from June 1, 2023 through December 31, 2027. Nothing in this subsection (4) shall be construed as a waiver of the requirement that there be a bona fide termination of employment in which the employer/employee relationship is completely severed as a condition of retirement.

Sec. 10. Prohibition on Assignment and Alienation; Exceptions; Employer Transfer to Another System; Member Transfers to Repay Refunded Contributions or Purchase Service.

(1) The accrued financial benefits of the System, eligibility for and amount of accrued retirement allowances, accumulated contributions, accrued account balances, and other financial rights arising from any of these is not subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever and are unassignable and inalienable except as provided in the exceptions and limitations included in the Public Employee Retirement Benefit Protection Act, MCL 38.1681 et seq.

(2) Nothing in this Section 10 shall be interpreted to prevent the System from offsetting any overpayments made by the System to a retiree or beneficiary against future payments due to the same individual, or from collecting overpayments made on behalf of a participant to a non-participant, on the condition that such offsets or collections shall not exceed the amount of the overpayments with interest.

(3) A transfer of money and assets to another retirement system authorized by a municipality's governing body or chief judge of a participating court is not a violation of this Section.

(4) A transfer by a member of all or part of his or her account balance for the purpose of repaying accumulated contributions previously distributed to the member under Section 16(4)(b), or purchasing qualifying governmental or generic credited service under Sections 18 or 19, respectively, is governed exclusively by this subsection (4).

(a) Subject to any limitations or conditions imposed by law, a member may elect to have any portion of his or her account balance transferred to the MERS Defined

Benefit Plan from any MERS or non-MERS plan maintained by the member's employer that is a (i) tax-qualified defined contribution plan or (ii) governmental 457(b) plan. The transfer must be permitted under the plan from which the transfer will originate.

(b) An election to transfer an account balance described in this Section may be made only for (i) the repayment of accumulated contributions previously paid to the member pursuant to Section 16(4)(b), or (ii) the purchase of permissive service credit (as defined in IRC Section 415(n)(3)(A)), pursuant to Section 18 or 19. The transfer amount shall not exceed the amount required by the System in order to repay contributions or for service credit to be granted.

Sec. 11. Termination of Participation by Participating Municipality or Court; Effect of Termination; Disposition of Assets and Liabilities; Restrictions.

(1) Termination of Participation.

(a) The termination of a municipality's or court's participation in the System results in the cessation of benefit and eligibility accruals by the municipality's or court's employees in the Defined Benefit Plan, Defined Contribution Plan, and Hybrid Plan. A termination of participation occurs under any of the following circumstances:

(i) The participating municipality or court elects to terminate participation in the System for all divisions of a plan or plans by two-thirds vote of the members of the governing body of the participating municipality, or by administrative order of the chief judge and two-thirds vote of the members of the governing body of each of the municipalities required by law to fund the participating court, and by meeting all applicable requirements set forth the Termination Policy and Procedure adopted by the Retirement Board, as may be amended, for a transfer of assets, liabilities and fiduciary duties to an IRC Section 401(a) tax-qualified plan. Each governing body shall introduce a resolution to that effect at a regularly scheduled meeting and shall not vote on the resolution before its next regularly scheduled meeting. For the defined benefit plan or the Hybrid Plan Defined Benefit Component, the transfer amount shall be as set forth in a termination valuation conducted by the System's actuary. For the defined contribution plan or the Hybrid Plan Defined Contribution Component, the transfer amount shall be the fair market value of the member's vested and non-vested accumulated balance as of the date of transfer.

(ii) The participating municipality does not or ceases to meet the definition of "municipality" under Section 2(36) or, in the sole and exclusive discretion of the System, is or becomes ineligible to participate in the System due to privatization, dissolution, or any other change to its structure or functions that, within MERS' sole discretion, results in the municipality no longer providing a municipal or public service.

(b) Termination of participation under this Section 11 shall be subject to the Termination Policy and Procedure, adopted by the Retirement Board, as may be

amended, and which is incorporated by reference herein. The conditions and requirements of the System pertaining to termination of municipality participation and the disposition of assets and liabilities under this Section shall be specified in a withdrawal agreement that shall be entered into between the governing body of the participating municipality, or the chief judge of the participating court and the governing body of each municipality required by law to fund the participating court, and the System in a form prescribed by the System. If the participating municipality or court does not fully comply with the Termination Policy and Procedure, or does not execute a withdrawal agreement in a form prescribed by the System, the termination will be voided in the discretion of the System.

(c) A participating municipality, or the participating court and the municipalities required by law to fund the participating court, that terminates participation in the System under this Section remains responsible under Article 9, Section 24 of the Michigan Constitution and any other applicable law for payment of accrued financial pension benefits as set forth in the Adoption Agreement. For participating municipalities or courts terminating under subsection 1(a)(i) and (ii), as of the date of termination, as it shall be determined by the System, the participating municipality's or court's active members shall become fully vested in their accrued retirement allowances and defined contribution accumulated balances if required by law. For a participating municipality or court that terminates participation in the System under subsection 1(a)(ii), all of the terminating participating municipality's or court's members become former members with respect to the System.

(d) For termination effected under subsection 1(a)(ii) of this Section, or otherwise authorized by the Retirement Board, the participating municipality or court (or another entity on its behalf) shall leave in the reserve for employer contributions with MERS the amount determined under MERS' Actuarial Policy, as it may be amended, for its retirees, beneficiaries, and vested and non-vested former members in the Defined Benefit Plan and Hybrid Plan Defined Benefit Component.

(e) For termination effected under subsection 1(a)(ii) of this Section, unless otherwise authorized by the Retirement Board, for participants in the Defined Contribution Plan and Hybrid Plan Defined Contribution Component, the vested accumulated balance may be distributed to each member as provided in Article IV and Article V.

(f) No service performed for a former participating municipality or court after the effective date of a participating municipality's or court's termination of participation with MERS shall be recognized for combination of service under Section 17 for purposes of eligibility to retire or receive a distribution under any MERS Plan.

(2) Restrictions.

(a) A municipality or court that terminates participation in the System pursuant to subsection (1)(a)(i) shall be precluded from again becoming a participating municipality or court during the 5-year period immediately following the effective date of the termination of participation.

(b) A municipality or court that becomes a participating municipality or court by authority of an emergency manager under MCL 141.1541 to 141.1575, is precluded from taking action to terminate participation in the System under subsection (1)(a)(i) or (iii) for a period of 10 years from the municipality's or court's date of participation in the System.

Sec. 12. Closing and Freezing Plans/Divisions; Funding; Conversions.

(1) A participating municipality or court may take any of the following actions without terminating participation in the System by meeting all applicable requirements set forth in such Policies and Procedures adopted by the Board or the System, as amended, in the manner and subject to such restrictions and requirements as the System may impose:

(a) Close one or more employee divisions of the Defined Benefit Plan, and enroll newly hired, rehired and transferred employees who would have otherwise been enrolled in the closed employee division or Plan in one or more of the following:

(i) A Defined Benefit Plan division with different benefit provisions;
(ii) The Defined Contribution Plan, to which the participating municipality or court may offer a conversion option and/or an optional freeze to the current members of the closed Defined Benefit division/Plan;
(iii) The Hybrid Plan, to which the participating municipality or court may offer a conversion option and/or an optional freeze to the current members of the closed Defined Benefit division/Plan;
(iv) The MERS 457 Program, to which the participating municipality or court may offer an optional freeze to the current members of the closed Defined Benefit division/Plan, in which case members so electing shall immediately be fully vested in their accrued benefit;
(v) A non-MERS plan, to which the participating municipality or court may offer an optional freeze to the current members of the closed Defined Benefit division/Plan, in which case members so electing shall immediately be fully vested in their accrued benefit. If the non-MERS plan is a qualified defined contribution money purchase plan, the participating municipality or court may offer a conversion option to the current members of the closed Defined Benefit division/Plan;
(vi) No retirement plan.

(b) Freeze one or more employee divisions of the Defined Benefit Plan, and enroll current members and newly hired, rehired and transferred employees who would have otherwise been enrolled in the frozen employee division or Plan in one or more of the following:

(i) The Defined Contribution Plan, to which the participating municipality or court may offer a conversion option to the current members of the frozen Defined Benefit division/Plan;
(ii) The Hybrid Plan, to which the participating municipality or court may offer a conversion option to the current members of the frozen Defined Benefit division/Plan;

(iii) The MERS 457 Program, in which case all current members of the frozen Defined Benefit employee division/Plan shall immediately be fully vested in their accrued benefit;

(iv) A non-MERS plan, in which case all current members of the frozen Defined Benefit employee division/Plan shall immediately be fully vested in their accrued benefit and, to which, if the non-MERS plan is a qualified defined contribution money purchase plan only, the participating municipality or court may offer a conversion option to the current members of the frozen Defined Benefit division/Plan;

(v) No retirement plan, in which case all current members of the frozen Defined Benefit employee division/Plan shall immediately be fully vested in their accrued benefit.

(c) Close one or more employee divisions of the Defined Contribution Plan, and enroll newly hired, rehired and transferred employees who would have otherwise been enrolled in the closed employee division or Plan in one or more of the following:

(i) A Defined Contribution Plan division with different benefit provisions;

(ii) The Defined Benefit Plan (without respect to whether the participating municipality had previously participated in the Defined Benefit Plan or the Hybrid Plan), to which the participating municipality or court may offer a conversion or an optional freeze to the current participants of the closed Defined Contribution division/Plan;

(iii) The Hybrid Plan (without respect to whether the participating municipality had previously participated in the Defined Benefit Plan or the Hybrid Plan), to which the participating municipality or court may offer a conversion option (to the Hybrid Plan Defined Contribution Component only) and/or an optional freeze to the current participants of the closed Defined Contribution division/Plan;

(iv) The MERS 457 Program, to which the participating municipality or court may offer an optional freeze to the current participants of the closed Defined Contribution division/Plan, in which case participants so electing shall immediately be fully vested in their accrued benefit;

(v) A non-MERS plan, to which the participating municipality or court offer an optional freeze to the current participants of the closed Defined Contribution division/Plan, in which case participants so electing shall immediately be fully vested in their accrued benefit account. If the non-MERS plan is a qualified defined contribution money purchase plan only, the participating municipality or court may offer a conversion option to the current participants of the closed Defined Contribution division/Plan;

(vi) No retirement plan.

(d) Freeze one or more employee divisions of the Defined Contribution Plan, and enroll participants and newly hired, rehired and transferred employees who would have otherwise been enrolled in the frozen employee division or Plan in one or more of the following:

(i) The Defined Benefit Plan (without respect to whether the participating municipality had previously participated in the Defined Benefit Plan or the

Hybrid Plan), to which the participating municipality or court may offer a conversion option;

(ii) The Hybrid Plan (without respect to whether the participating municipality had previously participated in the Defined Benefit Plan or the Hybrid Plan), to which the participating municipality or court may offer a conversion option (to the Hybrid Plan Defined Contribution Component only) to the current participants of the frozen Defined Contribution division/Plan;

(iii) The MERS 457 Program, in which case, all current participants of the frozen Defined Contribution employee division/Plan shall immediately be fully vested in their accrued benefit account;

(iv) A non-MERS plan, in which case all current participants of the frozen Defined Contribution employee division/Plan shall immediately be fully vested in their accrued benefit account. If the non-MERS plan is a qualified defined contribution money purchase plan, the participating municipality or court may offer a conversion option to the current participants of the frozen Defined Contribution division/Plan.

(v) No retirement plan, in which case, all current participants of the frozen Defined Contribution employee division/Plan shall immediately be fully vested in their accrued benefit account.

(e) Close one or more employee divisions of the Hybrid Plan, and enroll newly hired, rehired and transferred employees who would have otherwise been enrolled in the closed employee division or Plan in one or more of the following:

(i) A Hybrid Plan division with different benefit provisions;

(ii) The Defined Benefit Plan (without respect to whether the participating municipality had previously participated in the Defined Benefit Plan), to which the participating municipality or court may offer an optional freeze to the current members of the closed Hybrid division/Plan;

(iii) The Defined Contribution Plan, to which the participating municipality or court may offer a conversion option or an optional freeze to the current members of the closed Hybrid division/Plan;

(iv) The MERS 457 Program, to which the participating municipality or court may offer an optional freeze to the current members of the closed Hybrid division/Plan, in which case members so electing shall immediately be fully vested in their accrued benefit/account;

(v) A non-MERS plan, to which the participating municipality or court may offer an optional freeze to the current members of the closed Hybrid division/Plan (in which case members so electing shall immediately be fully vested in their accrued benefit) and, if the non-MERS plan is a qualified defined contribution money purchase plan, the participating municipality or court may offer a conversion option to the current members of the closed Hybrid division/Plan;

(vi) No retirement plan.

(f) Freeze one or more employee divisions of the Hybrid Plan, and enroll members and newly hired employees who would have otherwise been enrolled in the frozen employee division or Plan in one or more of the following:

(i) The Defined Benefit Plan (without respect to whether the participating municipality had previously participated in the Defined Benefit Plan);
(ii) The Defined Contribution Plan, to which the participating municipality or court may offer a conversion option to the current members of the frozen Hybrid division/Plan;
(iii) The MERS 457 Program, in which case all current members of the frozen Hybrid employee division/Plan shall immediately be fully vested in their accrued benefit/account;
(iv) A non-MERS plan, in which case all current members of the frozen Hybrid employee division/Plan shall immediately be fully vested in their accrued benefit/account and, to which, if the non-MERS plan is a qualified defined contribution money purchase plan, the participating municipality or court may offer a conversion option to the current members of the frozen Hybrid division/Plan;
(v) No retirement plan, in which case all current members of the frozen Hybrid employee division/Plan shall immediately be fully vested in their accrued benefit/account.

A participating municipality or court may take the actions described above only in the manner established by the System, with such documentation, procedures and funding requirements as the System may require by law, policy, agreement or otherwise in the administrative discretion of the System.

(2) To effectuate funding consistent with Article 9, Section 24 of the Michigan Constitution, participating municipalities or courts with closed or frozen Defined Benefit Plan employee division(s) or closed or frozen Hybrid Plan employee division(s) (with respect to the Defined Benefit Component) shall fund the unfunded actuarial accrued liability of such employee divisions pursuant to MERS' Actuarial Policy, as amended.

(3) For a participating municipality or court that closes one or more defined benefit employee division without adopting the Defined Contribution Plan or Hybrid Plan for those closed defined benefit division, but later adopts the Defined Contribution Plan or Hybrid Plan for current and/or newly hired employees of the closed defined benefit employee division, the closed defined benefit employee division shall be considered for purposes of the Actuarial Policy as if the Defined Contribution or Hybrid Plan were adopted at the time the defined benefit employee division was closed, which status shall continue during the period that the participating municipality or court participates in the Defined Contribution or the Hybrid Plan. In its discretion, the System may modify the requirements regarding the designation of Defined Contribution or Hybrid Plan employee divisions for purposes of this subsection.

(4) Where the participating municipality or court offers, at the time of the closure/freeze of one or more employee division(s) or Plan(s), current members/participants of the closed or frozen employee division the election to convert benefits to the open employee division or Plan pursuant to the terms of subsection (1), such members shall have one opportunity to irrevocably elect coverage under the open employee division or plan to which the employee division or Plan has been closed or frozen, pursuant to policies and procedures adopted by the Board, as amended. If any, the mandatory employee contribution rate in the closing employee division(s)/Plan must be identical to the mandatory employee contribution rate in the plan to which the closing division(s)/Plan is closing in order for an optional freeze to be elected.

Sec. 12A. Lump Sum Buyout Program (Benefit Program LSB)

(1) For purposes of this Section 12A only:

(a) “Eligible person" shall mean a person who, at the beginning of the duration period of a Benefit Program LSB through to the later of his/her receipt of an accelerated pension payment or the end of the duration period of the Benefit Program LSB,

(i) is a vested former member of the Defined Benefit Plan or the defined benefit component of the Hybrid Plan based on employment with the participating municipality or court that has adopted Benefit Program LSB with respect to the employee division to which the eligible person belonged (or its successor division, if applicable) at the time of his/her termination of employment;

(ii) accrued service credit under Defined Benefit Plan or the defined benefit component of the Hybrid Plan during his/her employment with the participating municipality or court that has adopted Benefit Program LSB, which service credit has been determined under the terms applicable to the employee division to which the Benefit Program LSB is applicable;

(iii) has some or all of such accrued service credit remaining and not forfeited under the Defined Benefit Plan or the defined benefit component of the Hybrid Plan accrued during his/her employment with the participating municipality or court that has adopted Benefit Program LSB; and

(iv) has not applied for nor received any pension benefit based on his/her employment with the participating municipality or court that has adopted Benefit Program LSB.

No person shall be an “eligible person” if, during the duration period of a Benefit Program LSB but prior to the receipt of an accelerated pension payment

(i) such person dies and the System receives timely notice of such death; or

(ii) such person is no longer a deferred former vested member of the participating municipality or court that adopted Benefit Program LSB and the System receives timely notice of such status change; or

(iii) such person applies for or receives a refund of accumulated employee contributions.

(b) “Pension benefit” shall mean any retirement allowance of any type or description from the Defined Benefit Plan or the defined benefit component of the Hybrid Plan based on employment with the participating municipality or court that has adopted Benefit Program LSB, as well as any associated applicable survivor's benefits, disability retirement benefits, cost of living increases and any other post-retirement benefits payable under the Defined Benefit Plan or the defined benefit component of the Hybrid Plan.

(c) "Accelerated pension payment" shall mean the single sum payment equal to the payout percentage of the actuarial present value (to be determined using actuarial tables and other assumptions adopted by the Board in the Actuarial Policy, as amended) determined as of the first day of the month following the month in which an eligible person's complete application (as described in subsection (5) below) for an accelerated pension payment is received by the System of an eligible person's pension benefits that may be paid to such eligible person upon his/her election (subject to all requirements and limitations imposed by this Section 12A and the System), during the period of the Benefit Program LSB, upon payment of which such eligible person's rights to any monthly pension benefit, together with those rights of any and all beneficiaries of such eligible person, if any, shall be irrevocably cancelled and forfeited.

(d) "Payout percentage" shall mean the percentage, not less than 1% nor greater than 100%, adopted by the participating municipality or court in the resolution or administrative order adopting Benefit Program LSB to be used to determine the accelerated pension payments under its Benefit Program LSB.

(2) Subject to any requirements which may be imposed by MERS' Actuarial Policy, as amended, or otherwise by the System, a participating municipality or court, by resolution of its governing body or by administrative order of its chief judge, may adopt Benefit Program LSB. The resolution or administrative order adopting Benefit Program LSB shall specify:

(a) The beginning and ending dates of the Benefit Program LSB that establish its duration period, which duration period cannot be less than six months nor more than 24 months;

(b) The employee division(s) to which the Benefit Program LSB shall apply; and

(c) The payout percentage with respect to each employee division(s) to which the Benefit Program LSB shall apply,

and such terms shall be uniformly applicable to all eligible persons of the participating municipality or court in the division(s) for which the Benefit Program LSB Program is adopted for the duration period of the Benefit Program LSB. A participating municipality or court may not adopt a new Benefit Program LSB for an employee division prior to 12 months after the end of the duration period of any prior Benefit Program LSB for the same employee division.

(3) Upon the adoption of Benefit Program LSB by a participating municipality or court, the System shall prepare and distribute to those eligible persons for whom the System has accurate, complete and current contact information a notice regarding the adoption of Benefit Program LSB, its duration period and operation, and such other information as the System shall determine is reasonable and necessary. The System shall make reasonable, good faith efforts to provide such notice to eligible persons who have not maintained accurate, complete and/or current contact information with the System. Notices to eligible persons shall include information regarding the special rules

applicable to pension benefits that are subject to one or more eligible domestic relations order(s).

(4) All eligible persons are subject to the duration period of the Benefit Program LSB as adopted by the participating municipality or court. Neither the System nor the participating municipality or court adopting Benefit Program LSB shall be obligated to extend the duration period of a Benefit Program LSB, provide an accelerated pension payment or make any other accommodation of any description if, despite reasonable good faith efforts, the System does not provide the notice described herein to one or more eligible person(s), if one or more eligible person(s) otherwise fail(s) to receive the notice for any reason, or if one or more eligible person(s) otherwise fail(s) or refuse(s) to comply with the terms or requirements set out in the notice, of the Benefit Program LSB or imposed by the System within the duration period of the Benefit Program LSB.

(5) Under Benefit Program LSB, during the duration period of the Benefit Program LSB, an eligible person may request, in writing and in a format determined by the System, that the System calculate an estimate of his/her accelerated pension payment amount. The System shall not prepare such an estimate more frequently than every six months for an eligible person. After an eligible person has received the calculation and such additional information as the System shall deem reasonable and necessary, during the duration period of the Benefit Program LSB, the eligible person may, in writing and in a format determined by the System subject to all requirements and limitations imposed by the System and accompanied by all documentation the System shall require, apply for an accelerated pension payment, upon payment of which such eligible person's right to any monthly pension benefit, together with those rights of any and all beneficiaries of such eligible person, if any, shall be irrevocably cancelled and forfeited. An eligible person's application must be submitted and complete in all respects prior to the end of the duration period of the Benefit Program LSB in order for an accelerated pension payment to be issued. Applications by a married eligible person must be accompanied by the written and signed consent of the eligible person's spouse. If any part of an eligible person's pension benefit is subject to one or more eligible domestic relations order(s), no accelerated pension benefit shall be paid to such eligible person unless the eligible person and all alternate payee(s) who are not at that time already receiving benefits provide written and signed consent to receive their separate share of the accelerated pension benefit, the amounts of which shall be determined pursuant to the MERS Actuarial Policy, as amended. The information provided to eligible persons upon request for a calculation shall be prepared and provided to the alternate payee(s) regarding his/her/their share of the eligible person's pension benefit prior to payment.

(6) Any change(s) to the Benefit Program LSB by the participating municipality or court shall be adopted in the same manner as the original Benefit Program LSB, and the notice provisions shall apply regarding such change(s) to the Benefit Program LSB.

(7) An eligible person may rescind an election for an accelerated pension payment at any time up to ten days prior to the System issuing the accelerated pension payment to such eligible person, in such manner as the System shall require. If any part of an eligible person's pension benefit is subject to one or more eligible domestic relations order(s), if the eligible person or one of the alternate payee(s) timely rescinds an election for an accelerated pension payment, no accelerated pension payment shall be made on behalf of the eligible person or any of the alternate payee(s).

(8) If the participating municipality or court adopts a Benefit Program LSB payout percentage that is greater than the funding level (as determined in a valuation performed by the System pursuant to the Actuarial Policy) of the employee division(s) to which the Benefit Program LSB applies, the participating municipality or court shall remit to MERS a lump sum employer contribution as required by the MERS' Actuarial Policy as amended prior to MERS' distribution of any accelerated pension payment. If a subsequent actuarial valuation during the duration period of the Benefit Program LSB reflects that the funding level of either the employee division(s) to which the Benefit Program LSB applies is below the payout percentage adopted, the participating municipality or court shall remit to MERS a lump sum employer contribution as required by the MERS' Actuarial Policy as amended prior to MERS' distribution of any further accelerated pension payments.

(9) The accelerated pension payment described herein is an eligible rollover distribution, and an eligible person receiving an accelerated pension payment shall be entitled to exercise the payment options available to recipients of eligible rollover distributions.

(10) Once an accelerated pension payment is issued by the System to an eligible person, such payment and the resultant cancellation and forfeiture of such eligible person's right, together with those rights of any and all beneficiaries of such eligible person, if any, to any monthly pension benefit, is irrevocable and irreversible; the accelerated pension payment may not be repaid, and the cancelled and the right to a monthly pension benefit shall not under any circumstances be reinstated. However, service upon which an accelerated pension payment is based will continue to be recognized exclusively for purposes of vesting and eligibility, combining service under Section 17, and for purposes of Act 88.

(11) An eligible person who receives an accelerated pension payment under Benefit Program LSB adopted by a participating municipality or court and later returns to service with such participating municipality or court will only be eligible for pension benefits, if any, based on future employment for such participating municipality or court. However, service upon which an accelerated pension payment is based will continue to be recognized exclusively for purposes of vesting and eligibility.

(12) In the event of any alteration of this Section through collective bargaining, MERS shall not recognize such action, other than in accordance with this Section.

(13) All other administrative decisions not contemplated or specifically contained in this rule shall be determined at the discretion of the System.

(14) No provision of this Section shall be interpreted in any way that would cause this Plan to cease to be a qualified plan under the Internal Revenue Code.

ARTICLE III – DEFINED BENEFIT PLAN

Sec. 13. Defined Benefit Plan; Adoption; Eligibility.

This article applies to members of the Defined Benefit Plan and, except as otherwise provided in this Article or Article V, the Defined Benefit Component of the Hybrid Plan. Participation in the Defined Benefit Plan shall be governed by this Article, together with the Resolution or Administrative Order Adopting the Defined Benefit Plan, the Defined Benefit Plan Adoption

Agreement and (if applicable) Administrative Services Agreements, and other Sections of the Plan Document related to the provisions of the Defined Benefit Plan.

Sec. 14. Compensation.

(1) Compensation for purposes of the Defined Benefit Plan and Defined Benefit Component of the Hybrid Plan means that remuneration paid to members for services to a participating municipality or court that such participating municipality or court has selected in its Adoption Agreement(s) as the basis for the determination of final average compensation.

(2) A participating municipality or court may select in its Adoption Agreement(s) one of the following four options to define compensation:

(a) Base Wages: This measure of compensation is the sum of:

(i) salary, or the product of base hourly wage rate and hours worked, as applicable;

(ii) employer-provided paid time off actually used; and

(iii) on-call pay.

(b) IRS Form W-2 Box 1 Wages: This measure of compensation is the amount shown in a member's IRS Form W-2, Box 1.

(c) Gross Wages: This measure of compensation includes all items of compensation included in Box 1 wages, all items of compensation included in base wages but excluded from Box 1 wages, and all taxable fringe benefits and lump sum payments.

(d) Custom Wage: This measure of compensation is the sum of those items of employee remuneration as selected by the participating municipality or court in its Adoption Agreement(s).

(3) Determination of compensation for periods associated with leaves of absence for qualified military service is governed by Section 8 of this Plan.

Sec. 15. Final Average Compensation.

Final average compensation means any of the following:

(1) One-fifth of the aggregate amount of compensation paid and earned by a member during the period of 5 consecutive years (determined using whole calendar months) of the member's credited service in which the aggregate amount of compensation paid and earned is highest, known as FAC-5. If the member has less than 5 years of credited service, final average compensation means the aggregate amount of compensation paid and earned by the member divided by the member's credited service. A member who has credited service in force with more than one participating municipality or court shall have a separate final average compensation computed based on the member's compensation record with each participating municipality and court.

(2) If the participating municipality or court has adopted benefit program FAC-N, where N shall be a whole number of years not less than three, 1/N of the aggregate amount of compensation paid and earned by a member during the period of N consecutive years (determined using whole calendar months) of the member's credited service in which the aggregate amount of compensation paid and earned is highest. If the member has less than N years of credited service, final average compensation means the aggregate amount of compensation paid and earned by the member divided by the member's credited service. A member who has credited service in force with more than one participating municipality or court shall have a separate final average compensation computed based on the member's compensation record with each participating municipality or court.

(3) For a member who is a judge of the district court, the recorder's court of the city of Detroit, or the circuit court, and has converted a portion or all of his or her state salary standardization payment as provided for in Section 504 of the Judges Retirement Act of 1992, MCL 38.2504, as an addition to his or her state base salary under the Act, the difference between the figure that would otherwise be used under subdivision (a) or (b) to compute the member's retirement benefits, and the amount of the state salary standardization payment converted.

(4) For purposes of determining final average compensation, unless otherwise elected by participating municipality or court in writing on forms provided by the System and subject to such terms and conditions as the System may impose, any portion of a lump sum payment earned for work performed outside the FAC period shall be excluded. However, payment of includible compensation in the month following the month of termination shall be attributed to the last month prior to termination of employment in which service credit is earned.

Sec. 16. Service Credit; Forfeiture; Reinstatement; Service Credit During Leaves of Absence.

(1) Prior service and membership service to which a member is entitled shall be credited to the member's individual service account. The participating municipality or court shall specify in its Adoption Agreement(s) the terms of its service credit qualification. Service credit shall be credited in years and twelfths (1/12) of a year to a member on account of all service rendered to all participating municipality(ies) and/or court(s) in any period of 12 consecutive months. Not more than 1/12 of a year of credited service shall be credited to a member on account of all service rendered to all participating municipality(ies) and/or court(s) in a calendar month.

(2) For breaks in membership of more than 180 consecutive months (15 years) for non-vested former members who terminated prior to March 11, 2009, or 240 consecutive months (20 years) for non-vested former members who terminated on or after March 11, 2009, as applicable, all credited service, irrespective of whether member contributions were made in connection therewith, shall be forfeited. Where such a forfeiture occurs, the individual's member contributions shall be processed as provided in Section 42(4).

(3) All credited service accrued in connection with member contributions shall be forfeited upon payment of such member contributions to the individual or the designated refund beneficiary.

(4) Credited service that has been forfeited under subsection (3) shall be reinstated if all of the following conditions are satisfied:

(a) The member reacquires employment with the same participating municipality or court at which the member accrued the forfeited credited service.

(b) The member repays to the System all accumulated member contributions previously paid to the member plus compound interest at a rate determined by the System from the date of payment to the member to the date of repayment to the System.

(c) The repayment shall be made within five years after the date the member reacquires membership in the System on account of employment by, and prior to termination of employment with, the same participating municipality or court at which the member accrued the forfeited credited service. However, a participating municipality may by resolution of its governing body, or a participating court may by administrative order of its chief judge, establish a written policy to extend beyond five years the period for repayment required under this subdivision. The policy shall be uniformly applicable to all members employed by the participating municipality or court who are covered by the same employee division.

(5) Forfeited credited service acquired while a member was in the employ of another participating municipality or court shall not be reinstated under this Section but may be recognized subject to the requirements of Section 18.

(6) A participating municipality or court that adopted, prior to January 1, 2021, a resolution providing for the conversion of service credit earned by part-time employees to the full-time equivalent upon a member's promotion to full-time employment, may do so pursuant to procedures established by the System.

(7) Leaves of Absence.

(a) Participating municipalities or courts shall specify in their Adoption Agreement(s) whether service credit shall be granted to members during one or more of the following periods of absence from work, irrespective of whether, during such leave, a member has met the service credit qualification for any such month. Where a participating municipality or court elects to grant service credit during one or more of the following periods of absence from work, service credit will be granted for the full period of such absence, unless otherwise elected by the participating municipality or court in their Adoption Agreement(s).

(i) Short- and/or long-term disability leave

(ii) Workers' compensation leave

(iii) Unpaid Family Medical Leave Act (FMLA) leave (including intermittent leaves)

(iv) Other, as the participating municipality or court may specify in the Adoption Agreement(s) (such as sick and accident, administrative, educational, sabbatical, etc.).

For leaves of absence specified by the participating municipality or court during which service credit is to be granted, for months in which no compensation is paid, employee contributions are required to be remitted. The employee contributions due shall be based on the member's employee contribution and wage rate at the time the leave began and the applicable service credit qualification for each month of the leave, unless the participating municipality or court adopts a reasonable alternative formula in its Adoption Agreement(s), which formula shall be subject to approval by the System. Immediately following each month of a member's leave of absence, the participating municipality or court must report to MERS the number of days in that month of the member's leave of absence and the member's hourly wage (for contributory divisions, unless the participating municipality or court has elected an alternative basis for mandatory employee contributions during periods of absence from work in their Adoption Agreement(s)), and, for contributory divisions, the participating municipality or court must collect and remit all mandatory employee contributions.

(b) During member leaves of absence, irrespective of whether a participating municipality or court elects to grant service credit during such leaves of absence listed above, the following provisions apply:

(i) Compensation that members may receive during leaves of absence from any third party(ies) that relate to the leave shall not be reported to MERS, unless the participating municipality or court has adopted a reasonable alternative formula in its Adoption Agreement(s), of which the System has approved, for the determination of mandatory employee contributions that includes such third party compensation.

(ii) For purposes of determining final average compensation, a month during which a leave of absence (excluding leaves of absence for military service) is reported shall be skipped unless (a) service credit is reported for that month, and (b) the exclusion of that month would result in a lower Final Average Compensation. Where a month during which a leave of absence is reported is the last month prior to termination for which service credit is granted, any payment of includible compensation in the month following the month of termination shall be attributed to the last month in which service credit is granted.

(c) Service credit associated with leaves of absence for military service shall be governed by Section 8 of this Plan.

Sec. 17. Combining Service.

A member may, by notifying the System in accordance with procedures established by the System that the member has been employed by and accrued service credit with more than one participating municipality or Court, request that the System combine such service credit accrued under the Defined Benefit Plan and/or Defined Contribution Plan for the sole purpose of

satisfying vesting and eligibility requirements under the Defined Benefit Plan, and not for benefit accrual purposes. Service shall be credited in accordance with procedures established by the System. The following service will not be recognized by the Defined Benefit Plan:

(1) Service of less than one year.

(2) Service that has been forfeited under Section 42, except that non-vested service related to employee contributions that are distributed under the required minimum distributions provisions of IRC Section 401(a)(9) shall be recognized.

(3) Service that preceded a break in membership of more than 240 consecutive months.

(4) Service concurrently acquired in more than one participating municipality or court.

(5) Non-vested service accrued at a participating municipality or court before the municipality or court became a participating municipality or court.

(6) Service performed for a municipality or court after the municipality or court has terminated participation with MERS.

Sec. 18. Governmental Service Credit; Conditions.

(1) The System shall grant credit to a member, other than a member covered by the Hybrid Plan, based on employment with the United States government, a state, or a political subdivision of a state, or in the governmental employ of a federally recognized Indian Tribal Government (as defined in 414(d) of the IRC) (“hereinafter “qualifying service”), if all of the following conditions are satisfied.

(a) The governing body of the participating municipality that employs the member adopts a resolution, or the chief judge of the participating court that employs the member issues an administrative order, requesting the System to grant credited service to the member based on a specific period of qualifying service. The participating municipality or court shall notify the System of the adoption of the resolution or order in the manner required by the System, except that in the case of a purchase of service credit by a member who is the individual responsible for providing such notification, the participating municipality or court shall file a certified copy of the adopted resolution or administrative order with the System, in the time period required by the system. Alternatively, the participating municipality or court may certify to the System, in the manner prescribed by the System, that the request for additional credited service is authorized pursuant to a blanket resolution or administrative order that has been previously adopted and filed with the System and that provides for the uniform applicability of the provisions of this Section to all members employed by the participating municipality or court who are covered by the same benefit program employee division.

(b) The member’s qualifying service terminated not more than 240 months prior to the member’s commencement of membership in the System.

(c) The member pays to the System the amount the participating municipality or court may require of the member in consideration for the crediting of qualifying

service; any such payment shall be credited to the member's individual account in the reserve for member contributions. The required payment, if any, shall not exceed the difference between the actuarial present value of the member's benefit after crediting the specified period of qualifying service and the actuarial present value of the member's benefit prior to crediting the specified period of qualifying service. The actuarial present value determinations described above shall be calculated pursuant to procedures established by the Retirement Board and MERS' Actuarial Policy, as amended.

(d) The credit, under the retirement and other conditions projected, would not result in the member exceeding any applicable benefit accrual or payment limitation imposed by the System or otherwise.

(2) For purposes of this Section 18,

(a) Only qualifying service that is not and will not be recognized for the purpose of obtaining or increasing a benefit under another defined benefit retirement system may be credited. If a member makes an irrevocable forfeiture of all rights in and to the actual or potential benefit from the other defined benefit retirement system, then such qualifying service may be recognized.

(b) Only qualifying service with a participating municipality or court that has not been recognized for the purpose of obtaining or increasing a benefit under the MERS Defined Benefit, Defined Contribution or Hybrid Plan may be credited, except that if a member makes an irrevocable forfeiture of all rights in and to the actual or potential benefit from the MERS Defined Benefit Plan, then such qualifying service may be recognized.

(3) Service purchased under this Section shall not be:

(a) Credited by the System until the member meets the vesting requirement in effect for the participating municipality or court; nor

(b) Used to satisfy the minimum years of credited service required to be a vested former member in the event of termination of membership; nor

(c) Revocable for any reason, nor refundable with the sole exception of member contributions under Section 16(3).

(4) A participating municipality or court may elect, in the Adoption Agreement or subsequently in a format determined by the System, a blanket prohibition of service credit purchases as described herein. Such prohibition must apply uniformly to all members of the participating municipality or court.

(5) For members who were employed by a participating municipality or court on or before July 1, 1997, different requirements and provisions apply to governmental service and non-intervening military service performed before July 1, 1997.

(6) Upon receipt by the System of the amount described in subsection (1)(c) above, the transaction described in subsection (1) shall be irreversible and final. This provision shall

have no effect on any other provisions of the Plan regarding the refund of accumulated member contributions.

Sec. 19. Generic Service Credit (Five Year Maximum); Conditions.

(1) The System shall credit a member or vested former member, other than a member or vested former member covered by the Hybrid Plan, with not more than five years of credited service, if each of the following conditions is satisfied:

(a) The governing body of the participating municipality that employs/employed the member or vested former member adopts a resolution, or the chief judge of the participating court that employs/employed the member or vested former member issues an administrative order, requesting the System to credit the member/vested former member with a specific period of qualifying service (not greater than five years). The participating municipality or court shall notify the System of the adoption of the resolution or order in the manner required by the System, except that in the case of a purchase of service credit by a member who is the individual responsible for providing such notification, the participating municipality or court shall file a certified copy of the adopted resolution or administrative order with the System, within the timeframe required by the System. Alternatively, the participating municipality or court may certify to the System, in the manner prescribed by the System, that the request for additional service is authorized pursuant to a blanket resolution or administrative order that has been previously adopted and filed with the System and which provides for the uniform applicability of the provisions of this Section to all active members then and thereafter employed by the participating municipality or court in the same employee division at the time the request for service credit is received.

(b) The System receives an immediate contribution of 100% of the estimated actuarial cost of the service. The member/vested former member shall pay to the System the amount the participating municipality or court may require of the member/vested former member in consideration for the crediting of service; any payment shall be credited to the member/vested former member's individual account in the reserve for member contributions. The required payment, if any, shall not exceed the difference between the actuarial present value of the member/vested former member's benefit after crediting the specified amount of credited service and the actuarial present value of the member/vested former member's benefits prior to crediting the specified amount of credited service. The actuarial present value determinations described above shall be calculated pursuant to procedures established by the Retirement Board and MERS' Actuarial Policy, as amended.

(c) The credit, under the retirement and other conditions projected, would not result in the member/vested former member exceeding any applicable benefit accrual or payment limitation imposed by the System or otherwise.

(2) Service purchased under this Section shall not be:

(a) Credited by the System until the member meets the vesting requirement in effect for the participating municipality or court; nor

(b) Used to satisfy the minimum years of credited service required to be a vested former member in the event of termination of membership, nor

(c) Revocable for any reason, nor shall the purchase amount be refundable, but shall be treated as member contributions solely for purposes of Section 16(3).

(3) The credited service acquired by a member/vested former member under this Section from all participating municipalities and courts shall be subject to 415(n)(3) of the IRC, including the limitation that such credited service shall not exceed a total of five years.

(4) Upon receipt by the System of the amount described in subsection (1)(b) above, the transaction described in subsection (1) shall be irreversible and final. This provision shall have no effect on any other provisions of the Plan regarding the refund of accumulated member contributions.

Sec. 20. Normal Retirement Benefits; Early Retirement Benefits.

(1) Normal Retirement Benefits

(a) Eligibility: Upon retirement, a member shall be eligible to apply for and receive a normal retirement benefit any time after the later of:

(i) the date upon which the member reaches his T^{th} birthday, where T is an age between 60 and 70 as selected by the participating municipality or court for each employee division in the Adoption Agreement or amendment of the Benefit Program, and

(ii) the accrual of Y years of credited service, where Y is a whole number between 1 and 10 as selected by the participating municipality or court for each employee division in the Adoption Agreement or amendment of the Benefit Program.

A member's normal retirement benefit shall be 100% vested as of the later of the dates set out in subsections (i) or (ii).

(b) Commencement: A member who meets the eligibility requirements for a normal retirement benefit as set forth in subsection (1)(a) of this Section, upon submission and approval of an application to the System in a format determined by the System, shall become a retiree and be entitled to a monthly retirement allowance effective as of the first day of the month following the later of the date that the member (i) retires, or (ii) completes and submits an application to the System on forms provided by the System, accompanied by such documentation and information as the System may require. Retroactive benefits shall not be paid.

(c) Amount: The amount of the normal retirement benefit that a member who meets the eligibility requirements of subsection (1)(a) of this Section shall receive on the effective date of retirement shall be the full accrued retirement allowance determined under Section 22 under the terms adopted by the participating municipality or court for the employee division in effect on the date of termination of employment (for vested former members) or on the effective date of retirement

(for active members), as applicable, as adjusted based on the payment option(s) selected by the member or vested former member among those available.

Notwithstanding the foregoing, a participating municipality or court may elect, in the manner provided in Section 44 or 45, to provide that the benefit of members or vested former members transferred or rehired into a specified Defined Benefit Plan employee division from any of the employer's other Defined Benefit Plan employee divisions shall be the sum of the benefits accrued under each of the member or vested former member's employee divisions, based on the service credit the member or vested former member accrued in each such employee division. If elected, benefit accrual shall be determined as follows:

(i) The benefit multiplier (or multipliers, in the case of divisions that have adopted a bridged benefit under Section 26 to which the member's benefit was subject) used to determine each portion of the benefit shall be that applicable to the member's or vested former member's service at the conclusion of their membership in each such employee division;

(ii) The final average compensation used to determine each portion of the benefit shall be that determined at the conclusion of the member's or vested former member's membership in each such employee division; and

(iii) Any applicable cost of living adjustment (COLA) in effect during the member's or vested former member's service in each employee division shall apply only to the benefit accrued under each such employee division, as determined above,

with all other benefit provisions to be based on the terms of the employee division in effect on the date of termination of employment (for vested former members) or on the effective date of retirement (for active members), as applicable.

(2) Unreduced Early Retirement Provisions

(a) Eligibility: Where the participating municipality or court (for each employee division) has selected in its Adoption Agreement one or more of the following unreduced early retirement options, then a member shall be eligible to retire voluntarily and apply for and receive an early retirement benefit on or after the date on which the member has met or exceeded age and service requirements of the applicable option, in which case the early retirement benefit shall be the full accrued retirement allowance determined under Section 22 as it was in effect for the member or vested member's employee division on the time of termination of employment (for vested former members) or on the date of termination of employment (for active members), as applicable, as adjusted based on the payment option(s) selected by the member or vested former member among those available.

(i) FA(R) where A is an age from 50 to 54, and R is a number between 25 and 30 of accrued Years of Service, as each quantity may be adopted by

the participating municipality or court in its Adoption Agreement or amendment of the Benefit Program;

(ii) FA(R) where A is an age from 55 to 65, and R is a number between 15 and 30 of accrued Years of Service, as each quantity may be adopted by the participating municipality or court in its Adoption Agreement or amendment of the Benefit Program;

(iii) FA(R) where A is any age, and R is 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 or 30 of accrued Years of Service, as each quantity may be adopted by the participating municipality or court in its Adoption Agreement or amendment of the Benefit Program;

(iv) S Points, where S is between 70 and 90, such that the sum of the member's attained age and the number of accrued years of credited service is at least S, as adopted by the participating municipality or court in its Adoption Agreement or amendment of the Benefit Program.

(b) Commencement and Amount: A member who meets the eligibility requirements for an early retirement benefit as set forth in subsection (2)(a) of this Section may retire and be entitled to a monthly retirement allowance effective as of the first day of the month following the later of the date that the member (i) retires, or (ii) completes and submits an application to the System on forms provided by the System, accompanied by such documentation and information as the System may require. Retroactive benefits shall not be paid. On or after the date a member described above has met the service requirement of the unreduced early retirement option applicable to him/her, and has met or exceeded the age required for a reduced early retirement benefit (but not for an unreduced early retirement benefit), s/he may retire voluntarily and apply for and receive a reduced early retirement benefit, which shall be the full accrued retirement allowance benefit determined under Section 22 as it was in effect for the member or vested member's employee division on the time of termination of employment (for vested former members) or on the date of termination of employment (for active members), as applicable, reduced by a reduction factor as set forth in 3(c) of this Section, multiplied by the number of months, rounded to the next higher number of months and not less than zero, by which the date of retirement precedes the date the member attains the age at which unreduced early retirement benefits would first be payable. The amount of the early retirement reduction shall not be greater than 60%. Such amount shall further be adjusted as necessary based on the payment option(s) selected by the member or vested former member among those available.

(3) Early Reduced Retirement Benefit

(a) Eligibility: A member shall be eligible to retire voluntarily and apply for and receive an early retirement benefit provided one of the following criteria are met:

(i) the member has reached or exceeded his E^{th} birthday, where E is

A. the normal retirement age selected by the participating municipality or court pursuant to subsection (1)(a)(i), minus

B. 10, unless the participating municipality or court specifies otherwise in the Adoption Agreement

and the member has been credited with at least 25 years of service, or

(ii) the member has reached or exceeded his Fth birthday, where F is

A. the normal retirement age selected by the participating municipality or court pursuant to subsection (1)(a)(i), minus

B. 5, unless the participating municipality or court specifies otherwise in the Adoption Agreement,

and the member has been credited with at least 15 years of service.

(b) Commencement: A member who meets the eligibility requirements for an early retirement benefit as set forth in subsection (3)(a) of this Section, may retire and be entitled to a monthly retirement allowance effective as of the first day of the month following the later of the date that the member (i) retires, or (ii) completes and submits an application to the System on forms provided by the System, accompanied by such documentation and information as the System may require. Retroactive benefits shall not be paid.

(c) Amount: The amount of the reduced early retirement benefit that a member or vested former member who meets the eligibility requirements of subsection (3)(a) of this Section shall receive on the effective date of retirement shall be the full retirement allowance determined under Section 22 as it was in effect for the member or vested member's employee division on the time of termination of employment (for vested former members) or on the date of termination of employment (for active members), as applicable, reduced by a reduction factor. The reduction factor shall be that applicable factor from the reduction factors promulgated by the Retirement Board and published by them from time to time, multiplied by the number of months, rounded to the next higher number of months and not less than zero, by which the date of retirement precedes the date the member or vested former member attains the full retirement allowance age. The amount of the reduction shall not be greater than 60%. Such amount shall further be adjusted as necessary based on the payment option(s) selected by the member or vested former member among those available.

(4) Notwithstanding anything to the contrary in this Section, benefits shall begin no later than the member or vested former member's required beginning date, or as otherwise provided in this Article.

(5) Nothing herein shall require commencement or recommencement of benefits to a retiree whose benefits would otherwise be suspended pursuant to the provisions of Section 9 until the requirements of Section 9(2)(c)(iv) are met.

(6) If the System determines that a member has not retired, as that term is defined in Section 2(45), on the member's effective date of retirement, the System may take all available corrective remedies, including, but not limited to, retroactive revocation of retirement status and recovery of benefits paid.

Sec. 21. Vested Former Member (Deferred Vested Member); Requirements.

(1) A member who ceases to be a member for a reason other than retirement or death shall become a vested former member upon the earliest of the following:

(a) The member has accrued Y or more years of credited service, pursuant to Section 20(1)(a)(ii), at the time his/her active membership ceases.

(b) The member's participation in the System is terminated under Section 11.

(2) A vested former member may commence receiving a retirement allowance effective as of the first day of the month following the latest of the date that the member (i) retires, (ii) attains the minimum age and/or service requirements set out in Section 20(a), (2), or (3) as applicable and as in effect on the date the member became a vested former member, or (iii) completes and submits an application to the System on forms provided by the System, accompanied by such documentation and information as the System may require. Retroactive benefits shall not be paid.

(3) The benefit programs applicable to a vested former member shall be determined as of the date of termination of his/her membership and shall not be affected by a subsequent change in benefit programs applicable to the employee division of the vested former member.

(4) It is solely and exclusively the obligation of the deferred vested member to request benefit estimates and information regarding his/her eligibility dates from the System and to keep the System apprised regarding any pertinent changes (such as change of address, marital status or beneficiary designation).

Sec. 22. Benefit Program Multiplier N.

(1) A participating municipality or a participating court shall in its Adoption Agreement select the terms of its Benefit Program Multiplier N, which shall be the formula for determination of a member's basic retirement allowance, subject to subsection (2) below. Benefit Program Multiplier N shall be a percentage (N) of the member's final average compensation, multiplied by the number of years of the member's credited service, the product of which shall represent the basic retirement allowance, each element of which shall be selected by the participating municipality or a participating court in its Adoption Agreement. The percentage N that the participating municipality or a participating court shall in its Adoption Agreement select shall be between 1.00% and 2.50%, inclusive, in 0.05% increments.

(2) Unless otherwise adopted by a participating municipality or a participating court, the amount of the accrued retirement allowance determined under Benefit Program Multiplier N shall not exceed 80% of final average compensation where the percentage N that a participating municipality or participating court has selected in its Adoption Agreement is 2.25% or greater. Notwithstanding the foregoing, if a member's retirement

allowance was greater under the benefit program immediately prior to coverage under Benefit Program Multiplier N, then the member shall be entitled to that greater retirement allowance.

Sec. 23. Benefit Program Multiplier S (Supplement).

(1) A participating municipality or a participating court may adopt a Benefit Program Multiplier S as a supplement to Benefit Program Multiplier N. The amount of the supplemental retirement allowance under Benefit Program Multiplier S shall be a percentage of the member's final average compensation multiplied by credited service. The percentage shall be between .05% and 1.50%, inclusive, in .05% increments.

(2) A member or vested former member's full retirement allowance under Benefit Program Multiplier N including Benefit Program Multiplier S shall not exceed the lesser of:

(a) a retirement allowance determined as if the Benefit Program Multiplier N was greater than 2.5%, or

(b) 80% of final average compensation.

(3) Except as provided under subsection (4), Benefit Program Multiplier S shall be paid only for periods during which 1 of the following conditions exists:

(a) The retirement allowance is being paid pursuant to Section 20 and the retiree has not attained the age at which unreduced Social Security retirement insurance benefits are available.

(b) The retirement allowance is being paid pursuant to Section 31 and the retiree is not being paid monthly Social Security disability insurance benefits.

(c) The retirement allowance is being paid to the retiree's monthly pension beneficiary and the monthly pension beneficiary is not being paid monthly Social Security survivor benefits. The monthly pension beneficiary's monthly Social Security survivor benefit shall be presumed to commence when the beneficiary first attains the age at which an unreduced Social Security survivor benefit would be available in the absence of the beneficiary's own earnings related Social Security retirement insurance benefit.

(4) A participating municipality or court, by resolution of its governing body by administrative order of its chief judge, may specify an age at which Benefit Program Multiplier S shall cease to be paid to retirees and survivor beneficiaries. The resolution or administrative order, which must be filed with the System, shall be uniformly applicable to all members employed by the participating municipality or court who are covered by the same benefit program employee division.

Sec. 24. Benefit Program COLA.

(1) Subject to Section 46, a participating municipality or court, by resolution of its governing body or by administrative order of its chief judge, may adopt a cost of living adjustment (COLA) for retirees and beneficiaries. The participating municipality or court shall specify in the Adoption Agreement:

(a) Whether the COLA is a one-time adjustment for current retirees, an annual adjustment for current retirees, or an annual adjustment for future retirees;

(b) The retirement allowance commencement date required for eligibility;

(c) The amount of the adjustment; and,

(d) The period of retirement required for an eligible retiree to qualify for a first adjustment.

(2) The adjustment date for Benefit Program COLA shall be January 1. The first adjustment date shall not be earlier than the first January 1 that is at least 30 days after the date of adoption.

(3) If the participating municipality or participating court adopts a COLA that is an annual adjustment, the additional retirement allowance representing the COLA amount shall be added to each covered retiree's retirement allowances on each adjustment date except the retirement allowances of those covered retirees, if any, for whom an adjustment date is less than N months after the commencement date of the retirement allowance, where N shall be a whole number of months between 6 and 12, inclusive, as elected by the participating municipality or participating court.

(4) The additional retirement allowance representing the COLA amount shall be equal to one of the following, as elected by the participating municipality or participating court:

(a) A percentage multiplied by the amount of retirement allowance originally determined at the time of retirement (including all adjustments for early retirement and form of payment), with no prior adjustments under the provisions of COLA included.

(b) A percentage multiplied by the amount of retirement allowance originally determined at the time of retirement (including all adjustments for early retirement and form of payment), with all prior adjustments under the provisions of COLA included.

(c) A fixed dollar amount.

(5) In the case of a beneficiary who is receiving a retirement allowance because of the death of a retiree, "commencement date" as used in this Section shall mean the commencement date of the retiree's retirement allowance.

(6) A participating municipality or court may not adopt the COLA Benefit Program for retirement allowances payable under the Hybrid Plan.

Sec. 25. Temporary (Window) Benefit Programs; Adoption; Requirements.

(1) Subject to Sections 44 and 45, a participating municipality or court, by resolution of its governing body or by administrative order of its chief judge may elect in its Adoption Agreement, one or more of the following benefit programs for a defined fixed period in the manner set out in subsections (2) through (4) below:

(a) Benefit Program COLA under Section 24.

(b) Benefit Program FAC-N under Section 15(2).

(c) Benefit Program FA(R) under Section 20(2)(a)(i).

(d) Benefit Program FA(R) under Section 20(2)(a)(ii).

(e) Benefit Program Multiplier N under Section 22.

(f) Benefit Program Multiplier S under Section 23.

(g) Benefit Program RS50% under Section 28.

(h) Benefit Program FA(R) under Section 20(1)(a).

(i) Benefit Program FA(R) under Section 20(2)(a)(iii).

(j) Benefit Program DROP under Section 30.

(2) The resolution or administrative order for the temporary benefit program(s) shall contain all of the following that are applicable:

(a) The temporary benefit program(s) adopted.

(b) The beginning and ending dates of the benefit program(s) which shall:

(i) Begin on the first day of a calendar month; and

(ii) End on the last day of a calendar month that is not less than 2 consecutive calendar months and not more than 6 consecutive calendar months following the beginning date.

(c) The employee division(s) covered by the temporary benefit program(s); and

(d) If Benefit Program FA(R) under Section 20(2)(a)(i), (ii) or (iii) is adopted as a temporary benefit program, the required period of credited service applicable to the temporary benefit program.

(3) Each member of the employee division(s) identified in subsection (2)(c) who terminates employment during the period defined in subsection (2)(b) and immediately retires under Section 20 shall receive a retirement allowance determined pursuant to the temporary benefit program(s) adopted. Vested former members who retire under Section 21 are not eligible for benefits pursuant to any temporary benefit program.

(4) A participating municipality or court may not adopt a temporary benefit program for the same employee division on more than two occasions in any period of five consecutive calendar years. A participating municipality or court may not adopt a temporary benefit program under this Section for employee divisions covered by the Hybrid Plan.

Sec. 26. Bridged Benefit Programs.

(1) Subject to Sections 44 and 45, a participating municipality or court may adopt one or more of the following Bridged Benefit Programs for one or more employee divisions, which adoption shall be applicable to all active employees in the affected employee division at the time the Bridged Benefit Program is adopted. Notwithstanding anything to the contrary herein, benefits of employees who left the affected employee division before the adoption of the Bridged Benefit Program or who entered the affected employee division after the adoption of the Bridged Benefit Program shall be determined by the benefits in effect during the period of their coverage, and benefits of employees who leave the affected employee division due to transfer or who terminate employment with the participating municipality or court and are subsequently rehired (either into the same or another employee division) shall be determined under the terms of Section 20(1)(c), as applicable.

(2) Bridged Multiplier Program. A participating municipality or court may adopt on a one-time irrevocable basis a Bridged Multiplier Program, changing the multiplier for the affected employee division on a prospective basis, which multiplier shall be applicable to service accrued on and after the effective date of the Bridged Multiplier Program by members of such employee division(s) at the time the Bridged Multiplier Program was adopted.

(a) The bridged benefit amount shall be the sum of:

(i) The retirement allowance accrued based on the member's credited service under the benefit program multiplier as of the effective date of the adoption of the Bridged Multiplier Program; and

(ii) The benefit amount that accrues for the member's credited service under the benefit program multiplier acquired after the effective date of the adoption of the Bridged Multiplier Program.

In all cases, the combined bridged benefit amount shall not exceed the larger of the amount in subparagraph (i), or 80% of final average compensation as of the date of termination of employment under the final average compensation benefit program in effect on the termination date.

(b) In calculating the benefit amount under subsection (2)(a), "final average compensation" used for both subsections (2)(a)(i) and (ii) shall be determined using the final average compensation in effect on the member's termination date. As an alternative, the municipality may adopt a frozen FAC for calculating the benefit amount under subsection (2)(a), such that the "final average compensation" used for subsection (2)(a)(i) is that determined as of the effective date of the adoption of the Bridged Multiplier Benefit Program, and the "final average compensation" used for subsections (2)(a)(ii) is that determined as of the member's termination date.

(3) Bridged COLA Program. A participating municipality or court that has adopted a COLA Benefit Program under Section 24 that is an annual adjustment may adopt, on a one-time irrevocable basis, a Bridged COLA Program to prospectively terminate the COLA Benefit Program for one or more employee divisions, which shall be applicable to

retirement benefits attributable to service accrued on and after the effective date of the Bridged COLA Program by members of the employee division(s) for which the Bridged COLA Program was adopted.

(a) Upon adoption of this Bridged COLA program, post-retirement benefits for affected members for each year shall be the sum of the following:

(i) The additional retirement allowance representing the COLA amount equal to one of the following, as elected by the participating municipality or participating court:

(A) A percentage multiplied by the amount of retirement allowance, using a frozen final average compensation (which shall mean that the final average compensation used for the portion of the retirement benefit is that determined as of the effective date of the adoption of the Bridged COLA Program), including all adjustments for early retirement and form of payment, with no prior adjustments under the provisions of COLA included;

(B) A percentage multiplied by the amount of retirement allowance using a frozen final average compensation (which shall mean that the final average compensation used for the portion of the retirement benefit is that determined as of the effective date of the adoption of the Bridged COLA Program), including all adjustments for early retirement and form of payment, with all prior adjustments under the provisions of COLA included; or

(C) A fixed dollar amount;

and

(ii) The retirement benefit accrued after the date of adoption of the Bridged COLA Program, which shall not be subject to any COLA Benefit Program or COLA adjustment, using a termination final average compensation, such that the final average compensation used for the portion of the retirement benefit is that determined upon termination of employment.

(b) This subsection 3 shall apply equally with respect to beneficiaries receiving benefits due to the death of a retiree who was a member of the employee division(s) for which the Bridged COLA Program was adopted.

(4) A participating municipality or court shall not adopt any Bridged Benefit Programs for retirement allowances payable under the Hybrid Plan.

(5) In the event of any alteration of a Bridged Benefit Program is made through collective bargaining, MERS shall not recognize such action, other than in accordance with this Section.

Sec. 27. Forms of Payment; Election; Naming of Monthly Pension Beneficiary; Failure to Make Timely Election; Amount of Retirement Allowance; Election if Member Married at

Retirement Allowance Effective Date; Signature of Spouse; Effect on Election if Retiree Divorced From Spouse Named as Monthly Pension Beneficiary.

(1) A member or a vested former member may elect to have retirement allowance payments made under one of the forms of payment described in subsection (2), and may name a monthly pension beneficiary unless Form of Payment SL is selected. The election of a form of payment and the naming of a monthly pension beneficiary shall be submitted to the System in a format required by the System and may not be changed unless such change is received and processed by the System prior to the later of:

(a) 30 days after the date that the final benefit determination is provided to the member; or

(b) the System's initiation of the first payment as the System shall determine,

or in the case of a benefit governed by Section 30, unless such change is received prior to the DROP beginning date. A named monthly pension beneficiary may be more than one person if Form of Payment IV is elected. Benefits to any monthly pension beneficiary shall not commence until the System receives a completed application and all forms required by the System from the monthly pension beneficiary.

(2) The member or vested former member may elect one of the following forms of payment:

(a) Form of Payment SL – Straight Life. Under Form of Payment SL, the retiree is paid a retirement allowance for life, and no further benefits are payable after the death of the retiree. The amount shall be determined as provided in Sections 20 and 22 or 68.

(b) Form of Payment II – Life With 100% (Full) Continuation to Monthly Pension Beneficiary. Under Form of Payment II, the retiree is paid an actuarially reduced retirement allowance for life, after which the named monthly pension beneficiary commences receiving a survivor benefit, which is paid for the remainder of the monthly pension beneficiary's life. If the named monthly beneficiary dies before the retiree, effective as of the date of the System's receipt of such documentation as the System shall require, the retiree's benefit shall be converted to Form of Payment SL, and payable thereafter for the retiree's remaining life. If the required documentation is received by MERS within six months after the beneficiary's death, then the retiree's benefit shall be converted to Form of Payment SL retroactive to the month following the month of the beneficiary's death. If the required documentation is received by MERS later than six months after the beneficiary's death, then the retiree's benefit shall be converted to Form of Payment SL effective as of the month following the month in which the required documentation is received by MERS, with no retroactive payment. Upon the death of the retiree during the lifetime of the named monthly pension beneficiary, the named monthly pension beneficiary is paid 100% (the full amount) of the reduced Form of Payment II retirement allowance for the named monthly pension beneficiary's remaining life.

(c) Form of Payment IIA – Life With 75% (3/4) Continuation to Monthly Pension Beneficiary. Under Form of Payment IIA, the retiree is paid an actuarially reduced retirement allowance for life, after which the named monthly pension beneficiary

commences receiving a survivor benefit, which is paid for the remainder of the monthly pension beneficiary's life. If the named monthly beneficiary dies before the retiree, effective as of the date of the System's receipt of such documentation as the System shall require, the retiree's benefit shall be converted to Form of Payment SL, and payable thereafter for the retiree's remaining life. If the required documentation is received by MERS within six months after the beneficiary's death, then the retiree's benefit shall be converted to Form of Payment SL retroactive to the month following the month of the beneficiary's death. If the required documentation is received by MERS later than six months after the beneficiary's death, then the retiree's benefit shall be converted to Form of Payment SL effective as of the month following the month in which the required documentation is received by MERS, with no retroactive payment. Upon the death of the retiree during the lifetime of the named monthly pension beneficiary, the named monthly pension beneficiary is paid 75% of the reduced Form of Payment IIA retirement allowance payable at the time of the retiree's death over the named monthly pension beneficiary's remaining life.

(d) Form of Payment III – Life With 50% (1/2) Continuation to Monthly Pension Beneficiary. Under Form of Payment III, the retiree is paid an actuarially reduced retirement allowance for life, after which the named monthly pension beneficiary commences receiving a survivor benefit, which is paid for the remainder of the monthly pension beneficiary's life. If the named monthly beneficiary dies before the retiree, effective as of the date of the System's receipt of such documentation as the System shall require, the retiree's benefit shall be converted to Form of Payment SL, and payable thereafter for the retiree's remaining life. If the required documentation is received by MERS within six months after the beneficiary's death, then the retiree's benefit shall be converted to Form of Payment SL retroactive to the month following the month of the beneficiary's death. If the required documentation is received by MERS later than six months after the beneficiary's death, then the retiree's benefit shall be converted to Form of Payment SL effective as of the month following the month in which the required documentation is received by MERS, with no retroactive payment. Upon the death of the retiree during the lifetime of the named monthly pension beneficiary, the named monthly pension beneficiary is paid 50% of the reduced Form of Payment III retirement allowance payable at the time of the retiree's death over the named monthly pension beneficiary's remaining life.

(e) Form of Payment IV – Life With Period Certain Guarantee. Under Form of Payment IV, at retirement, the retiree selects a guaranteed period, which shall be either 60 months, 120 months, 180 months, or 240 months, but the guaranteed period may not exceed the retiree's life expectancy as of the date of retirement. The retiree is paid an actuarially reduced retirement allowance for life. If the retiree dies prior to the expiration of the guaranteed period selected by the retiree, the named monthly pension beneficiary is paid a survivor benefit equal to the full amount of the reduced Form of Payment IV retirement allowance for the balance of the guaranteed period remaining after the death of the retiree, after which benefits to the named monthly pension beneficiary end. Immediately upon the death of the monthly pension beneficiary before the expiration of the guaranteed period, or at any other time, the retiree may replace the current monthly pension beneficiary with a new monthly pension beneficiary by completing and submitting a written designation form provided by the System

with the System based on procedures established by the Retirement Board. If the retiree's election of the Form of Payment IV required that his/her spouse consent to that election in a signed writing, and the retiree remains married to that spouse, written consent by that spouse to retiree's designation of the new monthly pension beneficiary is required; this requirement may be waived if it is determined by the System that the signature of the participant's spouse cannot be obtained because of extenuating circumstances. If the monthly pension beneficiary dies before the expiration of the guaranteed period (and after the death of the retiree), the single sum actuarial present value of any remaining guaranteed retirement allowance payments shall be paid to the estate of such monthly pension beneficiary.

(3) The reduced retirement allowance paid to a retiree under Forms of Payment II, IIA, III, and IV shall be the actuarial equivalent of the retirement allowance under Form of Payment SL, computed as of the date of retirement.

(4) Automatic Spousal Protection. If a retiring member or vested former member is married at the retirement allowance effective date, benefits shall be paid in the Form of Payment II – 100% full benefit form, with the spouse as monthly pension beneficiary, unless the retiring member or vested former member elects another form of payment, and his/her spouse consents to that election in a signed writing. This requirement may be waived if it is determined by the System that the consent of the spouse cannot be obtained because of extenuating circumstances. The remarriage of a surviving spouse shall have no effect on the right of the surviving spouse to receive a survivor benefit.

(5) Divorce. If a retiree receiving benefits in the Form of Payment II (Life with 100% to Survivor), IIA (Life with 75% to Survivor) or the Form of Payment III (Life with 50% to Survivor) is divorced from the spouse who was his/her named beneficiary at the time benefit payments commenced, the designation of the former spouse as monthly pension beneficiary shall terminate immediately upon entry of the judgment of divorce and the retiree shall be entitled to receive his/her retirement allowance in the Form of Payment SL, effective on and after the first day of the month next following the receipt by the System of a true copy of the judgment of divorce and/or other order of the court, together with any other documentation required by the System, unless the System receives a copy of the judgment of divorce and/or other order of the court that maintains the survivor beneficiary rights of such ex-spouse.

If a retiree receiving benefits in the Form of Payment IV (Life With Period Certain Guarantee) is divorced from the spouse who was his/her named beneficiary at the time benefit payments commenced, the designation of the former spouse as the retiree's beneficiary shall terminate immediately upon entry of the judgment of divorce, unless the judgment of divorce and/or other order of the court maintains the beneficiary rights of such ex-spouse. Where the ex-spouse's rights are terminated, and the retiree's period certain has not yet expired, the retiree may name a new beneficiary (or beneficiaries) for the remaining period certain by submitting instructions to the System in a format determined by the System based on procedures established by the Retirement Board.

(6) Certain terms and requirements for payment of retirement allowances in forms provided in this Section are subject to eligible domestic relations orders under the Eligible Domestic Relations Order Act.

(7) Each member or vested former member who applies for a retirement allowance shall be given a written explanation, prior to the effective date of retirement, of the optional forms of payment provided in this Section.

(8) Pursuant to 26 CFR Section 1.401(a)(9)-1, Q&A 2(d), the Board has determined that this Section 27, as in effect on April 17, 2002, contains distribution options that satisfy Section 401(a)(9) of the IRC based upon the Board's reasonable and good faith interpretation of the provisions of that Section, and the System shall comply with a reasonable, good faith interpretation of Section 401(a)(9) of the IRC.

(9) In the event of distribution of benefits pursuant to Section 401(a)(9) of the IRC where the member or the vested former member fails to make an election of benefit form pursuant to this Section 27, benefits to an unmarried member or vested former member shall be paid in the Form of Payment SL form, and benefits to a married member or vested former member shall be paid in the Form of Payment II form.

Sec. 28. Benefit Program RS50%; Adoption; Commencement of Benefits; Amount of Payment; "Surviving Spouse" Defined.

(1) A participating municipality or court, by resolution of its governing body or by administrative order of its chief judge, may adopt Benefit Program RS50%. The resolution or administrative order shall specify the effective date of the change in coverage.

(2) Under Benefit Program RS50%, a surviving spouse of a deceased retiree shall receive a retirement allowance for life, effective as of the first day of the month next following the date of death of the deceased retiree, if each of the following conditions are met:

(a) The commencement date of the deceased retiree's retirement allowance was on or after the effective date of the change in coverage.

(b) All payments of the deceased retiree's retirement allowance were made pursuant to Form of Payment SL.

(c) The surviving spouse completes and submits an application provided by the System as well as all other forms and documents required.

(3) The amount of the retirement allowance payable to a surviving spouse under Benefit Program RS50% is 50% of the retirement allowance that the deceased retiree was receiving at the time of his or her death.

(4) As used in this Section, "surviving spouse" means a person who meets both of the following requirements:

(a) He or she was married to the deceased retiree during the period beginning one year before the commencement date of the deceased retiree's retirement allowance and ending on the commencement date of the retirement allowance.

(b) He or she was married to the deceased retiree on the date of the deceased retiree's death.

(5) A participating municipality or court shall not adopt Benefit Program RS50% under this Section for retirement allowances payable under the Hybrid Plan.

Sec. 29. Annuity Withdrawal Program (AWP).

(1) Subject to the funding requirements of Section 46, a participating municipality or court, by resolution of its governing body or administrative order of its chief judge, may adopt Benefit Program AWP. The resolution or administrative order shall specify the effective date of the change in coverage, which shall not be earlier than the actual date of adoption, and shall be uniformly applicable to all members employed by the participating municipality or court in the division for which Benefit Program AWP is adopted.

(2) Under Benefit Program AWP, a member, upon application for a retirement allowance under Section 20, may elect the AWP if the System's records reflect member contributions remitted on behalf of such member, which for this purpose shall exclude amounts paid or otherwise contributed by a member for the purchase of service credit. Such member will receive, upon retirement, a lump sum distribution of 100% of the member contributions plus any interest credited to the portion of the distributed employee's contributions pursuant to Section 16. The interest credited to the employee's contributions will be as elected by the participating municipality or court upon adoption from the options available and in a format determined by the System. The lump sum distribution will not include any amounts paid or otherwise contributed by a member for the purchase of service credit. Any post-tax employee contributions included in the lump sum distribution are subject to basis recognition as required by law. Upon payment of the lump sum distribution described above, the member's election of the AWP shall be irrevocable.

(3) The retirement allowance of a member who elects AWP shall be permanently reduced by the actuarial equivalent of the lump sum distribution described above paid to such member (which retirement allowance shall then be subject to any further reductions based on commencement date and the form of payment elected under Section 27). The actuarial equivalent will be calculated using either the interest rate for member contributions as determined by the System or the MERS actuarial assumed rate of return (as they were in effect on the date the lump sum distribution is withdrawn), as the participating employer shall select, and the MERS mortality tables set forth in MERS' Actuarial Policy, as amended, then in effect on the date the lump sum distribution is withdrawn.

(4) A member who elects AWP may not elect the DROP Benefit Program under Section 30.

(5) A participating municipality or court shall not adopt AWP for retirement allowances payable under the Hybrid Plan.

(6) On or after January 1, 2015, in the event of any alteration of this provision through collective bargaining, such alteration shall not be recognized or administered by the System.

Sec. 30. Deferred Retirement Option Program (DROP).

(1) Election of DROP

(a) Subject to any requirements which may be imposed by MERS' Actuarial Policy, as amended, or otherwise by the System, a participating municipality or court, by resolution of its governing body or by administrative order of its chief judge, upon submission of the forms required and approved by the System, may adopt Benefit Program DROP for one or more employee divisions. The resolution or administrative order shall specify the effective date of adoption, which shall not be earlier than the date of the resolution or administrative order, and shall be uniformly applicable to all members of the employee division(s) for which Benefit Program DROP is adopted. The participating municipality or court shall make the following elections upon adopting Benefit Program DROP for each employee division:

(i) The percentage (which shall be a whole number percentage between 1% and 100%) to be applied to the monthly retirement allowance that a member enrolling in DROP would have received if the member had retired effective on the member's DROP beginning date, including actuarial adjustments, if any, reflecting the form of payment elected and the beneficiary(ies) named by the member, and the application of any court orders or statutory liens, which, when applied, shall be the "DROP benefit";

(ii) For adoption of Benefit Program DROP for an employee division with a benefit formula that includes a post-retirement cost of living adjustment, whether to make such cost of living adjustments to the monthly retirement allowance upon which the members' DROP benefits are based during the DROP period; and

(iii) The annual interest rate to be credited to the DROP account during the DROP period, which shall be a whole number percentage between 0% and 3%.

(b) Under Benefit Program DROP, a member who is eligible to retire and receive a retirement benefit under Section 20, with the exception of a reduced retirement under Section 20(3), may, on a form required and approved by the System, apply for enrollment in DROP, pursuant to which, the member shall:

(i) Elect a specified DROP duration, which may be no shorter than six months and no longer than sixty months;

(ii) Voluntarily and irrevocably determine a beginning date (which shall be the first day of a calendar month) upon which to enter DROP and an end date (which shall be the last day of a calendar month) upon which to exit DROP. The period of time from the DROP beginning date to the DROP end date (either that selected above or that resulting from one of the events in subsection (3) (a), if earlier) shall be the "DROP period";

(iii) Agree to permanently terminate employment with the participating municipality or court and retire on the DROP end date; and

(iv) Elect beneficiaries as applicable and select a payment option.

(2) Administration of DROP

(a) The System shall, upon the member's election of DROP and the receipt of an application to enroll in DROP, determine the DROP benefit as defined in subsection (1)(a)(i) above.

(b) Upon the beginning date of the DROP period, the member shall cease to accrue any additional retirement benefits whether through service accruals, future pay increases, active cost of living adjustments, promotions or on any other basis.

(c) Upon the beginning date of the DROP period, the member must continue making all member contributions, if any, pursuant to Section 39. Member contributions shall not be credited to the DROP account established under (2)(e) of this Section, but shall be deposited into the reserve for employer contributions and benefit payments. Employer contributions based on the wages of the member shall not continue during the DROP period.

(d) During the DROP period, the member shall remain employed by the participating municipality or court, subject to the exceptions specifically referenced herein, and should have all rights, privileges, and benefits, including health benefits, and subject to all other terms and conditions of active employment.

(e) Effective as of the first day of the month next following receipt and processing of all required documentation, and monthly thereafter, an amount equal to the DROP benefit will be credited to a notional account ("DROP account"). The DROP benefit shall be frozen as of the DROP beginning date and shall not be adjusted unless the participating municipality or court has elected, pursuant to subsection (1)(a)(ii), to apply such cost of living adjustments, as are applicable to all retirees in the employee division, if any, to the monthly retirement allowance upon which the members' DROP benefits are based.

(f) The System shall monthly credit the DROP account with compound interest, based upon the annual interest rate that the participating municipality or court has elected pursuant to subsection (1)(a)(iii). No interest shall accrue after the end of the DROP period.

(g) After the member terminates employment, the distribution of the DROP account shall be subject to court orders and statutory liens in the same manner as the monthly service retirement and according to the terms of the court order.

(3) Termination of DROP Period

(a) Prior to Selected DROP End Date:

(i) Voluntary Termination of Employment – If a member voluntarily terminates employment prior to the selected DROP end date, the member shall receive an amount equal to eighty percent (80%) of the amount credited to the DROP account, and begin receiving the monthly retirement allowance under the payment option elected at the DROP beginning date, which payments shall be subject to Section 27. For

purposes of Section 9, the last date of employment will be considered the date of termination.

(ii) Involuntary Termination of Employment – If a member's employment is terminated by the employer prior to the selected DROP end date, the member shall receive a lump-sum distribution equal to the amount credited to the DROP account, and begin receiving the monthly retirement allowance under the payment option elected at the DROP beginning date, which payments shall be subject to Section 27. For purposes of Section 9, the last date of employment will be considered the date of termination.

(iii) Death – If a member dies prior to the selected DROP end date, the DROP account beneficiary selected by the member at the time of DROP enrollment will receive a lump-sum distribution equal to the amount credited to the DROP account, and the member's monthly pension beneficiary, if any, will receive any survivor benefits to which he or she is entitled, if any, under the payment option elected at the DROP beginning date, which payments shall be subject to Section 27.

(iv) Disability – If a member becomes disabled prior to the selected DROP end date and meets the requirements of Section 31(1), the member shall receive a lump-sum distribution equal to the amount credited to the DROP account, and begin receiving the monthly retirement allowance under the payment option elected at the DROP beginning date, which payments shall be subject to Section 27.

(b) Upon DROP End Date:

(i) The member must terminate employment upon the selected DROP end date unless employment was previously terminated under subsection (a) above, in which case that earlier date shall be the DROP end date.

(ii) The member shall receive a distribution equal to the amount credited to the member's DROP account to which the member is entitled, which shall include the accrued interest at the rate determined by the participating municipality or court upon adoption, if any. The member shall elect the manner of distribution for the DROP account (either in a lump-sum distribution to the member or as an eligible rollover distribution to an eligible retirement plan) within 60 days of the DROP end date, using forms required by the System. If the member fails to make an election of the manner of distribution within 60 days of the end of the DROP period, the System shall transfer the amount credited to the DROP account to which the member is entitled to a MERS deemed IRA established for the member, as agreed at the time of DROP enrollment, as an eligible rollover distribution. The lump-sum distribution described herein is subject to all applicable taxes and withholding requirements, subject to its distribution in the form of an eligible rollover distribution.

(iii) Effective as of the first day of the calendar month next following the DROP end date, the member will begin receiving the monthly retirement

allowance under the payment option elected at the beginning date, which payments shall be subject to Section 27. Where the participating municipality or court has elected, pursuant to subsection (1)(a)(ii) above, not to make cost of living adjustments to the monthly retirement allowance upon which the members' DROP benefits are based during the DROP period, the monthly retirement allowance of a member, upon exiting the DROP, shall not reflect any cost of living adjustments during the DROP period, and shall only thereafter be credited with such cost of living adjustments that would otherwise be applicable to the monthly retirement benefit after the member exits the DROP. Where the participating municipality or court has elected, pursuant to subsection (1)(a)(ii) above, to make cost of living adjustments to the monthly retirement allowance upon which the members' DROP benefits are based during the DROP period, the monthly retirement allowance of a member, upon exiting the DROP, shall reflect such cost of living adjustments made during the DROP period, and shall thereafter be credited with such cost of living adjustments that would otherwise be applicable to the monthly retirement benefit after the member exits the DROP.

(c) If a member does not terminate employment upon the selected DROP end date, in accordance with (3)(b)(i) of this Section 30, then the member's DROP election shall be annulled, as follows:

(i) The member's retirement benefit shall be determined as if the member had never entered DROP, with the member credited with service credit during the DROP period in the manner and at the rate that would have been otherwise applicable to the member;

(ii) All amounts credited to the member's notional DROP account shall be cancelled; and

(iii) The member shall be ineligible for a DROP benefit in the future.

(4) A member who elects the DROP Benefit Program may not elect AWP under Section 29.

(5) A participating municipality or court shall not adopt DROP under this Section for retirement allowances payable under the Hybrid Plan.

(6) In the event of any alteration of this Section through collective bargaining, such alteration shall not be recognized or administered by the System.

Sec. 31. Retirement of Incapacitated Member; Conditions; Medical Examinations; Effective Date of Disability Retirement; Amount of Disability Retirement Allowance; Exceptions.

(1) An active member who becomes incapacitated such that the member is unable to continue his/her current employment with the member's participating municipality or court may apply for and receive a disability retirement benefit upon submission to the System of an application provided by the System, accompanied by such information the System may require, if each of the following conditions is met:

(a) The member files an application for disability retirement benefits with the System no later than 2 years after his/her employment with the member's participating municipality or court terminates as a result of such incapacity.

(b) The member has accrued at least the minimum years of credited service required by the terms of the Adoption Agreement entered into by the member's participating municipality or court regarding the requirements for vesting in the event of termination of membership.

(c) The member undergoes such medical examinations and tests as may be ordered by the System. Medical examination shall be made by or under the direction of a medical advisor selected by the System who shall issue a written medical examination report. "Medical examination" includes but is not limited to physical or psychiatric examination of the member, and/or a review of the member's application and medical records.

(d) The System reviews the entire record, including the medical advisor's report, and concludes that the member is unable to continue his/her current employment with the member's participating municipality or court because, and as a result of his/her incapacity, and that the incapacity is likely to be permanent.

(e) The System determines that the participating municipality or court is unable to continue to employ the member, and accommodate the member's incapacity with other work that is reasonably related to the member's past training, experience, education and compensation.

(2) A disability retirement benefit shall be effective as of the first day of the calendar month next following the date on which the completed application for disability retirement benefits is received by the System, or, if later, the date of the member's termination of employment with the participating municipality or court resulting from the incapacity.

(3) The amount of a disability retirement benefit shall be determined in accordance with the benefit programs that are applicable to the disability retiree's credited service. The early retirement reduction provisions of Section 20(3) shall not be applied.

(4) If the System finds that the disability of an active member applying for disability retirement benefits was the natural and proximate result of a personal injury or disease arising out of and in the course of the member's actual performance of duty in the employ of the participating municipality or court, and not the aggravation of a pre-existing injury or disease, then

(a) The credited service requirement of subsection (1)(b) shall be waived, and

(b) If the member meets all other requirements of subsection 1, the disability retirement benefit determined under subsection 3 shall not be less than 25% of the member's final average compensation. For purposes of this subsection (4)(b), and except as may be required under Section 26, final average compensation shall be determined for all service credit as of the date of termination of employment under the final average compensation in effect on the termination date or, if applicable, at the time of a freeze of the Plan or employee division that included the member, or if final average compensation cannot be

determined, the participating municipality or court's projection of the member's annual salary shall be used.

(5) A participating municipality or court may adopt Benefit Program D-2 except for members covered under the Hybrid Plan. Under Benefit Program D-2, if the System finds that the disability of an active member applying for disability retirement benefits was the natural and proximate result of a personal injury or disease arising out of and in the course of the member's actual performance of duty in the employ of the participating municipality or court, and not the aggravation of a pre-existing injury or disease, then:

(a) The credited service requirement of subsection (1)(b) shall be waived; and

(b) If the member meets all other requirements of subsection 1, the disability retirement benefit determined under subsection 3 shall be the greater of:

(i) 25% of the member's final average compensation in effect on the termination date or, if applicable, at the time of a freeze of the Plan or employee division that included the member; or

(ii) the benefit determined under subsection 3, except that an additional 10 years of credited service shall be added to the member's actual period of credited service, provided that the total years of credited service may not exceed the greater of 30 years or the member's actual period of credited service. Where the retirement allowance Benefit Program in effect imposes a limitation on the maximum amount of retirement allowance payable, then the retirement allowance payable pursuant to Benefit Program D-2 shall not exceed such limitation.

Sec. 32. Disability Retiree Periodic Medical Examination; Suspension, Revocation, or Discontinuance of Disability Pension; Conditions for Restoration of Terminated Disability Retiree's Prior Service; Retiree as Vested Former Member.

(1) Prior to his/her attainment of normal or unreduced early retirement age, the System may require a disability retiree to undergo periodic medical examinations as described in Section 31(1)(c), but no more frequently than annually. If, upon medical examination and upon the advice of the medical advisor, the System determines that the disability retiree is no longer incapacitated from performing his/her former job with the participating municipality or court from which s/he retired, disability retirement benefits shall be terminated upon 60 days' prior notice.

If a disability retiree fails or refuses to submit to or cooperate with a medical examination, disability retirement benefits shall be immediately suspended with notice to the disability retiree. If a disability retiree fails or refuses to submit to or cooperate with a medical examination for six months after such suspension, his/her disability retirement benefits shall be terminated. A disability retiree whose benefits have been discontinued shall be deemed a former disability retiree.

(2) If a former disability retiree returns to covered employment with the participating municipality or court from which s/he retired within five years after the date of discontinuation of disability retirement benefits, the former disability retiree shall

recommence membership status, with all credited service the individual had accrued at the time of disability retirement.

(3) A former disability retiree who does not again become a member described in subsection (2), and who had met the applicable vesting requirement as of his/her disability retirement allowance effective date, shall become a vested former member.

(4) Service shall not be credited for the period during which a disability retiree is being paid or was paid a disability retirement allowance.

Sec. 33. Surviving Spouse and Surviving Minor Child Benefits.

(1) Surviving Spouse of a Deceased Active Member

(a) A retirement allowance shall be paid for life to the surviving spouse of a deceased active member if each of the following conditions is met:

(i) The member accrued the minimum years of credited service required to be a vested former member in the event of termination of membership.

(ii) The member was married to the surviving spouse at the time of the member’s death.

(iii) The member had not named another individual as monthly pension beneficiary in the manner set forth in Section 35 at the time of death.

(iv) The member was not receiving any form of benefits from the System at the time of death based on employment with the member’s active employer.

(b) Payment of a retirement allowance to the surviving spouse of a deceased active member shall be effective as of the first day of the calendar month in which the member died. The amount of a surviving spouse's retirement allowance shall be 85% of the deceased active member's accrued retirement allowance (as determined pursuant to subsection (4)), but not less than the amount that would be paid under Section 35 if the surviving spouse had been designated as the monthly pension beneficiary by the member. The surviving spouse is required to complete and submit an application on the form prepared by the System, along with other forms and documents required, before benefits will commence.

(c) The remarriage of a surviving spouse shall not affect the surviving spouse’s eligibility to receive the retirement allowance.

(2) Surviving Spouse of Vested Former Member

(a) A retirement allowance shall be paid for life to the surviving spouse of a deceased vested former member if each of the following conditions is met:

(i) The vested former member was married to the surviving spouse at the time of death.

(ii) The vested former member had not named another individual as monthly pension beneficiary in the manner set forth in Section 35 at the time of death.

(iii) The vested former member was not receiving any form of benefits from the System at the time of death.

(b) A retirement allowance shall be paid to the surviving spouse of a deceased vested former member, the effective date of which shall be the first day of the month following the month of the later of:

(i) the date on which the vested former member would have first satisfied the age and service requirements for retirement under Section 20 (without regard to Section 20(3)) or Section 68, or

(ii) the date on which a completed application on the form prepared by the System, along with other forms and documents required by the System, is received by the System.

Retroactive benefits shall not be payable for any period prior to the effective date as determined above.

The amount of a surviving spouse's retirement allowance shall be 85% of the deceased vested former member's accrued retirement allowance (as determined pursuant to subsection (4)), but not less than the amount that would be paid under Section 35 if the surviving spouse had been designated as the monthly pension beneficiary by the deceased vested former member.

(c) The remarriage of a surviving spouse shall not affect the surviving spouse’s eligibility to receive the surviving spouse's retirement allowance.

(d) In lieu of the benefit that would otherwise be paid under the conditions described in subsections (a) and (b), where the deceased vested former member had no surviving child(ren) under the age of 21 at the time of death, a surviving spouse may elect to receive an immediate refund of the deceased vested former member’s employee contributions.

(3) Surviving Minor Child of a Deceased Active Member or Vested Former Member

(a) A retirement allowance shall be paid to each surviving minor child of a deceased active member or a deceased vested former member if each of the following conditions is met:

(i) In the case of a deceased active member, the member has the minimum years of credited service required to be a vested former member in the event of termination of membership.

(ii) The active member or vested former member does not have a Section 35 named monthly pension beneficiary other than the active member or vested former member's spouse at the time of death.

(iii) The surviving minor child has not attained age 21 years as of the later of (i) the deceased active member or deceased vested former member's death, or (ii) the date on which a surviving spouse is no longer receiving a surviving spouse's retirement allowance.

(b) Payment of a retirement allowance to a surviving minor child shall be effective on the first day of the month of the member's death, except that no retirement allowance shall be payable to any surviving minor child for any month for which the surviving spouse is paid a retirement allowance. An authorized representative of the minor child(ren) is required to complete and submit an application on the form prepared by the System, along with other forms and documents required, prior to commencement of benefits.

The amount of retirement allowance paid to each surviving minor child shall be an equal share (divided among the then-surviving minor children, if more than one) of 50% of the deceased active member or deceased vested former member's retirement allowance, as determined pursuant to subsection (4). Such amount shall be paid to each surviving minor child until the earlier of that surviving minor child's twenty-first birthday or the death of that child, with such amount then reallocated to remaining minor surviving children, if any, in equal shares.

(4) Calculation of Benefit

For purposes of this Section 33, a deceased active member's or a deceased vested former member's accrued retirement benefit shall be computed under the following presumptions, notwithstanding the failure to satisfy the specific requirements of Sections 20, 27 or 68:

(a) The deceased active member or deceased vested former member shall be presumed to have retired under the provisions of Section 20 (without regard to Section 20(3)) or Section 68, on the day preceding death.

(b) The deceased active member or deceased vested former member shall be presumed to have elected form of payment SL.

(5) In the case of an active member who dies while performing qualified military service as defined in Section 414(u) of the IRC, the survivors of a deceased active member who died on or after January 1, 2007 shall be entitled to any additional benefits, including benefit accruals relating to the period of qualified military service, provided under the

Plan had the active member resumed and then terminated employment on account of death. Under Section 414(u)(8)(C) of the IRC, an active member who dies while performing qualified military service shall be deemed to have made any employee contributions upon which benefit accruals described hereunder are contingent.

Sec. 34. Death of an Active Member Resulting From Injury or Disease Arising Out of and In Course of Duty; Additional Provision Applicable to Sections 33(1) and 33(3).

If, after notice is provided to the System and appropriate review is made, the death of an active member is determined by the System to be the natural and proximate result, independent of all other causes, of a personal injury or disease arising out of and in the course of the active member's actual performance of duty with the participating municipality or court employing the active member, the following additional provisions shall apply to Sections 33(1) and 33(3), all other provisions being the same.

(1) The credited service/vesting requirement specified in Section 33(1)(a)(I) shall be waived.

(2) The amount of retirement allowance paid to a surviving spouse shall not be less than 25% of the deceased active member's final average compensation (determined at the time of death or, if applicable, at the time of a freeze of the Plan or employee division that included the deceased active member).

(3) The amount of retirement allowance paid to surviving minor child(ren) shall not be less than equal shares of 25% of the deceased active member's final average compensation (determined at the time of death or, if applicable, at the time of a freeze of the Plan or employee division that included the deceased active member).

(4) If the participating municipality or court has adopted Benefit Program D-2, the amount of retirement allowance paid to a surviving spouse or surviving child of a deceased active member shall not be less than the amount computed as if the active member had acquired 10 years of credited service in addition to the active member's actual period of credited service, provided that the total years of credited service may not exceed the greater of 30 years or the active member's actual period of credited service. In all cases where the retirement allowance Benefit Program in effect imposes a limitation on the maximum amount of retirement allowance payable, then the Benefit Program D-2 allowance shall not exceed such limitation. A participating municipality or a court shall not adopt Benefit Program D-2 for members covered under the Hybrid Plan.

Sec. 35. Monthly Pension Beneficiary Retirement Allowance.

(1) Monthly Pension Beneficiary Retirement Allowance on behalf of a Deceased Active Member

(a) An active member may name a monthly pension beneficiary for the exclusive purpose of being paid a monthly pension beneficiary retirement allowance under this Section in the manner and subject to the conditions set out below.

(i) The naming of a monthly pension beneficiary shall be in a format required by and submitted to the System, accompanied by such documentation

and information as the System may require, and it must be received by the System prior to the death of the member.

(ii) A spouse married to the member at the time of the designation of the monthly pension beneficiary election must consent (in a format required by and submitted to the System) to the naming of the monthly pension beneficiary if that monthly pension beneficiary is a person other than the spouse (unless otherwise provided by a judgment of divorce or other order of the court that meets the requirements of applicable law), unless the System determines that the spouse cannot be located or other extenuating circumstances.

(iii) The designation of a monthly pension beneficiary may be revoked or changed in a format required by and submitted to the System by the member at any time prior to the earlier of the death of the member and the commencement of his/her retirement benefits, subject to all other requirements of the designation of a monthly pension beneficiary (including the consent of the member's current spouse, if any, in a format required by and submitted to the System, unless the System determines that the spouse cannot be located or other extenuating circumstances).

(iv) Any designation or status of a monthly pension beneficiary shall terminate immediately upon the marriage of the member, and that member's spouse shall then become the member's monthly pension beneficiary, unless otherwise required by a judgment of divorce or other order of the court that meets the requirements of applicable law. Nothing herein shall prevent a member from designating someone other than a current spouse as a monthly pension beneficiary, provided that such designation includes the consent of the member's current spouse, in a format required by and submitted to the System, unless the System determines that the spouse cannot be located or other extenuating circumstances.

(v) Notwithstanding anything in this Plan to the contrary, the designation or status of a spouse as a monthly pension beneficiary shall terminate immediately upon entry of a judgment of divorce terminating the marriage of the member and such spouse, unless otherwise required by a judgment of divorce or other order of the court that meets the requirements of applicable law. Nothing herein shall prevent a member from designating a former spouse as a monthly pension beneficiary subsequent to the entry of their judgment of divorce, provided that such designation is consistent with all other terms and requirements of this Plan (including the consent of the member's current spouse, if any, in a format required by and submitted to the System, unless the System determines that the spouse cannot be located or other extenuating circumstances).

(vi) An active member may name a trust as monthly pension beneficiary, as long as the designated trust names only one natural person as its beneficiary.

(b) A monthly pension beneficiary retirement allowance shall be paid to the monthly pension beneficiary of a deceased active member for life, effective on the later of the first day of the month in which the deceased active member died, if each of the following conditions are met:

(i) The active member dies while still employed by a participating municipality or participating court.

(ii) The active member at time of death has accrued the minimum years of credited service required to be a vested former member in the event of termination of membership.

(iii) A spouse married to the active member at the time of death consented, in a format required by and submitted to the System, to the designation of the monthly pension beneficiary if it is someone other than the spouse married to the active member at the time of death (unless such designation is ordered by a judgment of divorce or other order of the court that meets the requirements of applicable law).

The monthly pension beneficiary is required to complete and submit to the System in a format required by the System, accompanied by such documentation and information as the System shall require prior to commencement of benefits.

(c) The amount of the monthly pension beneficiary retirement allowance payable to a monthly pension beneficiary of a deceased active member shall be computed under the following presumptions, notwithstanding the failure to satisfy the specific requirements of Sections 20, 27 or 68:

(i) The deceased active member shall be presumed to have retired under Section 20 (without regard to Section 20(3)) or Section 68, on the later of (1) the day first day of the month preceding the member's death, or (2) the first day of the month following the month in which the monthly pension beneficiary completes and submits an application to the System, on forms provided by the System and accompanied by such documentation and information as the System may require.

(ii) The deceased active member shall be presumed to have elected form of payment II under Section 27(2)(b) (100% to survivor) and named the monthly pension beneficiary as monthly pension beneficiary.

(iii) If the monthly pension beneficiary is the spouse of the deceased active member, the amount of retirement allowance payable to the monthly pension beneficiary shall not be less than the amount that would have

been payable under Section 33 if there had been no named monthly pension beneficiary.

(2) Monthly Pension Beneficiary Retirement Allowance on behalf of a Deceased Vested Former Member

(a) A vested former member may name a monthly pension beneficiary for the exclusive purpose of being paid a monthly pension beneficiary retirement allowance under this Section in the manner and subject to the conditions set out below.

(i) The naming of a monthly pension beneficiary shall be in a format required by and submitted to the System, accompanied by such documentation and information as the System may require, and it must be received by the System prior to the death of the member.

(ii) A spouse married to the member at the time of the designation of the monthly pension beneficiary election must consent (in a format required by and submitted to the System) to the naming of the monthly pension beneficiary if that monthly pension beneficiary other than the spouse (unless otherwise provided by a judgment of divorce or other order of the court that meets the requirements of applicable law), unless the System determines that the spouse cannot be located or other extenuating circumstances.

(iii) The designation of a monthly pension beneficiary may be revoked or changed (in a format required by and submitted to the System) by the member at any time prior to the earlier of the death of the member and the commencement of his/her retirement benefits, subject to all other requirements of the designation of a monthly pension beneficiary (including the consent of the member's current spouse, if any, in a format required by and submitted to the System, unless the System determines that the spouse cannot be located or other extenuating circumstances).

(iv) Any designation or status of a monthly pension beneficiary shall terminate immediately upon the marriage of the member, and that member's spouse shall then become the member's monthly pension beneficiary unless otherwise required by a judgment of divorce or other order of the court that meets the requirements of applicable law. Nothing herein shall prevent a member from designating someone other than a current spouse as a monthly pension beneficiary, provided that such designation includes the consent of the member's current spouse, in a format required by and submitted to the System, unless the System determines that the spouse cannot be located or other extenuating circumstances.

(v) Notwithstanding anything in this Plan to the contrary, the designation or status of a spouse as a monthly pension beneficiary shall terminate

immediately upon entry of a judgment of divorce terminating the marriage of the member and such spouse, unless otherwise required by a judgment of divorce or other order of the court that meets the requirements of applicable law. Nothing herein shall prevent a member from designating a former spouse as a monthly pension beneficiary subsequent to the entry of their judgment of divorce, provided that such designation is consistent with all other terms and requirements of this Plan (including the consent of the member's current spouse, if any, in a format required by and submitted to the System, unless the System determines that the spouse cannot be located or other extenuating circumstances).

(vi) A vested former member may name a trust as monthly pension beneficiary, as long as the designated trust names only one natural person as its beneficiary.

(b) A monthly pension beneficiary retirement allowance shall be paid to the monthly pension beneficiary of a deceased vested former member for life. Such allowance shall be effective on the later of:

(i) the first day of the month following the month in which the vested former member would have first satisfied age and service requirements for retirement under Section 20 (without regard to Section 20(3)) or Section 68, or

(ii) the first day of the month following the date that the monthly pension beneficiary completes and submits an application to the System on forms provided by the System and accompanied by such documentation and information as the System may require.

Retroactive benefits shall not be payable, except that if the monthly pension beneficiary completes and submits an application to the System on forms provided by the System and accompanied by such documentation and information as the System may require within six months after the death of a vested former member who at the time of death was eligible to commence receiving benefits under Section 20 (without regard to Section 20(3)) or Section 68, but had not done so, then the monthly pension beneficiary retirement allowance shall commence retroactive to the first day of the month in which the deceased vested former member died.

(c) The amount of the monthly pension beneficiary retirement allowance payable to a monthly pension beneficiary shall be computed under the following presumptions, notwithstanding the failure to satisfy the specific requirements of Sections 20, 27 or 68:

(i) The deceased vested former member shall be presumed to have commenced receipt of the retirement allowance under Section 20 or Section 68 on the later of (1) the date the vested former member would

have first satisfied age and service requirements for retirement under Section 20 (without regard to Section 20(3)) or Section 68, or (2) the date the monthly pension beneficiary completes and submits an application to the System in a format determined by the System, along with all other forms and documents required prior to commencement of payments.

(ii) The deceased vested former member shall be presumed to have elected form of payment II under Section 27(2)(b) (100% to survivor) and named the designated monthly pension beneficiary as monthly pension beneficiary.

(iii) If the monthly pension beneficiary is the spouse of the deceased vested former member, the amount of retirement allowance payable to the monthly pension beneficiary shall not be less than the amount that would have been payable under Section 33 if there had been no named monthly pension beneficiary.

Sec. 36. Reserved.

Sec. 37. Commencement, Termination, and Change in Retirement Allowance.

(1) A service retirement allowance or a disability retirement allowance under Section 20, 21, 31, or 68 shall commence effective on the first day of the calendar month next following the member's or vested former member's meeting all required conditions for commencement set forth in the applicable Section, including submission of an application. A pre-retirement survivor retirement allowance under Section 33 or 35 shall commence effective on the first day of the calendar month coincident with or next following the death of the member or former vested member.

(2) Termination of a retirement allowance shall be effective on the last day of the calendar month in which the event causing termination occurs. Payment shall be made for the full month of termination.

(3) A change in the amount of a retirement allowance shall be effective on the first day of the calendar month next following the month in which the event causing the change occurred.

Sec. 38. Initial Actuarial Determination of Contribution Requirements.

The System shall provide an actuarial determination to municipalities and courts seeking participation in the Defined Benefit Plan or Hybrid Plan, reflecting the contribution requirements that would be associated with the entity’s participation in the System, in accordance with MERS’ Actuarial Policy as amended. The municipality or court shall furnish the employee information needed for the actuarial determination, as specified by the System.

Sec. 39. Contribution Programs.

(1) A member shall contribute the percentage of compensation selected by the participating municipality or court from the available contribution programs. The contribution programs available for selection are any percentage of compensation in increments of 0.01%.

(2) A participating municipality or court may select Contribution Program P as provided in Section 40 in conjunction with any of the above contribution programs.

(3) Subject to the System's approval and within its discretion, the participating municipality or court may elect in the Defined Benefit Plan Adoption Agreement to cap annual employer contributions to a fixed percentage of compensation, with picked-up (pre-tax) member contributions described in Section 40 required to be in an amount equal to the excess of the total defined benefit contribution requirement over the capped employer contribution.

No employer cap elected under this subsection (3) shall be applied or remain in effect after the date of closure or freeze of the employee division(s) for which the employer cap was elected, after there are no active employees in the division, or after termination of participation in the Defined Benefit Plan.

Sec. 40. Picked-Up (Pre-Tax) Member Contributions (Contribution Program P).

(1) A participating municipality or court that first required member contributions on account of compensation earned after May 22, 1992 shall pick up member contributions.

(2) The picked-up contributions shall be employer contributions for the purpose of determining tax treatment under the IRC. The participating municipality or court shall pay picked-up contributions under this Contribution Program P from the same source of funds that are used for paying compensation to the member.

(3) A participating municipality or court shall pick up member contributions by a reduction in the member's salary or an offset against a future salary increase, or both. The participating municipality or court shall designate contributions that are picked up and paid to the System as employer contributions remitted as picked-up member contributions. Members employed by an employer that participates in this Contribution Program P shall not have the option of receiving cash in lieu of having those amounts paid to the System. Except as provided below, in all cases where wages have been issued, the mandatory employee contribution rate shall be that in effect for the division at the time wages are paid, irrespective of the contribution rate in effect on the date that the work on which the contributions were based was performed. Exceptions are as follows:

(a) Where late contributions result from the employer making a wage correction or other errors, the mandatory employee contribution rate shall be that in effect on the date the error occurred.

(b) Where a mandatory employee contribution rate is changed, any underpayments occurring in the first month of the change shall be waived.

Sec. 41. Distribution of Unpaid Balance of Retiree Contributions.

If at the time all retirement allowance payments to or on behalf of a retiree terminate, the System has paid benefits, including any lump sum distribution under Benefit Program DROP as

provided in Section 30, to or on behalf of such retiree, the sum of which distributed amounts is less than the retiree's accumulated contributions at the date retirement was effective, the difference between the retiree's accumulated contributions and the aggregate amount of retirement allowance payments made (including any lump sum distribution made under Benefit Program DROP) shall be paid to such individual or individuals as the retiree shall have designated as primary refund beneficiary (or if none, the contingent refund beneficiary) upon the System's receipt of an application on the form provided by the System, accompanied by all documentation required by the System. Written and signed consent by the member's spouse to the designation of the primary refund beneficiary is required unless the spouse is designated as primary refund beneficiary for 100% of the balance; this requirement may be waived by the System if it is determined by the System that the written signed consent of the member's spouse cannot be obtained because of extenuating circumstances.

Notwithstanding anything in this Plan to the contrary, the designation or status of a spouse as a beneficiary for any purpose under this Plan shall terminate immediately upon entry of a judgment of divorce terminating the marriage of the member or vested former member and such spouse, unless otherwise required by a judgment of divorce or other order of the court that meets the requirements of applicable law. Nothing herein shall prevent a member or vested former member from designating a former spouse as a beneficiary subsequent to the entry of their judgment of divorce, provided that such designation is consistent with all other terms and requirements of this Plan (including the written consent of the member or vested former member's current spouse, if any, in the case of the designation of a primary refund beneficiary).

If there is no designated primary refund beneficiary or contingent refund beneficiary to whom payment may be made, the remaining accumulated member contributions shall be distributed (upon the System's receipt of an application on the form provided by the System, accompanied by all documentation required by the System) in the following order of priority. In no case will the System distribute benefits hereunder exceeding the accumulated member contributions remaining with the System at the time of death.

(1) Surviving spouse, or if none;

(2) Surviving child(ren) in equal shares, or if none;

(3) Beneficia(ies) named by the deceased for purposes of other System benefit plans in equal shares, or if none;

(4) Surviving parent(s) in equal shares, or if none;

(5) Estate of the deceased retiree, or if none;

(6) The individual(s) identified as entitled to a share of the retiree's property in a sworn Affidavit of Decedent's Successor for Delivery of Certain Assets Owned by Decedent with respect to the Retiree, in accordance with MCL Sections 700.3983-700.3984, in equal shares, or if none;

(7) The reserve for employer contributions and benefit payments of the former employer(s), subject to claim on behalf of the deceased retiree.

Sec. 42. Payment of Accumulated Member Contributions.

(1) The accumulated member contributions of a former member, whether vested or not, shall be paid to the former member upon satisfaction of each of the following conditions:

(a) The System receives a completed application for a refund of accumulated member contributions on a form provided by the System and accompanied by all documentation required by the System.

(b) At least 30 days has passed since the former member's break in membership or lay off as provided in Section 6(3), but in no case prior to the employer's verification of termination of membership.

(c) If the former member's record(s) reflects at the time of the application that the former member has met all applicable requirements to be a vested former member, the vested former member's spouse consents in a signed writing on a form provided by the System to the issuance of the refund. This requirement may be waived by the System if it is determined by the System that the written signed consent of the vested former member's spouse cannot be obtained because of extenuating circumstances.

(2) The accumulated member contributions of a deceased vested member or a deceased vested former member who:

(a) did not designate a monthly pension beneficiary,

(b) is not married at the time of death, and

(c) has no surviving child(ren) under the age of 21

shall be distributed (upon the System's receipt of an application on the form prepared by the System and accompanied by all documentation required by the System) to such individual(s), entity or trust as the deceased vested member or deceased vested former member shall have designated as primary refund beneficiary (or contingent refund beneficiary, as applicable). Written and signed consent by the member's spouse to the designation of the primary refund beneficiary is required unless the spouse is designated as primary refund beneficiary for 100% of the balance; this requirement may be waived by the System if it is determined by the System that the written signed consent of the member's spouse could not be obtained because of extenuating circumstances.

Notwithstanding anything in this Plan to the contrary, the designation or status of a spouse as a beneficiary for any purpose under this Plan shall terminate immediately upon entry of a judgment of divorce terminating the marriage of the member or vested former member and such spouse, unless otherwise required by a judgment of divorce or other order of the court that meets the requirements of applicable law. Nothing herein shall prevent a member or vested former member from designating a former spouse as a beneficiary subsequent to the entry of their judgment of divorce, provided that such designation is consistent with all other terms and requirements of this Plan (including the written consent of the member or vested former member's current spouse, if any, in the case of the designation of a primary refund beneficiary).

If there is no designated primary refund beneficiary or contingent refund beneficiary to whom payment may be made, the remaining accumulated member contributions shall

be distributed (upon receipt an application on the form prepared by the System accompanied by all documentation required by the System) in the following order of priority. In no case will the System distribute benefits hereunder exceeding the accumulated member contributions remaining with the System at the time of death.

(a) Surviving child(ren) in equal shares, or if none;

(b) Beneficiar(ies) named by the deceased for purposes of other System benefit plans in equal shares, or if none;

(c) Surviving parent(s) in equal shares, or if none;

(d) Estate of the deceased, or if none;

(e) The individual(s) identified as entitled to a share of the member's property in a sworn Affidavit of Decedent's Successor for Delivery of Certain Assets Owned by Decedent with respect to the Member, in accordance with MCL Sections 700.3983-700.3984, in equal shares, or if none:

(f) The reserve for employer contributions and benefit payments of the former employer(s), subject to claim on behalf of the deceased.

(3) The accumulated member contributions of a deceased non-vested member or deceased non-vested former member shall be distributed (upon the System's receipt of an application on the form provided by the System, accompanied by all documentation required by the System) to such individual(s), entity or trust as the deceased non-vested member or deceased non-vested former member shall have designated as primary refund beneficiary (or contingent refund beneficiary, as applicable) in writing in a format determined by and filed with the System. Written and signed consent of the member's spouse to the designation of the primary refund beneficiary is required unless the spouse is designated as primary refund beneficiary for 100% of the balance; this requirement may be waived by the System if it is determined by the System that the written signed consent of the member's spouse could not be obtained because of extenuating circumstances.

Any designation or status of a primary refund beneficiary shall terminate immediately upon the marriage of a non-vested former member or non-vested member, and that non-vested former member or non-vested member's spouse shall then become the non-vested former member's or non-vested member's primary refund beneficiary unless otherwise required by a judgment of divorce or other order of the court that meets the requirements of applicable law. Nothing herein shall prevent a non-vested former member or non-vested member from designating someone other than a current spouse as the primary refund beneficiary, provided that such designation includes the consent of the non-vested former member's or non-vested member's current spouse, in a format required by and submitted to the System, unless the System determines that the spouse cannot be located or other extenuating circumstances. The designation of the contingent refund beneficiaries is not affected by marriage and do not require the consent of a member's spouse.

Notwithstanding anything in this Plan to the contrary, the designation or status of a spouse as a beneficiary for any purpose under this Plan shall terminate immediately

upon entry of a judgment of divorce terminating the marriage of the non-vested member or non-vested former member and such spouse, unless otherwise required by a judgment of divorce or other order of the court that meets the requirements of applicable law. Nothing herein shall prevent a non-vested member or non-vested former member from designating a former spouse as a beneficiary subsequent to the entry of their judgment of divorce, provided that such designation is consistent with all other terms and requirements of this Plan (including the written consent of the non-vested member or non-vested former member's current spouse, if any, in the case of the designation of a primary refund beneficiary.).

If there is no living designated primary refund beneficiary or contingent refund beneficiary to whom payment may be made, the accumulated member contributions shall be distributed (upon the System's receipt of an application on the form provided by the System, accompanied by all documentation required by the System) in the following order of priority. In no case will the System distribute benefits hereunder in excess of the accumulated member contributions remaining with the System at the time of death.

(a) Surviving spouse, or if none;

(b) Surviving child(ren) in equal shares, or if none;

(c) Beneficiar(ies) named by the deceased for purposes of other System benefit plans in equal shares, or if none;

(d) Surviving parent(s) in equal shares, or if none;

(e) Estate of the deceased, or if none;

(f) The individual(s) identified as entitled to a share of the member's property in a sworn Affidavit of Decedent's Successor for Delivery of Certain Assets Owned by Decedent with respect to the Member, in accordance with MCL Sections 700.3983-700.3984, in equal shares, or if none;

(g) The reserve for employer contributions and benefit payments of the former employer(s), subject to claim on behalf of the deceased.

(4) Any accumulated member contributions remaining on account for a non-vested former member based on service that preceded a break in membership of more than 180 consecutive months (15 years) for non-vested former members who terminated prior to March 11, 2009, or 240 consecutive months (20 years) for non-vested former members who terminated on or after March 11, 2009, as applicable, by that former member shall be transferred to a deemed IRA described in Article VIII established for the non-vested former member if the System has provided actual notice to such non-vested former member that this transfer shall take place and the non-vested former member does not otherwise apply for and withdraw the remaining accumulated member contributions as set out in this Section 42.

Sec. 43. Collective Bargaining Agreements; Benefit Modifications; Extension of Modified Benefits to Non-Bargaining Groups.

(1) Except for such Plan provisions that are non-modifiable by their terms, a participating municipality or court may provide for retirement benefits which are modifications of standard retirement benefits otherwise included in this Article, if provided in a collective bargaining agreement entered into pursuant to MCL 423.201 to 423.217, as amended.

(2) In the manner provided in Section 44 or 45, the participating municipality or court may extend such collectively bargained retirement benefit modifications to other employees of the participating municipality or court.

(3) As a condition of the System administering retirement benefit modifications under this Section, the participating municipality or court shall agree to compensate the System for all reasonable and necessary additional costs of administering such benefit modifications.

Sec. 44. Election to Change Benefit and Contribution Programs; Protection of Accrued Benefits; Actuarial Determination of Required Contributions.

(1) A participating municipality may elect to change the benefit programs and member contribution programs which apply to the employees of the participating municipality by an affirmative vote by a majority of the members of the participating municipality's governing body, or by resolution of the joint board or commission of the municipalities that are required by law to fund the participating municipality if those municipalities have entered into a contract to transfer functions and responsibilities pursuant to MCL 124.531 to 124.536. The participating municipality shall notify the System of the determination described above in a reasonable time, and in a format determined by the System.

The municipality shall specify the effective date of the change in coverage, and the benefit programs and member contribution programs that shall apply to the employees of the municipality from the effective date of the change. The effective date of the change in coverage shall be the first day of a calendar month. A change in benefit program or member contribution program shall not reduce the accrued financial benefit of any member as of the effective date of the change in coverage. The participating municipality must adopt and execute a revised Adoption Agreement in a form prescribed by the System.

(2) The municipality shall certify to the System, in the manner and form prescribed by the System, the determination of the participating municipality under subsection (1). The certification shall be made within 10 days after the date of the vote of the governing body.

(3) A change in benefit programs shall not be adopted unless the System has provided the municipality a supplemental actuarial valuation, pursuant to MCL 38.1140h(3) and in compliance with MERS' Actuarial Policy as amended.

Sec. 45. Election of Participating Court to Change Benefit and Contribution Programs; Protection of Accrued Benefits; Actuarial Determination of Required Contributions.

(1) A participating court may elect to change the benefit programs and member contribution programs that apply to the employees of the court by administrative order of the chief judge that is concurred in by resolution of the governing bodies of the municipalities that

are required by law to fund the court or by resolution of the joint board or commission of the municipalities that are required by law to fund the participating court if those municipalities have entered into a contract to transfer functions and responsibilities pursuant to MCL 124.531 to 124.536. The chief judge, in the administrative order shall specify the effective date of the change in coverage, and the benefit programs and member contribution programs that shall apply to the employees of the court from the effective date of the change. The effective date of the change in coverage shall be the first day of a calendar month. A change in benefit program or member contribution program shall not reduce the accrued financial benefit of any member as of the effective date of the change in coverage. The participating court must adopt and execute a revised Adoption Agreement in a form prescribed by the System.

(2) The chief judge of the court shall certify to the System, in the manner and form prescribed by the System, the determination of the court under subsection (1). The certification shall be made within 10 days after the date of the concurrence of the governing bodies of the municipalities that are required by law to fund the court or the joint board or commission of the municipalities that are required by law to fund the court.

(3) A change in benefit programs shall not be adopted unless the System has provided the participating court a supplemental actuarial valuation pursuant to MCL 38.1140h(3) and in compliance with MERS' Actuarial Policy as amended.

Sec. 46. Fiscal Responsibility: Benefit Adoption Eligibility Requirements; Actuarial Policy.

(1) The Board administers the Plan and the benefit promises made by participating municipalities and courts to their employees, for the exclusive benefit of the members, vested former members, retirees and beneficiaries, of whom, collectively, the Board is fiduciary.

(2) Benefit changes have a substantial financial impact on long-term contribution requirements for each participating entity that must finance the constitutionally protected benefit promises made to employees under Article 9, Section 24, of the Michigan Constitution. To safeguard the long-term actuarial and financial integrity of the System and its individual member plans, and to promote understanding of the impact that benefit changes have on plan integrity and taxpayer-financed employer contributions to fund benefit obligations, the Board has adopted its Actuarial Policy, as amended and which is incorporated herein by reference, in the exercise of its duties as fiduciary and trustee for the System and all MERS trust assets, as provided in MCL 38.1536(2)(a) and 38.1539(1); Plan Sections 71(2)(a) and 76(1). A participating municipality or court may satisfy its funding requirement set forth in the Actuarial Policy, in part, by a direct rollover of a member's account from a qualified plan in accordance with Section 401(a)(31) of the IRC. To the extent the direct rollover is being received from a member's qualified defined contribution plan for participation in Benefit Program F(N), Benefit Program F50, Benefit Program F55 (or a combination thereof) or Benefit Program H, then the rollover shall result in the benefit program providing a benefit that is at least as great as the annuity that would result from converting the amount directly rolled over into an actuarially equivalent immediate annuity using the applicable interest rate and applicable mortality table in accordance with Internal Revenue Code Section 417(e)(4).

(3) The provisions of this Section (and the MERS' Actuarial Policy, as amended, which is incorporated herein by reference) constitute Board action in its exclusive capacity of fiduciary and trustee for the System and all MERS trust assets, as provided in MCL 38.1536(2)(a) and 38.1539(1); Sections 71(2)(a) and 76(1). In the event of any alteration of this Section through collective bargaining, MERS shall not recognize such action, other than in accordance with this Section.

ARTICLE IV – DEFINED CONTRIBUTION PLAN

Sec. 47. Defined Contribution Plan; Adoption; Eligibility; Modification.

(1) This Article applies only to participants under the Defined Contribution Plan and, except as otherwise provided under Article V, the Defined Contribution Component of the Hybrid Plan. Participation in the Defined Contribution Plan shall be governed by this Article, together with the Resolution or Administrative Order Adopting the Defined Contribution Plan, the Defined Contribution Plan Adoption Agreement, and other Sections of the Plan Document related to the provisions of the Defined Contribution Plan.

(2) The participating municipality or court shall designate in the Adoption Agreement the employee division(s) eligible for participation in the Defined Contribution Plan, and any employee classifications within such divisions.

(3) In the event of any alteration of the Defined Contribution Plan through collective bargaining, adoption of the Defined Contribution Plan shall not be recognized, other than in accordance with this Article, the Defined Contribution Plan Adoption Agreement, and other Sections of the Plan Document related to the provisions of the Defined Contribution Plan.

Sec. 48. Funding Requirements; Contributions; Definitions.

(1) A participating municipality or court may adopt the Defined Contribution Plan for new hires or current employees.

(2) In the Resolution Adopting the Defined Contribution Plan, the municipality or court shall elect a contribution plan, as provided in Section 50. The System shall determine the timing and mechanism for the remittance of employer contributions. Contributions shall be made to the Trust in accordance with the payment schedule set forth in the Adoption Agreement.

If so elected by the employer in the Adoption Agreement, a participant shall be required to make contributions as provided in Section 50 and in the Adoption Agreement in order to be eligible for employer contributions to be made on his/her behalf.

(3) To the extent required under 415(c) of the IRC, the Annual Addition shall comply with Section 87(4).

(4) The term "Annual Addition" shall have the meaning provided by Section 87(4)(c).

Sec. 49. Compensation.

(1) For purposes of applying Section 415(c) of the IRC and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as provided in Section 87(4) and Section 87(13).

(2) For purposes of determination and verification of contributions, a participating municipality or court may select in its Adoption Agreement(s) one of the following four options to define compensation:

(a) Base Wages: This measure of compensation is the sum of:

(i) salary, or the product of hourly base wage rate and hours worked, as applicable;

(ii) employer-provided paid time off actually used; and

(iii) on-call pay.

(b) IRS Form W-2 Box 1 Wages: This measure of compensation is the amount shown in a member's IRS Form W-2, Box 1.

(c) Gross Wages: This measure of compensation includes all items of compensation included in Box 1 wages, all items of compensation included in base wages but excluded from Box 1 wages, and all taxable fringe benefits and lump sum payments.

(d) Custom Definition: This measure of compensation is the sum of those items of employee remuneration as selected by the participating municipality or court in its adoption agreement.

(3) For limitation years beginning on and after January 1, 2009, compensation for the limitation year shall also include compensation paid by the later of 2½ months after a participant's severance from employment or the end of the limitation year that includes the date of the participant's severance from employment if:

(i) The payment is regular compensation for services during the participant's regular working hours, or compensation for services outside the participant's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the participant while the participant continued in employment with the employer;

(ii) The payment is for unused accrued bona fide sick, vacation or other leave that the participant would have been able to use if employment had continued; or

(iii) Payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the participant at the same time if the participant had continued employment with the employer and only to the extent that the payment is includible in the participant's gross income.

Any payments not described above are not considered compensation if paid after severance from employment, even if they are paid within 2½ months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service (within the meaning of 414(u)(1) of the IRC) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

(4) Back pay, within the meaning of Treasury Regulation Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(5) Determination of compensation for periods associated with leaves of absence for military service is governed by Section 8 of this Plan.

(6) For limitation years beginning on or after January 1, 2009, the compensation of each participant taken into account in determining allocations shall not exceed the annual limit under 401(a)(17) of the IRC.

Sec. 50. Contributions.

(1) Employer contributions.

The employer shall contribute the amount determined under the contribution plan elected in the Adoption Agreement. Such contribution plans may include contributions determined as a flat dollar amount (determined in a uniform and consistent manner), as a percentage of compensation as defined in Section 49, as a combination of these, or contingent upon and/or in proportion to the amount of employee contributions elected under this or a related plan sponsored by the employer. The contribution plan adopted by the employer shall be consistently and uniformly applicable to all employees within the same employee division (or if applicable, the same employee classification). In the case where, under the contribution plan reflected in the employer's Adoption Agreement, an employee's election to make no employee contribution to this or to a related plan results in no employer contributions being made to this Defined Contribution Plan, or where an employee is no longer eligible for employer contributions based on the eligibility requirements of the employee division, then accrual of vesting service, and service under Sections 17 and 54, shall continue under this Defined Contribution Plan during any period in which no contributions are received by the Defined Contribution Plan on behalf of such employee.

(2) Mandatory participant contributions.

(a) If the employer so elects in the Adoption Agreement, each participant shall make contributions at a rate prescribed by the employer. In the alternative, the employer may permit each eligible employee to make a one-time, irrevocable election at the time of the employee's earliest date of eligibility of a mandatory participant contribution rate between 0% and 99% of compensation, as a requirement of participation in the defined contribution plan. Once an eligible employee becomes a participant, such participant shall not thereafter have the right to discontinue or vary the rate of such mandatory participant contributions.

Such contributions shall be accounted for separately in the participant contribution account. Participants shall be fully vested in such account at all times. Should any eligible employee fail to make a valid election of a mandatory participant contribution rate from among the optional participant contribution rates offered by the employer in the time permitted by the System or, in the case of an employee who transfers into an employee division that permits employee election among optional rates of participant contributions upon initial hire, the mandatory participant contribution rate for such participant shall be the default mandatory participant contribution rate established by the employer or, if none, the lowest of the rates of participant contributions offered by the employer.

(b) If the employer so elects in the Adoption Agreement, the mandatory participant contributions shall be "picked up" by the employer in accordance with IRC Section 414(h)(2) and Section 39 of this Plan. The employer shall pay these picked-up contributions directly to the System, instead of paying such amounts to the participants, and such contributions shall be paid from the same funds that are used in paying salaries to the participants. Such contributions, although designated as employee contributions, shall be paid by the employer in lieu of contributions by participants. Participants may not elect to receive such contributions directly instead of having them paid by the employer to the System. Employee contributions so picked up shall be treated for all purposes of the Plan Document and Michigan law, other than federal tax law, in the same manner as employee contributions made before the date picked up.

(3) Leaves of Absence.

(a) Compensation that members may receive during leaves of absence from third parties (such as short-term disability or workers' compensation payments) shall not be reported to MERS. Employer and mandatory employee contributions (as applicable) shall be required based on compensation paid by all participating municipalities or courts during any period of absence from work as specified in their Adoption Agreement(s). During member periods of absence from work, for purposes of determining contributions, compensation that members may receive from third parties (such as short-term disability or workers' compensation payments) are not used.

(b) Types of leave include:

(i) Short- and/or long-term disability leave

(ii) Workers' compensation leave

(iii) Unpaid Family Medical Leave Act (FMLA) leave (including intermittent leaves)

(iv) Other, as the participating municipality or court may specify in the Adoption Agreement(s) (such as sick and accident, administrative, educational, sabbatical, etc.).

(c) Vesting service shall continue to accrue irrespective of the receipt of contributions during periods where no wages are paid for those participating

municipalities or courts using the elapsed time method for vesting accrual. Participating municipalities or courts using the hours worked method for vesting accrual must report any hours worked for accrual of vesting service purposes.

(d) Contribution requirements associated with leaves of absence for military service shall be governed by Section 8 of this Plan.

(4) Voluntary participant contributions.

A participant may also voluntarily contribute additional amounts on an after-tax basis to his or her individual account in the reserve for the Defined Contribution Plan for any Plan Year in any amount to the extent allowed by federal law and subject to procedures established by the System. A participant may roll over qualified distributions from other qualified retirement plans into the Defined Contribution Plan, to the extent allowed by federal law and as specified in the Adoption Agreement. A participant is immediately 100% vested in the participant's accumulated balance for all participant contributions.

Sec. 51. Forfeitures.

(1) Except as otherwise provided in this Article, a participant who separates from service with his/her employer prior to accruing sufficient service to meet requirements for full vesting shall forfeit that percentage of his/her employer contribution account balance that has not vested as of the date such participant incurs a break in service with that employer of 12 consecutive months, or if earlier, the date the System distributes the participant's vested portion of the employer contributions standing to his credit, if any.

(2) Forfeitures arising under this Section shall be deposited into a forfeiture account established by the System for each participating municipality and court. The full balance of each participating municipality and court's forfeiture account must be used in accordance with one or more of the following no later than 12 months following the close of the Plan Year in which the forfeitures were incurred under subsection (1) above. Each participating municipality or court may select one of the following uses for its forfeiture account in a manner established by the System:

(a) to offset the employer's contributions,
(b) to offset administrative expenses of the Plan, and/or
(c) to distribute to the accounts of participants in a nondiscriminatory manner selected in writing by the participating municipality or court, using reasonable and consistent criteria.

(3) In the absence of an election by the participating municipality or court regarding the use of its forfeiture account, or if any balance remains in the forfeiture account after the use of disbursement manner selected by the participating municipality or court, the System shall use the balance remaining in a participating municipality or court's forfeiture account as of the end of the Plan Year as an additional employer contribution to be distributed pro-rata (based on account balance) to each active participant's account balance, or if there are no active participants, to each terminated vested participant's account balance.

Sec. 52. Period of Service.

(1) For purposes of vesting under Section 53, service shall be credited pursuant to the elapsed time method of crediting service as provided under Treasury Regulation Section 1.410(a) - 7. The employee's period of service shall be calculated starting with the date s/he first performs an hour of service as an eligible participant and ends with the earlier of the date the employee quits, is discharged, retires or dies, or the first anniversary of the date the employee is absent from service for any other reason. A participating municipality or court may elect in its Adoption Agreement(s) that periods of vesting service be calculated starting with the date covered employees first performed an hour of service in the employee division for the municipality or court, if that date is prior to the date the municipality or court first commences participation with the System in the Defined Contribution Plan.

(2) Alternatively, a participating municipality or court, by resolution of its governing body or administrative order of its chief judge, may elect to credit service under Section 53 based on hours worked as defined in the participating municipality or court's Adoption Agreement.

Sec. 53. Vesting; Vesting Schedule; Vesting Upon Normal Retirement Age; Vesting Upon Death or Disability.

(1) A participant vests in employer contributions as provided in the vesting schedule adopted by the employer in the Adoption Agreement, subject to subsection (3). The vesting schedule may provide for one of the following:

(a) Immediate full vesting upon participation.

(b) 100% vesting after completion of a specified number of years of service, not to exceed 15 years maximum ("cliff" vesting).

(c) Graded whole number percentage vesting upon completion of specified numbers of years of service, provided that full vesting is attained after not more than 10 years of service.

(d) Graded whole number vesting with full vesting attained between 10 and 20 years, provided that vesting must commence no later than following the completion of 3 years of service.

(2) Notwithstanding the above, a participant shall be vested in his/her entire employer contribution account, to the extent that the balance of such account has not previously been forfeited, if s/he is employed on or after his/her Normal Retirement Age. "Normal Retirement Age" is age 60 or as otherwise specified by the employer in the Adoption Agreement.

(3) In the event of the disability or death of an active participant, the participant shall be 100% vested in his/her entire employer contribution account.

Sec. 54. Combining Service.

A member may, by notifying the System in accordance with procedures established by the System that the member has been employed by and accrued service credit with more than one participating municipality or Court, request that the System combine such service credit accrued

under the Defined Benefit Plan and/or Defined Contribution Plan for the sole purpose of satisfying requirements under the Defined Contribution Plan vesting schedule for non-forfeited employer contributions. Such service shall be credited in accordance with procedures established by the System. The following service will not be recognized by the Defined Contribution Plan:

(1) Service of less than one year.

(2) Service that has been forfeited under Section 42.

(3) Service that preceded a break in membership of more than 240 consecutive months (20 years).

(4) Service concurrently acquired in more than one participating municipality or court.

(5) Non-vested service accrued at a participating municipality or court before the municipality or court became a participating municipality or court.

(6) Service performed for a municipality or court after the municipality or court has terminated participation with MERS.

(7) Service accrued pursuant to Section 18 (unless the governmental service purchase included vesting service under applicable prior plan provisions) and/or Section 19.

Service cannot be combined under this Section, or under Act 88, to reinstate Defined Contribution Plan employer contributions that have been forfeited pursuant to Section 51.

Sec. 55. Loans to Participants.

If the employer has elected in the Adoption Agreement to make loans available to participants, a participant may apply for a loan from the Defined Contribution Plan pursuant to uniform guidelines that have been approved by the System and subject to IRC 72(p). The employer shall execute a loan addendum to the Adoption Agreement in a format determined by the System. Loan repayments will be suspended under the Defined Contribution Plan as permitted under 414(u)(4) of the IRC.

Sec. 56. Investments.

(1) The Retirement Board shall arrange for the assets of the System to be invested, reinvested, held in nominee form, and managed by an investment fiduciary subject to the terms, conditions, and limitations of all applicable law. The Retirement Board may arrange for one or more investment options to be used by participants, vested former participants and beneficiaries in the investment of the assets in their individual account, provided, however, that such investment directions shall not violate any investment restrictions established by the employer and shall not include any investment in collectibles, as defined in 408(m) of the IRC. The legal limitations on asset allocation percentages for investments under applicable law shall not apply to the Defined Contribution plan in which participants, vested former participants and beneficiaries direct the investment of the assets in their individual accounts. Participants, vested

former participants and beneficiaries who direct the investments of the assets in their individual accounts shall not be considered investment fiduciaries under applicable law. The Retirement Board shall provide at least three categories of investment to participants, vested former participants, and beneficiaries among which to allocate directed investments:

(a) Short-term securities.

(b) Fixed income securities.

(c) Equity securities.

(2) The assets in the individual accounts of participants, vested former participants and beneficiaries who do not elect to make any investment direction shall be invested by the Retirement Board in the exercise of its fiduciary obligations.

Sec. 57. Beneficiaries.

(1) To designate a primary beneficiar(ies) and a contingent beneficiar(ies), a participant or vested former participant shall file a written designation form provided by the System with the System based on procedures established by the Retirement Board. Written consent by the participant's spouse to the primary beneficiar(ies) or contingent beneficiar(ies) designated is required unless the spouse is primary beneficiary for purposes of 100% of the balance; this requirement may be waived if it is determined by the System that the signature of the participant's spouse cannot be obtained because of extenuating circumstances.

Notwithstanding anything in this Plan to the contrary, the designation or status of a spouse as a beneficiary for any purpose under this Plan shall terminate immediately upon entry of a judgment of divorce terminating the marriage of the participant and such spouse, unless otherwise required by a judgment of divorce or other order of the court that meets the requirements of applicable law. Nothing herein shall prevent a participant from designating a former spouse as a beneficiary subsequent to the entry of their judgment of divorce, provided that such designation is consistent with all other terms and requirements of this Plan (including the written consent of the participant or vested former participant' s current spouse, if any).

(2) Upon the death of a participant or vested former participant, the primary beneficiar(ies) or if none, the contingent beneficiar(ies), if any, designated as provided in subsection (1) by the deceased participant or deceased vested former participant may apply for and receive the accumulated balance of the deceased participant or deceased vested former participant, in a format determined by the System with all documentation that the System may require.

If there is no living designated primary beneficiar(ies) or contingent beneficiar(ies) to whom payment may be made, the accumulated balance of the deceased participant or deceased vested former participant shall be distributed (upon the System's receipt of an application on the form provided by the System, accompanied by all documentation required by the System) in the following order of priority.

(a) Surviving spouse, or if none;

(b) Surviving child(ren) in equal shares, or if none;

(c) Beneficiar(ies) named by the deceased for purposes of other System benefit plans in equal shares, or if none;

(d) Surviving parent(s) in equal shares, or if none;

(e) Estate of the deceased, or if none;

(f) The individual(s) identified as entitled to a share of the participant's property in a sworn Affidavit of Decedent's Successor for Delivery of Certain Assets Owned by Decedent with respect to the participant, in accordance with MCL Sections 700.3983-700.3984, in equal shares, or if none;

(g) The Trust of the Defined Contribution Plan, subject to claim on behalf of the deceased.

(3) Notwithstanding anything in this Plan to the contrary, distributions to participants, vested former participants and beneficiaries shall not commence later nor in an amount that is less than required by IRC Section 401(a)(9).

Sec. 58. Forms of Benefit.

At the time of application for benefits, a participant, vested former participant or beneficiary eligible for a distribution shall elect one or a combination of several of the following methods of distribution of the vested accumulated balance, to the extent allowed by federal law, and subject to procedures established by the System:

(1) Lump sum distribution of the vested accumulated balance.

(2) Distribution of a portion, designated by the participant, vested former participant or beneficiary, of the vested accumulated balance.

(3) Distributions from the vested accumulated balance at intervals of monthly, quarterly, twice annually or annually, in such amounts as the participant, vested former participant or beneficiary may designate, and which the participant, vested former participant or beneficiary may change, both in amount and frequency, at any time.

If at the time of distribution, the vested accumulated balance (including that portion of the balance that is attributable to rollover contributions and earnings allocable thereto) is $1,000 or less, such vested balance shall, upon application, be paid to the participant only in a lump sum as soon as administratively possible on or after the date the benefit payment is otherwise payable unless the recipient elects to have such lump sum rolled over to an eligible plan as provided by law.

Nothing in the foregoing shall be construed or obligate the Plan to make any distribution in excess of the balance of the participant's vested accumulated balance as of the date of distribution. Notwithstanding anything in this Plan to the contrary, distributions to participants, vested former participants and beneficiaries shall comply with the requirements of IRC Section 401(a)(9).

Sec. 59. Commencement of Benefits.

(1) A participant may apply for a distribution of his or her vested account balance benefits, using forms prescribed by the System and accompanied by such documentation as the System shall require, upon the following:

(a) When the participant retires.

(b) When the participant becomes disabled. A participant will be considered to be disabled if it is determined by the System that he or she is unable to engage in any substantial gainful activity due to any medically determinable physical or mental impairment which can be expected to result in death or to be of long, continued and indefinite duration, as provided in IRC 72(m)(7).

(c) When the participant terminates employment for any reason. For purposes of this Section 59(1)(c), "termination of employment" shall mean and occur when a participant discontinues performing all services for the participating employer, and there is no pre-arrangement or agreement between the participating municipality and the participant for the participant to return to employment for the participating municipality.

(d) Upon eligibility for a qualified birth or adoption distribution of a participant who is otherwise eligible for a distribution under this Section 59(1), subject to the following limitations and definitions:

(i) A "qualified birth or adoption distribution" is a distribution, not to exceed $5,000, from the vested account balance of a participant that is paid during the 1-year period beginning on the date on which a child of such participant is born or on which the legal adoption by such participant of an eligible adoptee is finalized.

(ii) An "eligible adoptee" is any individual (other than a child of the participant's spouse) who has not attained age 18 or is physically or mentally incapable of self-support.

(iii) The $5,000 limitation shall not be met unless the aggregate amount of such distributions from all plans maintained by the employer to such participant does not exceed $5,000.

(iv) The participant may repay a qualified birth or adoption distribution within the three-year period after the qualified birth or adoption distribution was received, or for distributions made prior to December 29, 2022, after such distribution and before January 1, 2026, by making one or more contributions in an aggregate amount not to exceed the amount of the qualified birth or adoption distribution to any eligible plan or IRA to which such participant could make a rollover contribution of such distribution. If made to the System, the System shall treat such contribution as an eligible rollover distribution.

(v) Qualified birth or adoption distributions shall not be treated as eligible rollover distributions.

(vi) The System may rely on the participant's self-certification of eligibility to receive a qualified birth or adoption distribution.

(e) on or after the participant attains age 60.

(f) Upon the participant's eligibility for a qualified disaster recovery distribution, subject to the following limitations and definitions:

(i) A "qualified disaster recovery distribution" means a distribution made:

(A) on or after the first day of the incident period of a qualified disaster and before the date that is 180 days after the applicable date with respect to such disaster, and

(B) to a participant whose principal place of abode at any time during the incident period of such qualified disaster is in the qualified disaster area with respect to such qualified disaster and who has sustained an economic loss by reason of such qualified disaster.

(ii) A "qualified disaster" means any disaster with respect to which a major disaster has been declared by the President under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act after December 27, 2020.

(iii) A "qualified disaster area" means, with respect to any qualified disaster, the area with respect to which the major disaster was declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, excluding any area which is a qualified disaster area solely by reason of Section 301 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020.

(iv) The "incident period" means, with respect to any qualified disaster, the period specified by the Federal Emergency Management Agency as the period during which such disaster occurred.

(v) The "applicable date" means the latest of

(A) December 29, 2022,

(B) the first day of the incident period with respect to the qualified disaster, or

(C) the date of the disaster declaration with respect to the qualified disaster.

(vi) Qualified disaster recovery distributions shall not be treated as eligible rollover distributions.

(vii) No qualified disaster recovery distribution to a participant for any qualified disaster in all taxable years shall exceed $22,000 or such other amount as established by the Internal Revenue Code, Treasury Regulations, or any other federal law or controlling authority. The dollar limitation shall not be met unless the aggregate amount of such distributions from all plans maintained by the employer to such participant does not exceed the applicable dollar limitation.

(viii) A participant may repay all or part of a qualified disaster recovery distribution during the three-year period beginning on the day after the date on which such distribution was received by making one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan, including this Plan, to which such participant could make a rollover contribution.

(g) Upon eligibility for an emergency personal expense distribution by a participant who is otherwise eligible for a distribution under this Section 59(1), subject to the following limitations and definitions:

(i) An “Emergency Personal Expense Distribution” is a distribution from the vested account balance of a participant for purposes of meeting unforeseeable or immediate financial needs relating to necessary personal or family emergency expenses, not to exceed the lesser of:

A. $1,000, or
B. an amount equal to the excess of:
I. the individual’s total nonforfeitable accrued benefit under the plan (the individual’s total interest in the plan in the case of an individual retirement plan), determined as of the date of each such distribution, over
II. $1,000.

(ii) The $1,000 limitation shall not be met unless the aggregate amount of such distributions from all plans maintained by the employer to such participant does not exceed $1,000.

(iii) The participant may repay an emergency personal expense distribution within the three-year period after the emergency personal expense distribution was received by making one or more contributions in an aggregate amount not to exceed the amount of the emergency personal expense distribution to any eligible plan or IRA to which such participant could make a rollover contribution of such distribution. If made to the System, the System shall treat such contribution as an eligible rollover distribution.

(iv) A participant may take only one emergency personal expense distribution per calendar year, except that additional emergency person expense distributions are prohibited during the 3-year repayment period unless the prior distribution is fully repaid or unless the total of the employee

contributions made to the participant's account subsequent to such previous distribution is at least equal to the amount of such previous distribution which has not been repaid.

(v) The System may rely on the participant's self-certification of eligibility to receive an emergency personal expense distribution.

(vi) Emergency personal expense distributions shall not be treated as eligible rollover distributions.

(h) Upon eligibility for a domestic abuse distribution by a participant who is otherwise eligible for a distribution under this Section 59(1), subject to the following limitations and definitions:

(i) The term "domestic abuse" means physical, psychological, sexual, emotional, or economic abuse, including efforts to control, isolate, humiliate, or intimidate the victim, or to undermine the victim's ability to reason independently, including by means of abuse of the victim's child or another family member living in the household.

(ii) A domestic abuse distribution is a distribution, not to exceed the lesser of $10,000 (as indexed for years after 2024) or 50 percent, of the participant's vested account balance that is paid during the 1-year period beginning on the date on which the participant is a victim of domestic abuse by the participant's spouse or domestic partner.

(iii) The lesser of $10,000 or 50% of the participant's vested account balance limitation under subsection (ii) shall not be met unless the aggregate amount of such distributions from all plans maintained by the employer to such participant does not exceed $10,000 or 50% of vested account balance.

(iv) The participant may repay a domestic abuse distribution within the three-year period after the distribution by making one or more contributions in an aggregate amount not to exceed the amount of the distribution to any eligible plan or IRA to which such participant could make a rollover contribution of such distribution. If made to the System, the System shall treat such contribution as an eligible rollover distribution.

(v) The System may rely on the participant's self-certification of eligibility to receive a domestic abuse distribution.

(vi) Domestic abuse distributions shall not be treated as eligible rollover distributions.

(2) Notwithstanding anything to the contrary in this Section, if the value of a participant's vested account balance is greater than $1,000, and the account balance is immediately distributable, the consent of the participant is required for any distribution of such account balance. The participant's consent shall be obtained in writing during the ninety (90) day period ending on the date as of which benefit payments are to commence. No

consent shall be required, however, to the extent that a distribution is required to satisfy Sections 401(a)(9) or 415 of the IRC.

(3) A participant may request to withdraw a part of or the full amount of his/her voluntary contribution account, upon written application, using forms prepared by the System and accompanied by such documentation as the System shall require. Such withdrawals may be made at any time, provided that no more than two such withdrawals may be made during any calendar year. No forfeiture will occur solely as the result of any such withdrawal.

(4) A participant who has a separate account attributable to rollover contributions to the Defined Contribution plan, may at any time apply for a distribution of all or any portion of the amount held in the rollover account, using forms prepared by the System and accompanied by such documentation as the System shall require.

(5) A participant or vested former participant who has reached their required beginning date shall receive a distribution of a part of or the full amount of the balance in any or all of his/her vested accounts. No more than two such distributions may be made during any calendar year. Notwithstanding anything to the contrary in this Section, distribution of no less than the required minimum distribution, as defined by law, shall begin no later than the participant or the vested former participant's required beginning date.

Sec. 60. Distribution Requirements.

(1) The provisions of this Section 60 take precedence over any inconsistent provisions of this Defined Contribution Plan. All distributions under this Plan shall be made in accordance with a reasonable good faith interpretation of Code Section 401(a)(9) and the regulations promulgated thereunder, and the changes under the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019, SECURE 2.0 of 2022, and Treasury Regulations Sections 1.401(a)(9)-1 through -9, as each may be amended from time to time.

(2) Distributions may only be made over one of the following periods (or a combination thereof):

(c) The life of the participant;

(d) The life of the participant and a designated beneficiary;

(e) A period certain not extending beyond the life expectancy of the participant; or

(f) A period certain not extending beyond the joint and last survivor life expectancy of the participant and designated beneficiary.

(3) A participant's account(s) shall commence to be distributed to the participant beginning no later than their required beginning date.

(4) Subject to regulations or other guidance issued under Code Section 401(a)(9), upon the death of the participant before distribution of their account has begun under paragraph (3), the following distribution provisions shall take effect:

(a) The portion of the participant's account(s) payable to a beneficiary that is not a designated beneficiary shall be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

(b) The portion of the participant's account(s) payable to a designated beneficiary who is not an eligible designated beneficiary shall be distributed by December 31 of the calendar year containing the tenth anniversary of the participant's death.

(c) The portion of the participant's account(s) payable to an eligible designated beneficiary shall be distributed, pursuant to the election of the eligible designated beneficiary, either (i) by December 31 of the calendar year containing the tenth anniversary of the participant's death, or (ii) beginning no later than December 31 of the calendar year immediately following the calendar year in which the participant died, over the life of the eligible designated beneficiary or over a period not exceeding the life expectancy of the eligible designated beneficiary. If the eligible designated beneficiary does not elect a method of distribution as provided above, the participant's account(s) shall be distributed in accordance with item (i). Notwithstanding the foregoing, if the eligible designated beneficiary is the surviving spouse, they will be deemed to have elected payments consistent with an election under Code Section 401(a)(9)(B)(iv).

(5) Subject to regulations or other guidance issued under Code Section 401(a)(9), upon the death of the participant after distribution of their account(s) has begun under paragraph (b), any remaining portion of their account shall continue to be distributed at least as rapidly as under the method of distribution in effect at the time of the participant's death; provided, however, that the portion of the participant's account payable to a designated beneficiary who is not an eligible designated beneficiary shall be distributed in its entirety by December 31 of the calendar year containing the tenth anniversary of the participant's death.

(6) Upon the death of an eligible designated beneficiary, or the attainment of age 21 of an eligible designated beneficiary who is a minor child of the participant, before distribution of the participant's entire account under paragraphs (4) or (5), the remainder of the participant's account shall be distributed by December 31 of the calendar year containing the tenth anniversary of the eligible designated beneficiary's death, or by December 31 of the calendar year in which the child attains age 31, as applicable.

(7) Any distribution required under the incidental death benefit requirements of Code Section 401(a) shall be treated as a distribution required under this Section 60.

(8) Nothing in this Section 60 shall provide any individual entitled to a benefit under this Plan a benefit or payment option to which such individual would not otherwise be entitled pursuant to the provisions of the Plan.

(9) Notwithstanding any other provision herein, a participant or beneficiary who would have been required to receive a minimum required distribution in 2020 (or paid in 2021 for the 2020 calendar year for a participant with a required beginning date of April 1, 2021) and who would have satisfied that requirement but for the enactment of Code Section 401(a)(9)(I) ("2020 RMDs") with a distribution equal to the 2020 minimum required distribution or with a payment that was part of a series of substantially equal periodic

payments received that distribution unless the participant or beneficiary chose not to receive such distribution. Participants and beneficiaries were given the opportunity to elect to not receive such distribution during 2020. Solely for purposes of applying the direct rollover provisions, 2020 RMDs will be treated as eligible rollover distributions in 2020.

(10) For required minimum distributions for 2021, 2022, 2023 and 2024 to which subsection (4)(b) is applicable that were not distributed, in reliance on Treasury relief, such required minimum distributions shall begin in 2025, and full distribution is required to be made by the end of the original applicable deadline.

(11) Additional Rules.

(a) The required minimum distribution rules of IRC Section 401(a)(9) shall apply separately with respect to the separate interests of the participant's beneficiaries if, no later than the end of the calendar year following the year of the Participant's death, separate accounts that comply with the provision of Treasury Regulation Section 1.401(a)(9)-8(a) are established.

(b) Any applicable consent/application requirements are deemed satisfied if the System has made reasonable efforts to obtain them for required distributions.

(c) In the case of a domestic relations order, the terms of Treasury Regulation Sections 1.401(a)(9)-8(d) and (e) shall control to the extent applicable to governmental qualified defined contribution plans.

Sec. 61. Eligible Rollover Distributions.

A distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover, at the time and in the manner prescribed by the Board. For purposes of compliance with 401(a)(31) of the IRC, this Section and Sections 2(10)-(13) and 87(10) of the Plan Document apply notwithstanding any contrary provision or retirement law that would otherwise limit a distributee's election to make a rollover. A nonspouse beneficiary who is eligible to receive an eligible rollover distribution may direct that it be paid as a direct rollover only to an eligible retirement plan that is an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and such account or annuity will be designated as an "inherited" individual retirement account or annuity.

Sec. 62. Plan Amendment.

The employer reserves the right, subject to the following paragraphs, to amend its Defined Contribution Plan from time to time by filing an amended Adoption Agreement to change, delete, or add any optional provision.

(1) No amendment to the Defined Contribution Plan shall be effective to the extent that it has the effect of decreasing a participant's accrued benefit.

(2) No amendment to the Defined Contribution Plan shall be effective to eliminate or restrict an optional form of benefit. The preceding sentence shall not apply to a Defined Contribution Plan amendment that eliminates or restricts the ability of a participant to

receive payment of his or her account balance under a particular optional form of benefit if the amendment provides a single-sum distribution form that is otherwise identical to the optional form of benefit being eliminated or restricted.

(3) If the Defined Contribution Plan's vesting schedule is amended, or the Defined Contribution Plan is amended in any way that directly or indirectly affects the computation of the participant's nonforfeitable percentage, each participant may elect, within a reasonable period after the adoption of the amendment or change, to have the nonforfeitable percentage computed under the Defined Contribution Plan without regard to such amendment or change.

Sec. 63. Plan Termination.

(1) The Retirement Board reserves the right to terminate this Defined Contribution Plan. In the event of such termination, no part of the Trust shall be used or diverted to any purpose other than for the exclusive benefit of the participants or their beneficiaries, except as provided in this subsection. Upon termination or partial termination, all account balances shall be valued at their fair market value and be one hundred percent (100%) vested and nonforfeitable. Such amount and any other amounts held in the participant's other accounts shall be maintained for the participant until paid pursuant to the terms of the Defined Contribution Plan.

(2) A permanent discontinuance of contributions to the Defined Contribution Plan, unless an amended and restated plan is established, shall constitute a plan termination. In the event of a complete discontinuance of contributions under the Defined Contribution Plan, the account balance of each affected participant shall be nonforfeitable.

Sec. 64. Reserved.

ARTICLE V – HYBRID PLAN

Sec. 65. Hybrid Plan; Adoption; Eligibility; Modification.

(1) Article V applies only to members covered by the Hybrid Plan. The Hybrid Plan includes both a Defined Benefit Component and a Defined Contribution Component. Except as otherwise provided in this Article, the Defined Benefit Component and Defined Contribution Component shall comply with the Sections of the Plan Document governing the Defined Benefit Plan and Defined Contribution Plan, respectively. Participation in the Hybrid Plan shall be governed by this Article, together with the Resolution or Administrative Order Adopting the Hybrid Plan, the Hybrid Plan Adoption Agreement, and other Sections of the Plan Document related to the provisions of the Hybrid Plan.

(2) The participating municipality or court shall designate in the Adoption Agreement the employee division(s) eligible for membership in the Hybrid Plan, and may establish employee classifications within such employee division(s) for purposes of the Defined Contribution Component of the Hybrid Plan.

(3) In the event of any alteration of the Hybrid Plan through collective bargaining, adoption of the Hybrid Plan shall not be recognized, other than in accordance with this Article and other Sections of the Plan Document related to the provisions of the Hybrid Plan.

Sec. 66. Funding Requirements; Contributions.

(1) The Defined Benefit Component shall be determined as provided in Section 68, and shall be funded exclusively by the participating municipality or court with no member contributions permitted, except as provided under subsection (3).

(2) The Defined Contribution Component shall be determined as provided in Section 69, except as provided under subsection (3). Contributions shall be made by the member and the participating municipality or court, as provided by collective bargaining agreement or personnel policy applicable to such employee division or employee classification therein. Unless specifically restricted by this Plan or the Retirement Board, a municipality or court is authorized to offer any rights, benefits, or features authorized for defined contribution plans as permitted by law.

(3) The participating municipality or court may elect in the Hybrid Plan Adoption Agreement to cap annual employer contributions to a fixed percentage of compensation.

(a) During periods when the total contribution requirement to fund the Defined Benefit Component of the Plan is below the employer cap percentage, the employer shall pay the entire cost of the Defined Benefit Component. In addition, the employer shall make employer contributions to the Defined Contribution Component of the Plan in an amount so that the total employer contribution to the Plan is equal to the employer cap. During such periods, no member contributions shall be permitted to the Defined Benefit Component of the Plan. At the time of adoption of the Hybrid Plan, no member contributions are permitted, and the total contribution requirement to fund the Defined Benefit Component of the Plan as set forth in the initial actuarial valuation must be below the employer cap.

(b) If the total contribution requirement to fund the Defined Benefit Component of the Plan equals the employer cap percentage or more, the employer shall pay the employer cap to the Defined Benefit Component, and make no contributions to the Defined Contribution Component. In addition, members shall be required to make contributions to the Defined Benefit Component of the Plan in an amount equal to the excess of the total defined benefit contribution requirement over the employer cap employer contribution.

Sec. 67. Combining Service.

A member may combine service credit accrued under the Defined Benefit Plan and/or Defined Contribution Plan in the employ of more than one participating municipality or court for the sole purpose of satisfying requirements under the Defined Contribution Component vesting schedule for non-forfeited employer contributions, and for the sole purpose of satisfying vesting and eligibility requirements under the Defined Benefit Component, and not for benefit accrual purposes. Service shall be credited in accordance with procedures established by the System. The following service will not be recognized by the Defined Contribution Component vesting schedule for non-forfeited employer contributions, and/or by the Defined Benefit Component:

(1) Service of less than one year.

(2) Service that has been forfeited under Section 42.

(3) Service that preceded a break in membership of more than 240 consecutive months.

(4) Service concurrently acquired in more than one participating municipality or court.

Service cannot be combined under this Section, or under Act 88, to reinstate Defined Contribution Component employer contributions that have been forfeited pursuant Section 51.

Sec. 68. Defined Benefit Component; Benefit Program Multiplier; FAC; Age and Service Requirements.

(1) This Section governs the benefit program multiplier, final average compensation, and age and service requirements of the Hybrid Plan Defined Benefit Component. Except as otherwise provided in this Section, the Defined Benefit Component shall be governed by the provisions of Article III, and the Hybrid Plan Adoption Agreement.

(a) The benefit program multiplier elected by the participating municipality or court in the Hybrid Plan Adoption Agreement shall be irrevocable. The multiplier shall be one of the following, depending upon the employee division's Social Security coverage status.

(i) Where the employee division has Social Security coverage:

(A) 1.00%
(B) 1.25%
(C) 1.50%

(ii) Where the employee division does not have Social Security coverage:

(A) 1.00%
(B) 1.25%
(C) 1.50%
(D) 1.75%
(E) 2.00%

(b) Final average compensation shall be FAC-3.

(c) Normal retirement age shall be an age between 60 and 70, as selected by the participating municipality or court in the Hybrid Plan Adoption Agreement, with six years of service.

(d) Unreduced early retirement age shall be an age between 55 and 65, as selected by the participating municipality or court in the Hybrid Plan Adoption Agreement, with 25 years of service.

(e) Service credit purchases as described in Section 18 (Governmental Service Credit) or Section 19 (Generic Service Credit) shall not be permitted.

(2) Upon retirement and submission of an application in a format determined by the System and accompanied by all documentation required by the System, a member or vested former member covered by the Hybrid Plan who meets the eligibility requirements for a retirement allowance shall be eligible to apply for and receive a retirement allowance computed under this Section and the provisions of Article III. The retirement allowance shall be in addition to amounts payable to the member or vested former member under the Defined Contribution Component of the Hybrid Plan. Such member or vested former member shall become a retiree and be entitled to a monthly retirement allowance benefit effective as of the first day of the month next following the date as of which s/he has both met the eligibility requirements and submitted the application as set forth above. The date determined hereunder shall be the active member or vested former member's effective date of retirement. Retroactive benefits shall not be paid.

(3) Notwithstanding anything to the contrary in this Section, benefits shall begin no later than the member or vested former member's required beginning date.

Sec. 69. Defined Contribution Component.

The Defined Contribution Component of the Hybrid Plan shall be governed by the provisions of Article IV, and the Hybrid Plan Adoption Agreement.

Sec. 70. Reserved.

ARTICLE VI – RETIREMENT BOARD ADMINISTRATION.

Sec. 71. Retirement Board; Powers and Duties; Administrative Functions; Membership; Rules of Procedure; Record of Proceedings; Quorum; Voting; Term of Office; Oath; Expenses; Absence of Member from Work; Vacancy; Chairperson and Chairperson Pro Tem; Chief Executive Officer. [MCL 38.1536.]

(1) The Retirement Board has all of the following powers and duties:

(a) The Retirement Board shall determine and establish all of the provisions of the System affecting benefit eligibility, benefit programs, contribution amounts, and the election of municipalities, judicial circuit courts, judicial district courts and judicial probate courts to be governed by the provisions of the System. The Retirement Board shall establish all System provisions, and has sole discretion to interpret those provisions, and to make factual determinations and apply those facts with respect to the application of all System provisions.

(b) The Retirement Board or its delegate has the full and exclusive authority and full responsibility to employ and pay for all professional services, including but not limited to actuarial, investment, legal, accounting, and any other services that the Retirement Board considers reasonable and necessary for the proper operation of the System. The power granted to the Retirement Board in this subdivision includes complete control of the procurement process.

(c) The Retirement Board shall appoint a chief executive officer and any other employees for which the Retirement Board establishes positions. The Retirement Board shall establish the compensation of all persons appointed by the Board.

(d) The Retirement Board shall arrange for an annual actuarial valuation and report of the actuarial soundness of each participating municipality and court to be prepared by an independent actuary based upon data compiled and supplied by employees of the System. At intervals of five years, the actuary shall conduct an actuarial experience study of the System and report the results to the Retirement Board. The Retirement Board shall adopt actuarial tables, assumptions, and formulas after consultation with the actuary, and incorporate them into its Actuarial Policy, as amended.

(e) The Retirement Board shall arrange for annual audits of the records and accounts of the System by a certified public accountant or by a firm of certified public accountants pursuant to generally accepted auditing standards and the Uniform Budgeting and Accounting Ac, MCL 141.421 to 141.440a.

(f) The Retirement Board shall prepare an annual report for each System Fiscal Year in compliance with generally accepted accounting principles. The report shall contain information regarding the financial, actuarial, and other activities of the System during the System's Fiscal Year. The Retirement Board shall furnish a copy of the annual report to the governor and a copy in print or electronic format to each house of the legislature, each participating municipality, and each participating court. The Retirement Board shall make the report available to all members upon request. The report shall also contain a review of the actuarial valuation required under subdivision (d), if available.

(g) The Retirement Board shall appoint an attorney to be the legal advisor of the Board and to represent the Board in all proceedings.

(h) The Retirement Board shall appoint or employ custodians of the assets of the System. The custodians shall perform all duties necessary and incidental to the custodial responsibility and make disbursements of authorized System payments from the funds of the System.

(i) The Retirement Board shall perform other functions that are reasonable or required for the execution of the provisions of this Plan and applicable governing law.

(j) The Retirement Board shall establish the time and location of the meetings of the Retirement Board and the time and location of the annual meeting of the System, consistent with the provisions of the Open Meetings Act, MCL 15.261 to 15.275.

(2) The Retirement Board consists of the following nine (9) members, each of whom, with the exception of the retiree member and the Retirement Board appointees, shall be from a different county at the time of appointment:

(a) Two (2) members appointed by the Retirement Board who have knowledge or experience in retirement systems, administration of retirement systems, or investment management or advisory services.

(b) One (1) member who is a retiree of the System, appointed by the Board. For the purposes of this subsection only, "retiree" is defined as an individual who is

receiving a retirement allowance as a result of former membership in the Defined Benefit Plan or Hybrid Plan and/or is eligible to receive a tax penalty-free distribution under the Internal Revenue Code as a result of former membership in the MERS Defined Contribution Plan or Hybrid Plan.

(c) Three (3) members of the System who are officers of a participating municipality or court, who shall be designated as officer board members, elected as provided in Section 78.

(d) Three (3) employee members of the System who are not officers of a participating municipality or court, who shall be designated as employee board members, elected as provided in Section 78.

(3) The Retirement Board shall adopt its own rules of procedure and shall keep a record of its proceedings. Five (5) members of the Retirement Board shall constitute a quorum at any meeting of the Retirement Board and at least five (5) concurring votes shall be necessary for any decision by the Retirement Board. Each member of the Retirement Board shall be entitled to one (1) vote on each question before the Retirement Board.

(4) The regular term of office of members of the Retirement Board is three (3) years. Each member of the Retirement Board shall take an oath of office before assuming the duties of the position. Members of the Retirement Board shall serve without compensation with respect to their duties, but shall be reimbursed by the System for their actual and necessary expenses incurred in the performance of their duties. A participating municipality or court employing a member of the Retirement Board shall treat absences from work on account of Retirement Board business in such a manner that the individual does not suffer loss of pay or benefits.

(5) A vacancy shall occur on the Retirement Board upon the occurrence of any of the following events:

(a) An officer board member ceases to be eligible for nomination as an officer board member.

(b) An employee board member ceases to be eligible for nomination as an employee board member.

(c) A board member fails to attend three (3) consecutive scheduled meetings of the Retirement Board, unless excused for cause by majority vote of the Board members attending the meeting.

(d) A board member resigns, becomes disabled, dies or is determined by the Board to be otherwise unable to fulfill the requirements of board membership.

(6) A vacancy occurring on the Retirement Board at least 120 days before the expiration of a term of office shall be filled by the Retirement Board. Board appointments under this subsection shall be for the period ending on the December 31 next following the date of the vacancy. For the officer board members and employee board members, a replacement for any further portion of the unexpired term shall be filled pursuant to Section 78. For the two public board members and the retiree board member, a

replacement for any further portion of the unexpired term shall be filled pursuant to subsection (4).

(7) The Retirement Board shall select from its members a chairperson and a chairperson pro tem.

(8) The Retirement Board shall employ a chief executive officer. The chief executive officer shall do all of the following:

(a) Manage and administer the System under the supervision and direction of the Retirement Board.

(b) Invest the assets of the System, as directed by the Retirement Board, consistent with the Public Employee Retirement System Investment Act, MCL 38.1132 to 38.1140m, which act governs the investments of assets of public employee retirement systems.

(c) Annually prepare and submit to the Retirement Board for review, amendment, and adoption an itemized budget showing the amount required to pay the System's expenses for the following System Fiscal Year.

(d) Perform other duties as the Retirement Board, in its discretion, shall delegate to the chief executive officer.

Sec. 72. Administrative Hearing Process; Declaratory Rulings.

(1) Appeals regarding Benefit Claims.

(a) Where a claim for, concerning, or in any way affecting, benefits is granted or denied by the System, the claimant and the affected employer shall be notified in writing of the System’s decision.

(b) The claimant or the employer may appeal, in writing, the System’s decision and request a hearing before the Retirement Board's administrative law judge, which appeal must be received by the System no later than 60 days from the date of the System’s mailing of the System’s written decision.

(c) A hearing shall be conducted as provided in subsection (3).

(2) Correction of Records.

(a) A request for correction of records pursuant to Section 86 may be initiated by a claimant (an interested member, retiree, beneficiary, participating municipality, or participating court) by submitting a written request to the System. The System may initiate a hearing for correction of records by submitting written notification to the affected employer and member, retiree, or beneficiary.

(b) The request or notification shall state the following in detail:

(i) The record and the part of the record to be corrected.

(ii) The correction that should be made.

(iii) The facts and legal basis that could support a finding that the record should be corrected.

(c) The System shall respond to the written request in a reasonable time frame, setting forth in writing the decision to correct the record in whole or in part or to deny the request for correction in whole or in part, with the supporting reasons for said decision.

(d) Within 60 days of the date of mailing of the System's written decision with supporting reasons, the claimant may appeal the System's decision, and request a hearing before the Retirement Board's administrative law judge as provided in subsection (3).

(3) Hearings provided for in subsections (1) and (2) shall be conducted in accordance with the provisions of Chapter IV of the Administrative Procedures Act, MCL 24.271-24.287, and such guidelines, rules and procedures as may be adopted by the System that are consistent with such Act.

(a) At a hearing, the claimant, the employer, and the System may appear in person, by authorized agent or through counsel.

(b) Following issuance of a proposal for decision by the administrative law judge, and the opportunity to file exceptions and responses, the Retirement Board shall review the proposal for decision and issue a final agency decision.

(4) Declaratory Rulings.

An interested member, retiree, beneficiary, participating municipality, participating court, the System, or other person with a significant interest distinct from that of the general public may make a written request for a declaratory ruling from the Retirement Board as to the applicability of a statute, constitutional provision, Plan Document provision, resolution, or order, issued or administered by the Retirement Board, to an actual state of facts. The request shall contain the relevant and material facts along with a reference to the statute, constitutional provision, Plan Document provision, resolution, or order, and a statement of a proposed application of same to the facts. The Retirement Board will decide whether to consider issuing a declaratory ruling by its next regularly scheduled meeting unless the request is filed less than 30 days before that meeting, in which case the Retirement Board will decide whether to consider the request no later than the next regularly scheduled meeting. If the Retirement Board decides to consider issuing a declaratory ruling it may take necessary action, including but not limited to the following:

(a) Request more information from the petitioner;

(b) Request information from other interested parties, System staff, consultants, or other persons who may have relevant information or expertise;

(c) Request oral or written arguments from interested parties and System staff;

(d) Hold a hearing upon notice to interested parties and System staff, or refer the matter to the Retirement Board's administrative law judge for hearing and issuance of a proposed ruling as provided in subsection (3)(b);

(e) Issue a declaratory ruling; or

(f) Decline to issue a declaratory ruling;

(5) The System may develop policies or procedures to implement this Section.

Sec. 73. Indemnification.

The Retirement Board shall indemnify to the extent authorized or permitted by law (and consistent with the Plan's favorable tax qualified status under 401 of the IRC) any person, and such person's heirs and legal representatives, who is made or threatened to be made a party to any action, suit or proceeding (whether civil, criminal, administrative or investigative) whether brought by or in the right of the Retirement Board or System or otherwise, by reason of the fact that such person is or was a trustee, director, officer, employee or agent of the Retirement Board or System or such person served on any formally constituted advisory body or committee of the Retirement Board. There is no duty to indemnify where such person is judicially determined to have incurred liability due to fraud, gross neglect, or malfeasance in the exercise and performance of their duties.

Sec. 74. Audit Report.

The reports provided for under Section 71(2)(e) and (f) shall be submitted to the Retirement Board not later than the end of the 6th month that follows the end of the System's Fiscal Year.

Sec. 75. Experience Tables; Data and Information; Actuarial Operation and Investigations.

The Retirement Board shall adopt experience tables that are necessary for the operation of the System on the actuarial basis determined as provided in Section 79, in the manner set forth in the Actuarial Policy, as amended. Sufficient data and information shall be kept by the System to facilitate the actuarial investigations of the actual experience of the System.

Sec. 76. Retirement Board as Trustees of Money and Other Assets; Investments; Investments Counsel; Purpose of Investments; Discretionary Authority. [MCL 38.1539].

(1) The Retirement Board shall be the trustees of the money and other assets of the System, except as otherwise provided in Article IV and Article V. The Board shall have full power and authority to invest and reinvest the money and other assets of the System subject to all terms, conditions, limitations, and restrictions imposed on the investment of assets of public employee retirement systems by Act No. 314 of the Public Acts of 1965, being Sections 38.1132 et seq. of the Michigan Compiled Laws as amended. The Retirement Board may employ outside investment counsel to advise the Board in the making and disposition of investments.

(2) All money and other assets of the System shall be held and invested for the sole purpose of meeting disbursements authorized under this Act and shall be used for no other purpose. In exercising its discretionary authority with respect to the management

of the money and other assets of the System, the Retirement Board shall exercise the care, skill, prudence and diligence under the circumstances then prevailing, that a person of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character with like aims.

(3) To the extent permitted by law, the Board may commingle the investment of the Trust Fund with other funds that it administers. To the extent that the Retirement Board invests any money or assets of the System in a group trust as authorized by MCL 38.1140c, said group trust must:

(a) expressly prohibit any part of the System's corpus or income from being used for, or diverted to, any purpose other than for the exclusive benefit of the members and beneficiaries of the System,

(b) be operated or maintained exclusively for the comingling and collective investment of funds from other trusts that is holds,

(c) be intended to qualify as a group trust under Internal Revenue Code Sections 401(a) and 501(a), and

(d) satisfy the requirements of Internal Revenue Code Section 401(a)(24) and the requirements for a group trust as established by Revenue Ruling 81-100, 1981-1 C.B. 326, as amended by Revenue Ruling 2004-67, 2004-2 C.B. 28, and as modified by Revenue Ruling 2011-1, 2011-2 I.R.B. 251.

In this regard, the Retirement Board will only invest in group trusts which also are maintained to reflect the interest(s) of each participating retiree benefit plan, including separate accounting for contributions to the group trust by each such plan, disbursements made from each such plan's account, and the investment experience of the group trust as allocable to that account. To the extent necessary, the Retirement Board is authorized to adopt the terms of the group trust as additional terms of this Plan Document.

Sec. 77. Prohibited Conduct. [MCL 38.1540].

Members of the Retirement Board and employees of the System are prohibited from:

(1) Having any beneficial interest, direct or indirect, in any investment of the System.

(2) Being an endorser or obligor, or providing surety, for any money loaned to or borrowed from the System.

(3) Borrowing any of the money or other assets of the System.

(4) Receiving any pay or emolument from any individual or organization, other than compensation paid by the System, with respect to investments of the System.

Sec. 78. Annual Meeting; Selection of Members to Retirement Board; Transaction of Business; Notice of Meeting; Certification of Delegates; Conduct of Election; Nominating Procedures; Referendum. [MCL 38.1545].

(1) The Retirement Board shall call an annual meeting of the System for the purpose of selecting certain members of the Retirement Board and the transaction of such other business as the Retirement Board determines. Notice of the annual meeting shall be sent to each participating municipality and court, by registered mail, at least 30 days before the date of the meeting. Notice of the annual meeting shall be sent to each retiree at least 30 days before the date of the meeting.

(2) The governing body of each participating municipality shall certify the names of 2 delegates to the annual meeting. One delegate shall be a member who is an officer of the participating municipality, selected by the governing body of the participating municipality. The other delegate shall be a member who is not an officer of the participating municipality, elected by the member employees of the participating municipality. The election shall be by secret ballot and shall be conducted by an officer of the participating municipality. The election shall be conducted in a manner that affords each member employee an opportunity to vote.

(3) The chief judge of each participating court shall certify the names of 2 delegates to the annual meeting. One delegate shall be a member who is an officer of the participating court, selected by the chief judge of the participating court. The other delegate shall be a member who is not an officer of the participating court, elected by the member employees of the participating court. The election shall be by secret ballot and shall be conducted by an officer of the participating court. The election shall be conducted in a manner that affords each member employee an opportunity to vote.

(4) The nomination of candidates for election to the Retirement Board shall be made pursuant to procedures established by the Retirement Board and adopted by the delegates to an annual meeting of the System. A nomination for the position of officer board member shall be made by a member who is an officer of a participating municipality or of a court. A nomination for the position of employee board member shall be made by a member who is not an officer of a participating municipality or of a court.

(5) The Retirement Board shall hold a referendum of the assembled delegates to elect members of the Retirement Board. The referendum shall be conducted pursuant to procedures established by the Retirement Board and adopted by the delegates to an annual meeting of the System. An individual elected to the Retirement Board shall become a member of the Retirement Board on the January 1 immediately following the referendum.

Sec. 79. Funding Objective of System; Contribution Requirement; Payment of Required Contributions; Interest and Liquidated Damages; Suspension of Benefits.

(1) The funding objective of the System is to establish and receive contributions during each System Fiscal Year that are sufficient to fully cover the actuarial cost of benefits likely to be paid on account of service rendered by members during the System's Fiscal Year (the normal cost requirements of the System), and amortize the unfunded actuarial costs of benefits likely to be paid on account of service rendered before the System's Fiscal Year (the unfunded actuarial accrued liability of the System), consistent with the Michigan Constitution, Article 9, Section 24. Distinct contribution requirements shall be established for each participating municipality and court, based upon each such participating municipality or court's Fiscal Year.

(2) Contribution requirements shall be determined pursuant to the MERS Actuarial Policy, as amended.

(3) The System shall annually inform each participating municipality and court of its contribution obligation for the participating municipality or court's Fiscal Year. The required contribution shall be paid to the System pursuant to procedures and schedules established by the Retirement Board. The System may assess an interest charge and liquidated damages on any payment not made by its due date.

(a) If a participating municipality or court fails to make its required pension contributions, the System may suspend benefits to retirees and beneficiaries until it receives the delinquent payment amount. The System may impose interest charges and liquidated damages, and take such other actions pursuant to the Retirement Board's *Reporting and Contribution Enforcement Policy.* The Retirement Board may terminate a plan which remains in default under this Section and distribute accrued benefits to the extent funded.

(b) A participating municipality may, by written agreement with the System, designate one or more surplus division, and the System may, as needed, establish a surplus division for participating municipalities or courts in the Defined Benefit Plan, the balances of which shall not be included in the determination of contribution requirements as set forth in subsection (2), but shall be included in the determination of the participating municipality or court's overall funded status.

Sec. 80. Reserve for Member Contributions.

(1) The reserve for member contributions is the account in which member contributions and interest as provided under Section 85 (other than the contributions of members covered by the Defined Contribution Plan, Hybrid Plan, or Deemed IRA) are accumulated and from which shall be made refunds and transfers of accumulated member contributions. The System shall maintain a separate bookkeeping entry account for each person having an interest in this reserve.

(2) A participating municipality or court shall deduct applicable member contributions from the compensation of each member in its employ. Continuation of employment by the member shall constitute consent and agreement to the deduction of the applicable member contribution. Payment of compensation less the deduction shall be a complete discharge of all claims for compensation for service rendered by the member to the participating municipality or court.

(3) A participating municipality or court shall certify to the System the amount of compensation paid to a member employed by the participating municipality or court. A participating municipality or court shall pay the System the aggregate amount of member contributions collected. Remittance of member contributions shall be made in accordance with procedures and schedules established by the System. The System may assess an interest charge and liquidated damages on any payment not made by its due date.

(4) Accumulated member contributions (as reflected by the individual bookkeeping entry described above) shall be transferred from the reserve for member contributions to the reserve for employer contributions and benefit payments upon:

(a) The retirement of a member or vested former member; or

(b) Upon the death of a member or vested former member where a survivor's benefit is payable.

Sec. 81. Reserve for Defined Contribution Plan.

(1) The reserve for Defined Contribution Plan is the account to which member contributions and contributions by or on behalf of participating municipalities and courts for members covered by the Defined Contribution Plan or Defined Contribution Component of the Hybrid Plan are credited, and to which investment income earned on the contributions is credited. The reserve for Defined Contribution Plan is the account from which distributions of accumulated balances shall be made and from which transfers shall be made to the reserve for Expenses and Undistributed Income. The System shall maintain a separate bookkeeping entry account for each person having an interest in this reserve.

(2) A participating municipality or court shall deduct applicable member contributions from the compensation of each member in its employ. Continuation of employment by the member shall constitute consent and agreement of the deduction of the applicable member contributions. Payment of compensation less the deduction shall be a complete discharge of all claims for compensation for service rendered by the member to the participating municipality or court.

(3) A participating municipality or court shall certify to the System the amount of compensation paid to a member employed by the participating municipality or court. A participating municipality or court shall pay the System the aggregate amount of member contributions collected. Remittance of member contributions shall be made under procedures and schedules established by the System. The System may assess an interest charge and liquidated damages on any payment not made by its due date.

Sec. 82. Reserve for Employer Contributions and Benefit Payments; Separate Subaccounts for Each Participating Municipality and Court.

(1) The reserve for Employer Contributions and benefit payments is the consolidated account:

(a) To which contributions by or on behalf of participating municipalities and courts shall be credited (other than member contributions and contributions made on account of members covered by the Defined Contribution Plan, Defined Contribution Component of the Hybrid Plan, or Deemed IRA);

(b) To which all unclaimed accumulated contributions and retirement allowances shall be maintained pending claim therefore; and

(c) From which shall be paid all retirement allowances and residual refunds of accumulated contributions.

(2) The System shall maintain a separate bookkeeping entry account for each participating municipality and court.

Sec. 83. Reserve for Excess Casualty Experience; Transfers; Stop-Loss Program.

The System may establish a reserve for Excess Casualty Experience is the account for contributions by participating municipalities and courts pursuant to an excess casualty experience stop-loss program that the Retirement Board may implement from time to time. Excess casualty experience, determined in accordance with such stop-loss program, shall be charged to the reserve for Excess Casualty Experience by transfers to the affected participating municipality or court subaccounts in the reserve for employer contributions and retired benefit payments. This Section shall not be construed as mandating the establishment and continuation of a stop-loss program.

Sec. 84. Reserve for Expenses and Undistributed Income; Transfer; Contingency Reserves.

(1) The reserve for Expenses and Undistributed Income is the consolidated account

(a) To which shall be credited all net interest, dividends, and other income, gains and losses from the investment of System assets (other than assets in the reserve for Defined Contribution Plan or Deemed IRA), all gifts and bequests received by the System, and all other money received by the System, the disposition of which is not specifically provided; and

(b) From which administrative expenses are deducted.

(2) There shall be transferred from the reserve for Expenses and Undistributed Income the Section 85 allocations to:

(a) The Section 82 reserve for employer contributions and benefit payments; and

(b) The Section 80 reserve for member contributions to credit member interest. If the System determines the balance in the Section 84 reserve for Expenses and Undistributed Income is more than sufficient to cover current charges to the reserve, all or any part of the excess may be used to provide contingency reserves or to meet special requirements of the other reserve accounts of the System. If the balance in the reserve for Expenses and Undistributed Income is insufficient to meet the current charges to the account, the amount of the insufficiency shall be transferred from the reserve for employer contributions and benefit payments.

(3) Once benefit payments commence, if any benefit payment is unclaimed or uncashed for a period of six months, it shall revert to, and again become part of, the Fund; provided that any such forfeited amount shall be reinstated upon application therefor by the participant, his surviving spouse, or beneficiary entitled thereto.

Sec. 85. Allocation of Undistributed Investment Income.

(1) The System shall at least annually allocate all or a portion of the Section 84 reserve income to:

(a) The Section 82 reserve for employer contributions and benefit payments;

(b) The Section 80 reserve for member contributions to credit member interest; and

(c) On the aggregate balance in the Section 83 reserve for Excess Casualty Experience (if any).

(2) If the System determines that the balance in the Section 84 reserve for Expenses and Undistributed Income is more than sufficient to cover current charges to the reserve, all or any part of the excess may be used to provide contingency reserves or to meet special requirements of the other reserve accounts of the System. If the System determines that the balance in the reserve for Expenses and Undistributed Income is insufficient to meet the current charges to the account, the amount of the insufficiency shall be transferred from the reserve for employer contributions and benefit payments.

(3) The amounts allocated shall be charged at least annually to the reserve for Expenses and Undistributed Investment Income. The allocation rates shall be determined by the System. Allocation rates may vary by reserve account but shall be uniformly applied to each subaccount within a reserve account. Allocations to the reserve for employer contributions and benefit payments under subsection (1)(a) shall apply only to subaccounts of participating municipalities and participating courts that were active during the period represented by the allocation. Before accumulated contributions are paid under Section 29 or 42, the System may allocate the portion of investment earnings attributable to the accumulated contributions for the number of complete months between the date that investment earnings were last allocated under this Section and the date the accumulated contributions are paid.

Sec. 86. Correction of Errors in Records; Recovery of Overpayments; Making Up Underpayments.

The System shall correct errors in the records of the System as reasonable and necessary to the administration of the Plan and compliance with applicable governing law. The System may seek to recover any overpayments, and shall make up any underpayments which have been made. The recovery of overpayments may be accomplished by reducing the amount of future payments so that the actuarial present value of actual payments to the recipient is equal to the actuarial present value of the payments to which the recipient was correctly entitled, and by any other legal means.

Sec. 87. Intent; System as Qualified Pension Plan and Trust as Exempt Organization; Administration; Employer-Financed Benefit Limitations; Annual Adjustment; Use and Investment of Assets; Return of Post-Tax Member Contributions; Beginning Date of Distributions; Termination of Participation in System; Election to Rollover to Retirement Plan; Interest Rate; Compliance with Section 415 of Internal Revenue Code and Regulations; Use of Forfeitures.

(1) This Section is enacted pursuant to federal law that imposes certain administrative requirements and benefit limitations for qualified governmental plans. The Retirement Board intends that the System be a qualified pension plan under Section 401 of the IRC and that the trust be an exempt organization under Section 501 of the IRC. The Board shall administer the System to fulfill this intent.

(2) Notwithstanding any other provision of this Plan Document, the System shall be administered in compliance with the provisions of Section 415 of the IRC and revenue

service regulations under that Section that are applicable to governmental plans. If there is a conflict between this and another Section of this Plan, this Section prevails.

(3) The annual benefit otherwise payable to a member at any time shall not exceed the maximum permissible amount under Section 415(b) of the IRC. Except as otherwise provided in this Section, benefits provided by the System shall not exceed the dollar limit in effect under Section 415(b)(1)(A) of the IRC. This limitation is subject to the following conditions:

(a) The dollar limit must be reduced where a member has fewer than ten (10) years of participation in the Plan, when retirement benefits under the Plan commence. This adjustment is made by multiplying the dollar limit by a fraction: (i) the numerator of which is the number of years (or part thereof) of participation in the plan as of, and including, the current limitation year, and (ii) the denominator of which is 10. If the $10,000 minimum benefit under 415(b)(4) is applicable, that dollar amount must be reduced where a member has fewer than ten (10) years of service with the employer at the time the member begins to receive retirement benefits under the Plan. This adjustment is made by multiplying the $10,000 minimum benefit by a fraction: (i) the numerator of which is the number of years (or part thereof) of service with the employer as of, and including the current limitation year, and (ii) the denominator of which is 10.

(b) If benefits in any form other than a straight life annuity is selected (other than Form of Payment II, IIA, or III with a spouse as named monthly pension beneficiary) or if the benefit as determined includes after-tax member contributions or rollovers, then the benefit to be tested under this Section must be adjusted to an actuarial equivalent straight life annuity, beginning at the same age. For limitation years beginning on or after January 1, 1995, the actuarially equivalent straight life annuity for purposes of applying the limitations under Section 415(b) to benefits:

(i) That are not subject to Section 417(e)(3) (generally, a monthly benefit) is equal to the greater of (A) the equivalent annual benefit computed using the interest rate and mortality table, or tabular factor, specified in MERS' Actuarial Policy, as amended for the particular form of benefit payable, or (B) the equivalent annual benefit computed using a 5 percent interest rate assumptions and the applicable mortality table. The applicable mortality table is: (A) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and (B) for years after December 31, 2008, the applicable mortality tables described in Section 417(e)(3)(B) of the IRC (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Section 417(e)(3)(B) of the IRC).

(ii) Paid in a form to which IRC Section 417(e)(3) applies (generally, a lump sum benefit), is equal to the greatest of (or the reduced IRC Section 415(b) limit applicable at the annuity starting date which is the "least of" when adjusted in accordance with the following assumptions):

(A) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in MERS' Actuarial Policy, as amended;

(B) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 417(e)(3)(B) of the IRC (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 417(e)(3)(B) of the IRC); or

(C) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1 2007, using the rate in effect for the month prior to retirement, and on and after January 1, 2007, using the rate in effect for the first day of the Plan Year with a one-year stabilization period)) and (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 417(e)(3)(B) of the IRC (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Section 417(e)(3)(B) of the IRC), divided by 1.05.

The annual benefit does not include any benefits attributable to member contributions or rollover contributions, or assets transferred from a qualified plan that was not maintained by the employer.

The actuary may adjust the 415(b) limit at the annuity starting date in accordance with this subsection.

(c) For limitation years beginning on or after January 1, 1995, if the benefit of a member begins before age 62, the defined benefit dollar limitation applicable to the member at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the member at age 62 (adjusted under (a) above, if required). The defined benefit dollar limitation applicable at

an age prior to age 62 is determined as the lesser of (i) the equivalent amount computed using the interest rate and mortality table (or tabular factor) set forth in MERS Actuarial Policy, as amended, for actuarial equivalence for early retirement benefits, or (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate and the applicable mortality table. Any decrease in the defined benefit dollar limitation determined in accordance with this paragraph (c) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the member. If any benefits are forfeited upon death, the full mortality decrement is taken into account.

(d) If the benefit of a member begins after the member attains age 65, the defined benefit dollar limitation applicable to the member at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the member at age 65 (adjusted under (a) above, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age 65 is determined as the lesser of (i) the equivalent amount computed using the interest rate and mortality table (or tabular factor) set forth in MERS' Actuarial Policy, as amended for actuarial equivalence for late retirement benefits, or (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate assumption and the applicable mortality table.

(e) For purposes of this Section, the following benefits shall not be taken into account in applying these limits:

(i) Any ancillary benefit which is not directly related to retirement income benefits;

(ii) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;

(iii) Any other benefit not required under IRC Section 415(b)(2) and Treasury Regulations thereunder to be taken into account for purposes of the limitation of IRC Section 415(b)(1).

(f) The Section 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in IRC Section 414(j) maintained by the member's employer in this Plan shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one (1) plan.

(g) Effective on and after July 1, 2009, for purposes of applying the Section 415(b) limit to a member with no lump sum benefit, the following will apply:

(i) A member's applicable 415(b) limit will be applied to the member's annual benefit in the member's first limitation year without regard to any automatic cost of living adjustments;

(ii) To the extent that the member's annual benefit equals or exceeds the limit, the member will no longer be eligible for cost of living increases until such time as the benefit plus the accumulated increases are less than the 415(b) limit;

(iii) Thereafter, in any subsequent limitation year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable 415(b) limit including any adjustment to the IRC Section 415(b)(1)(A) dollar limit under IRC Section 415(d), and the Treasury Regulations thereunder.

(h) On and after July 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable limit will be applied taking into consideration cost of living increases as required by IRC Section 415(b) and applicable Treasury Regulations.

(i) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the plan, then the requirements of IRC Section 415(n) will be treated as met only if:

(i) The requirements of IRC Section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of IRC Section 415(b), or

(ii) The requirements of IRC Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of IRC Section 415(c).

(iii) For purposes of applying this Section, the plan will not fail to meet the reduced limit under IRC Section 415(b)(2)(C) solely by reason of this subparagraph and will not fail to meet the percentage limitation under IRC Section 415(c)(1)(B) solely by reason of this Section.

(iv) For purposes of this Section the term "permissive service credit" means service credit—

(A) Recognized by the Plan for purposes of calculating a member's benefit under the plan,

(B) Which such member has not received under the plan, and

(C) Which such member may receive only by making a voluntary additional contribution, in an amount determined under the plan, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may include service credit for periods for which there is no performance of service, and, notwithstanding clause (B), may include service credited in order to provide an increased benefit for service credit which a member is receiving under the plan.

(v) The plan will fail to meet the requirements of this Section if:

(A) More than five years of nonqualified service credit are taken into account for purposes of this subparagraph or

(B) Any nonqualified service credit is taken into account under this paragraph before the member has at least five years of participation under the plan.

(vi) For purposes of paragraph (v), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term “nonqualified service credit” means permissive service credit other than that allowed with respect to:

(A) Service (including parental, medical, sabbatical, and similar leave) as an employee of the government of the United States, any state or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in IRC Section 415(k)(3)),

(B) Service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in clause (A)) of an education organization described in IRC Section 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed,

(C) Service as an employee of an association of employees who are described in clause (A), or

(D) Military service (other than qualified military service under Section 414(u)) recognized by the plan.

In the case of service described in clause (A), (B), or (C), such service will be nonqualified service if recognition of such service would cause a member to receive a retirement benefit for the same service under more than one plan.

(vii) In the case of a trustee-to-trustee transfer after December 31, 2001, to which IRC Section 403(b)(13)(A) or IRC Section 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer)

(A) The limitations of paragraph (v) will not apply in determining whether the transfer is for the purchase of permissive service credit, and

(B) The distribution rules applicable under federal law to the plan will apply to such amounts and any benefits attributable to such amounts.

(viii) For an eligible member, the limitation of IRC Section 415(c)(1) shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of the plan as in effect on August 5, 1997. For purposes of this paragraph, an eligible member is an individual who first became a member in the plan before January 1, 1998.

(j) Notwithstanding any other provision of law to the contrary, the plan may modify a request by a member to make a contribution under this rule if the amount of the contribution would exceed the limits provided in IRC Section 415 by using the following methods:

(i) If the law requires a lump sum payment for the purchase of service credit, the plan may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under IRC Section 415(c) or Section 415(n).

(ii) If payment pursuant to subparagraph (i) will not avoid a contribution in excess of the limits imposed by IRC Section 415(c) or Section 415(n), the System may either reduce the member's contribution to an amount within the limits of those Sections or refuse the member's contribution.

(k) Any repayment of contributions (including interest thereon) to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan shall not be taken into account for purposes of IRC Section 415, in accordance with applicable Treasury Regulations.

(l) Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's Defined Benefit Component under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans; and next, by reducing the member's Defined Contribution Component benefit under any defined benefit plans; and next by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such member.

(4) Annual additions to any member’s account shall not exceed the limit specified in Section 415(c). For years beginning on or before December 31, 2001 the limit is the lesser of 25% of the member’s compensation or $30,000, as adjusted for cost-of-living increases under subsection (5). Notwithstanding anything in this subsection, the annual additions

on behalf of any member shall be reduced to the extent necessary to comply with IRC Section 415 limitations. This limit is subject to the following definitions and conditions:

(a) For limitation years beginning after December 31, 1997, compensation paid or made available during such limitation year shall include any elective deferral (as defined in Section IRC Section 401(g)(3)), and any amount which is contributed or deferred by the employer at the election of the member and which is not includible in gross income of the employee by reason of 125 or 457 of the IRC. For plan and limitation years beginning on and after January 1, 2001, compensation paid or made available during such plan and limitation years shall include elective amounts that are not includable in the gross income of the member by reason of Section 132(f)(4) of the IRC.

For limitation years beginning on and after January 1, 2009, compensation for the limitation year shall also include compensation paid by the later of 2½ months after a member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if:

(i) The payment is regular compensation for services during the member's regular working hours, or compensation for services outside the member's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer; or

(ii) The payment is for unused accrued bona fide sick, vacation or other leave that the member would have been able to use if employment had continued; or

(iii) Payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includible in the member's gross income.

Any payments not described in the second paragraph of this subsection (a) are not considered compensation if paid after severance from employment, even if they are paid within 2½ months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service (within the meaning of 414(u)(1) of the IRC) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

An employee who is in qualified military service (within the meaning of 414(u)(1) of the IRC) shall be treated as receiving compensation from the employer during such period of qualified military service equal to (i) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of

qualified military service, or (ii) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

Beginning January 1, 2009, to the extent required by Section 414(u)(12) of the IRC, an individual receiving differential wage payments (as defined under Section 3401(h)(2) of the IRC) from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under Section 415(c) of the IRC. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

Back pay, within the meaning of Treasury Regulation Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(b) All defined contribution plans of an employer shall be treated as one defined contribution plan for the purposes of the limitations under 415(c) of the IRC.

(c) As defined by Treasury Regulation 1.415(c)-1, “Annual Addition” means the sum of the following amounts credited to a member's account for the Limitation Year:

(i) Employer contributions;

(ii) Forfeitures;

(iii) Employee contributions; and

(iv) Allocations under a simplified employee pension.

Amounts allocated, after March 31, 1984, to an individual medical account, as defined in Section 415(l)(2) of the IRC, which is part of a pension or annuity plan maintained by the employer, are treated as Annual Additions to a defined contribution plan, except as otherwise provided in this Section.

For defined benefit plan purposes, annual additions generally include after-tax mandatory and voluntary member contributions. Excluded from the definition of annual additions are picked-up contributions to the Defined Benefit Plan, repayments of refunded contributions, rollovers, and trustee-to-trustee transfers.

(d) Effective for Plan Years beginning after December 31, 2015, in the case of a member whose employer-provided compensation for a taxable year includes amounts that are excluded from gross income under IRC Section 131 as a qualified foster care payment which is a difficulty of care payment, the member’s compensation for purposes of this subsection shall be increased by such amount. Any contributions that are allowable due to such increase shall be treated as after-tax contributions.

(5) Section 415(d) of the IRC requires the Commissioner of Internal Revenue to adjust the dollar limit described in subsections (3) and (4) to reflect cost of living increases. These subsections shall be administered using the limitations applicable to each calendar year as adjusted by the Commissioner of Internal Revenue under 415(d) of the IRC. The System shall adjust the benefits subject to the limitation each year to conform to the adjusted limitation.

(6) The assets of the System shall be held and invested for the sole purpose of meeting the legitimate obligations of the System and shall not be used for any other purpose. The assets shall not be used for or diverted to a purpose other than for the exclusive benefit of the members, vested former members, retirees, and beneficiaries before satisfaction of all System liabilities. As permitted by IRC Section 401(a)(2) and the regulations thereunder, in the event of a termination of a participating municipality or court's defined benefit plan under this Plan, the employer may recover any balance remaining in the reserve for employer contributions after satisfaction of all liabilities (as shall be determined by the System) with respect to employees and their beneficiaries under the Plan.

(7) The System shall return post-tax member contributions made by a member and received by the System to a member upon retirement, pursuant to IRS regulations and approved IRS exclusion ratio tables. For Benefit Program DROP authorized under Section 30, the interest rate and mortality table used for calculating the portion of the lump sum attributable to a member's post-tax member contributions shall be as provided under subsection (11) of this Section 87.

(8) Retirement allowances and other distributions shall be paid not later than the required beginning date.

(9) If a participating municipality or court discontinues participation in the System, or if the System is terminated, the interest of the members, vested former members, retirees, and beneficiaries in the plan is nonforfeitable to the extent funded as described in 411(d)(3) of the IRC and the related Internal Revenue Service regulations applicable to governmental plans.

(10) Notwithstanding any other provision of this Plan to the contrary that would limit a Distributee's election under this Plan, a Distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the Distributee in a direct rollover. This subsection applies to distributions made on or after January 1, 1993. A Distributee who is a nonspouse beneficiary may only make a direct transfer (a trustee-to-trustee transfer) of an eligible rollover distribution to an inherited IRA.

(11) For purposes of determining actuarial equivalent retirement allowances under Section 27(2)(b) through (e), the actuarially assumed interest rate shall as be set forth in the Board's Actuarial Policy, as amended.

(12) Notwithstanding anything in the Plan to the contrary, no distribution shall be made under the Plan that fails to meet the requirements of a reasonable, good faith interpretation of Section 401(a)(9) of the IRC.

(13) Notwithstanding any other provision of this Plan, the compensation of a member of the System shall be taken into account for any year under the System only to the extent that it does not exceed the compensation limit established in 401(a)(17) of the IRC, as adjusted for cost-of-living increases in accordance with 401(a)(17)(B) of the IRC. For purposes of determining benefit accruals in a Plan Year beginning after December 31, 2001, compensation for any prior determination period shall be limited to $200,000. This subsection applies only to any person who first becomes a member of the System on or after October 1, 1996 (“noneligible members”), and shall be effective for noneligible members as of October 1, 1996.

(14) Notwithstanding any other provision of this Plan, contributions, benefits, and service credit with respect to qualified military service will be provided under the System in accordance with 414(u) of the IRC. This subsection applies to all qualified military service on or after December 12, 1994.

(15) Forfeitures arising from severance of employment, death, or for any other reason, shall not be applied to increase the benefits any employee would otherwise receive under the Plan at any time prior to the termination of the plan or the complete discontinuance of all employer contributions thereunder. The amounts so forfeited shall be used as soon as possible to reduce the employer's contributions under the Plan, and the Plan may anticipate the effect of forfeitures for all purposes in determining the actuarial costs of the Plan.

(16) MERS may purchase fiduciary liability insurance and/or errors and omissions insurance to cover any fiduciary of the Program or Trust, including the Board, and MERS shall pay the premiums therefor from the Trust.

(17) The Board and MERS shall incur no liability in acting upon any notice, request, signed letter, telegram or other paper or document or electronic transmission believed to be genuine or to be executed or sent by an authorized person. They and each of them are entitled to rely on the validity of documents received, and there shall be no duty to make any investigation or inquiry as to any statement contained in any such writing but may accept the same as fully authorized as presented.

(18) The System may accept plan-to-plan transfers from other qualified plans, individual retirement accounts, plans of deferred compensation, and other retirement plans to the extent permitted by law and under such terms and conditions, and under such circumstances as the System may require in its sole and exclusive discretion. Nothing herein shall be interpreted to require the System to accept any plan-to-plan transfer that would endanger the Plan’s status as a qualified plan under Section 401(a) of the Internal Revenue Code.

Sec. 88. Qualified Excess Benefit Arrangement (QEBA).

(1) This Section is enacted pursuant to 415(m) of the IRC and the Michigan Public Employee Retirement Benefit Protection Act, MCL 38.1681 to 38.1689.

(2) A qualified excess benefit arrangement (QEBA) is established. The arrangement shall be governed by a separate plan document and trust, executed by the Retirement Board.

(3) The amount of any retirement allowance that would exceed the limitations imposed by 415 of the IRC, as set forth in Section 87 of the Plan, shall be paid from the QEBA in accordance with necessary and appropriate procedures established by the Retirement Board for the administration of the QEBA.

(4) The QEBA shall be a separate portion of the Plan. The QEBA is subject to the following requirements:

(a) The QEBA shall be maintained solely for the purpose of providing to retirees and beneficiaries that part of the retiree's or beneficiary's retirement allowance otherwise payable under the terms of the Plan, but which exceed the limitations imposed by 415 of the IRC, as set forth in Section 87 of the Plan; and

(b) Retirees and beneficiaries do not have an election, directly or indirectly, to defer compensation to the QEBA.

ARTICLE VII – ESTABLISHMENT OF SECTION 401(h) ACCOUNT FOR MERS PARTICIPATING EMPLOYERS.

Sec. 89. Authorization and Establishment.

The Board is authorized by MCL Section 38.1536(2)(a) to establish additional programs within MERS, including ancillary benefits, health and welfare benefits, and other post-employment benefits. A Section 401(h) Account shall be established for each MERS Participating Employer that adopts a Section 401(h) Account Uniform Resolution and a Section 401(h) Account Participation Agreement ("Participation Agreement"), specifying optional terms of the Section 401(h) Account. Each Section 401(h) Account shall be a separate account within the Trust Fund and shall be established pursuant to IRC Section 401(h). The assets held in each Section 401(h) Account shall be accounted for separately from all assets of the Trust Fund not held in any Section 401(h) Account. However, Section 401(h) Account assets may be commingled with other assets of the Trust Fund for investment purposes. Investment earnings and expenses will be allocated on a reasonable basis. The purpose of each such Section 401(h) Account shall be to provide a funding structure for the payment of certain Medical Care costs as provided in the applicable Participation Agreement and as permitted by IRC Section 401(h).

Sec. 90. Additional Defined Terms.

For purposes of this Article VII, the following additional terms are defined as used herein:

(1) "Covered Group" means any class or group of employees of a Participating Employer so designated by the Participating Employer in the Participation Agreement.

(2) "Eligible Employee" means any employee of a Participating Employer so designated by the Participating Employer in the Participation Agreement.

(3) "Medical Care" has the meaning set forth in Section 213(d)(1) of the IRC.

(4) "Member(s)" means any Eligible Employee of any Participating Employer, on whose behalf rights to benefits from the Section 401(h) Account become payable upon his or her receipt of a retirement benefit from the Participating Employer.

(5) "Participating Employer" means any participating municipality or court that chooses to establish a Section 401(h) Account pursuant to this Article VII.

Sec. 91. Section 401(h) Account Participation.

Any Participating Employer may choose to establish a Section 401(h) Account pursuant to this Article. The Participating Employer shall adopt the Section 401(h) Account Uniform Resolution and Participation Agreement and provide the same to MERS. A Section 401(h) Account shall not be established for any Participating Employer until MERS receives such duly adopted and executed Section 401(h) Account Uniform Resolution and Participation Agreement.

Sec. 92. Mandatory Terms.

A Section 401(h) Account established under this Section must comply with the following conditions:

(1) Trust Status.

(a) All assets held in the Section 401(h) Account, including all contributions received pursuant to the Plan Document and the Participation Agreement, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of members in the Participating Employer's Section 401(h) Account.

(b) To the extent required by IRC Section 401(h), all contributions received pursuant to the Plan Document and the Participation Agreement, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Section 401(h) Account shall be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan Document and the Participation Agreement.

(2) Discrimination. The Section 401(h) Account does not permit any condition for eligibility or benefits that would discriminate in favor of any class of members to the extent such discrimination is prohibited by applicable law.

(3) Non-Diversion and Reversion Rules.

(a) At no time prior to the satisfaction of all liabilities under the Section 401(h) Account or termination of the Section 401(h) Account shall any assets in the Section 401(h) Account be used for, or diverted to, any purpose other than the providing of the benefits under this Article and the payment of administrative expenses. Assets in the Section 401(h) Account may not be used for retirement or disability benefits or any other purpose for which other assets held in the Trust Fund are used.

(b) As provided by IRC Section 401(h)(5), upon the satisfaction of all liabilities under law and the Section 401(h) Account, any remaining amounts shall be returned to the Participating Employer.

(4) Amendment for Qualification of Plan. It is the intent of the Board that the Section 401(h) account shall be and remain an IRC Section 401(h) account. The Board may make any

modifications, alterations, or amendments to the Plan Document, Participation Agreement or Plan operations necessary to obtain and retain approval of the Secretary of the Treasury or the Secretary's delegate of the Section 401(h) Account as qualified under the provisions of the IRC or other federal legislation, as now in effect or hereafter enacted, and the regulations issued thereunder. Any modification, alteration, or amendment of the Plan Document or the Participation Agreement, made in accordance with this Section, may be made retroactively, if necessary or appropriate. A certified copy of the resolution of the Board making such amendment shall be delivered to the Plan administrator, and the Plan Document or Participation Agreement shall be amended in the manner and effective as of the date set forth in such resolution. The Board and the Participating Employer, eligible employees, members, their spouses and dependents, and all others having any interest under the Section 401(h) Account shall be bound thereby.

(5) Coverage. Benefits from the Section 401(h) Account may only be paid to a retired member, a retired member's spouse (an individual to whom the retired member is married as determined under Michigan law) and dependents (as defined in IRC Section 152) for Medical Care specified in the applicable Participation Agreement. An Eligible Employee (including his or her spouse and dependents) has no rights to benefits from the Section 401(h) Account until he or she becomes a retired member.

(6) Benefits Payable from the Section 401(h) Account.

(a) Benefits payable from a Section 401(h) Account shall include only payments or reimbursements for Medical Care (as defined in IRC Section 213(d)(1)). Benefits may be further limited by the terms of the Participation Agreement of a Participating Employer, which shall specify the specific benefits to be paid from a Section 401(h) Account.

(b) The Board shall administer the DB Component, if any, of each Section 401(h) Account on an actuarially sound basis.

(c) Medical Care payments shall only be paid pursuant to an application.

(d) No refunds of contributions shall be made. All contributions remain in the Section 401(h) Account until used for Medical Care payments, except as provided by subsection (3)(b) and IRC Section 401(h)(5).

(e) Reimbursements may not be made for any expense for which the retired member or his or her spouse or dependents receive, or are eligible to receive, payment or reimbursement from another source.

(f) In order to receive benefits from the Section 401(h) Account, the retired member must provide appropriate documentation of the expenditure, subject to the following conditions:

(i) In the case of premiums for insurance provided by the retired member's employer, a certification of coverage by the employer is required before payments may be made directly to the insurance provider.

(ii) For Medicare B premiums, the retired member must provide evidence of coverage in order for direct payments to be made.

(iii) Other Medical Care reimbursements shall be made to the retired member only upon receipt of verified claims or pursuant to the certification procedure.

(7) Protection of Benefits.

(a) A retired member may assign the payment of benefits from the Section 401(h) Account in order to pay for Medical Care insurance if otherwise permitted by the applicable Participation Agreement. With this exception, no eligible employee or his or her spouse or dependent, or designee, may commute, sell, assign, transfer or otherwise convey the right to receive any payment under the Section 401(h) Account.

(b) The rights of Eligible Employees or their spouses or dependents under this Article shall not be subject to the rights of their creditors, and shall be exempt from execution, attachment, prior assignment or any other judicial relief or order for the benefit of creditors or other third person, including a domestic relations order.

(8) Subordination of Contributions.

(a) Contributions to the Section 401(h) Account must be subordinate to the contributions to the System for retirement benefits. At no time shall contributions to the Section 401(h) Account be in excess of twenty-five percent (25%) of the total aggregate actual contributions made to the System (not including contributions to fund past service credits). The System shall annually determine whether the twenty-five percent (25%) test has been met. If at any time the Section 401(h) Account contributions would exceed the twenty-five percent (25%) test, the excess amount of contributions shall be directed first to the employer reserve.

(b) Forfeitures shall not be allocated to individual accounts under any Participating Employer's Section 401(h) Account, but shall be used for account expenses.

(9) Treatment of Contributions for IRC Section 415(c) Purposes. Contributions shall be treated as an annual addition to a defined contribution plan for purposes of IRC Section 415(c) in accordance with Section IRC Section 415(l).

Sec. 93. Optional Terms.

(1) DB Component. A Participating Employer may elect a Defined Benefit Component. A Participating Employer that so elects shall be subject to the following provisions:

(a) For each Participating Employer which so elects, the Board will establish in the Section 401(h) Account a sub-account to be known as the DB Component. The DB Component shall be credited with the contributions made by the Participating Employer, contributions made by eligible employees (which shall be deposited in individual accounts within the DB Component), and all investments, receipts, disbursements, and other transactions thereunder; which amounts shall be used

solely for the payment of benefits, expenses and other charges properly allocable to the DB Component and shall not be used for the payment of benefits, expenses or other charges properly allocable to any other purpose.

(b) As authorized by law, and if so elected in the Participation Agreement, the Board shall pay monthly to each retired member who is eligible for medical insurance coverage under part B of "The Social Security Amendments of 1965," 79 Stat. 301, 42 U.S.C.A. 1395j, as amended, an amount established by Board rule that does not exceed the basic premium for such coverage.

(c) As authorized by law, and if so elected in the Participation Agreement, the Board shall pay monthly to each retired member an amount determined by the Participation Agreement for Medical Care as defined by the Participation Agreement.

(2) DC Component. A Participating Employer may elect a Defined Contribution Component. A Participating Employer that so elects shall be subject to the following provisions.

(a) For each Participating Employer which so elects, the Board will establish in the Section 401(h) Account a sub-account to be known as the DC Component.

(b) Within the DC Component, separate accounts shall be maintained reflecting the contributions made by each member and all investments, receipts, disbursements, and other transactions thereunder; which amounts shall be used solely for the payment of benefits, expenses and other charges properly allocable to each member and shall not be used for the payment of benefits, expenses or other charges properly allocable to any other purpose.

(c) A retired member's DC Component account balance may be used for the purpose of funding any Medical Care costs specified in the Participation Agreement for a retired member or his or her spouse or dependents.

(d) The Board, in its sole discretion, may permit members participating in the DC Component to direct the investment of their DC Component Account among investment funds selected by the Board. The Board may by rule establish one or more default options for a member that does not have a valid investment direction on file with the System. The Board may establish the default option based upon various factors, including but not limited to, market value, stability and rate of return. Any rule adopted under this Section may provide for the setting and changing of administrative and investment fees.

(3) Member contributions: DB Component or DC Component.

(a) The Participation Agreement may require mandatory member contributions and/or may establish a procedure for a one-time elective member contribution.

(b) Member contributions shall be made by payroll deduction from the salary of the Eligible Employees unless the Eligible Employees' Participating Employer elects to pay all or a portion of such contributions.

(c) The Participating Employer may elect to pick up all of the Eligible Employees' member contributions in the Participation Agreement. The contributions so

picked up shall be treated as employer contributions pursuant to IRC Section 414(h)(2). The Participating Employer shall pay these picked-up contributions directly to the System, instead of paying such amounts to the Eligible Employees, and such contributions shall be paid from the same funds that are used in paying salaries to the Eligible Employees. Such contributions, although designated as member contributions, shall be paid by the Employer in lieu of contributions by Eligible Employees. Eligible Employees may not elect to receive such contributions directly instead of having them paid by the Participating Employer to the Section 401(h) Account. Member contributions so picked up shall be treated for all purposes of the Plan Document and Michigan law, other than federal tax law, in the same manner as member contributions made before the date picked up.

(4) The Participation Agreement may provide for Employer Contributions.

(5) A Participating Employer may identify Covered Groups in the Participation Agreement.

(6) A Participating Employer may specify the types of Medical Care covered in the Participation Agreement. However, Medical Care must be payments or reimbursement for health benefits as defined by IRC Section 213 and excludable from income under IRC Sections 105 and 106, as amended from time to time. Medical Care excludes health benefits provided by Social Security, Medicaid, Medicare, or any other medical and health insurance contracts covering the retired members, their spouse and dependents, and the reimbursements may not be made for items payable by any other insurance contract.

The permissible types of Medical Care are:

(a) To any retired member who is eligible for medical insurance coverage under part B of “The Social Security Amendments of 1965,” 79 Stat. 301, 42 U.S.C. 1395j, as amended.

(b) Premiums paid for any group health insurance plan provided by the Participating Employer. A “health insurance plan” means an individual or group accident or health insurance policy, but does not include dental or vision coverage. The term includes, but is not limited to, a hospital policy or certificate, a medical policy or certificate, a service policy or certificate, a hospital or medical service plan contract, a health maintenance organization, and a preferred provider organization.

(c) Premiums paid for a health insurance plan for single, two-party, or family coverage for Medical Care for a retired member. A “health insurance plan” means an individual or group accident or health insurance policy, and may include dental or vision coverage. The term includes, but is not limited to, a hospital policy or certificate, a medical policy or certificate, a service policy or certificate, a hospital or medical service plan contract, a health maintenance organization, and a preferred provider organization.

(d) Payment or reimbursement of amounts (i) for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body, or (ii) for transportation primarily for and essential to

medical care. Medical Care must be payments or reimbursement for health benefits as defined by IRC Section 213 and excludable from income under IRC Sections 105 and 106, as amended from time to time. Medical Care excludes health benefits provided by Social Security, Medicaid, Medicare, or any other medical and health insurance contracts covering the retired member, his/her spouse and dependents, and the reimbursements may not be made for any item covered by any other insurance contract.

ARTICLE VIII – ESTABLISHMENT OF DEEMED IRAS.

Sec. 94. Establishment of Accounts.

(1) The System shall establish Deemed IRAs on behalf of participants who choose to make voluntary employee contributions and/or rollover contributions pursuant to this Article. The System shall establish a separate account for the voluntary employee contributions and rollover contributions to a Deemed Traditional IRA and/or Deemed Roth IRA of a participant and any earnings properly allocable to such contributions, and maintain separate recordkeeping with respect to each such Deemed IRA. Each Deemed IRA is established for the exclusive benefit of the participant and/or his or her beneficiaries.

(2) In accordance with IRC Sections 408 and 408A, a participant may also establish a Deemed IRA for the benefit of his or her spouse (a “spousal IRA”), provided that the participant and his or her spouse file a joint tax return. The spousal IRA will be a Deemed IRA that is established in the name of the spouse. The employee or former employee who is eligible to be a participant in the Deemed IRAs must establish a Deemed IRA in his or her own name prior to the establishment of a spousal IRA. Once established by the participant, the spouse’s rights and benefits under the spousal IRA will be subject to the terms of this Article in the same way as a Deemed IRA established in the name of a participant.

Sec. 95. Trust; Trustee.

(1) Separate Trust. Deemed IRAs established pursuant to this Article shall be held in a trust separate from the trust established under the System to hold contributions other than Deemed IRA contributions. In any event, the trust shall satisfy the applicable requirements of IRC Section 408 and IRC Section 408A, which requirements are set forth in Sections 99 and 100.

(2) Trustee. The System shall designate a trustee for the Deemed IRAs, which shall be a bank as defined in IRC Section 408(n), or an entity that has received approval to serve as a nonbank trustee or nonbank custodian pursuant to Treasury Regulation Section 1.408-2(e).

Sec. 96. Procedures for Deemed IRAs.

Except as specifically provided by this Article or by IRC Section 408 or IRC Section 408A or by applicable Treasury Regulations, all procedural provisions of this Plan Document shall apply to the Deemed IRAs.

Sec. 97. Reporting Duties.

The trustee shall be subject to the reporting requirements of IRC Section 408(i) with respect to all Deemed IRAs that are established and maintained by the System.

Sec. 98. Qualified Reservist Distributions.

A participant who receives a qualified reservist distribution as defined in IRC Section 72(t)(2)(G)(iii) may, at any time during the two-year period beginning on the day after the end of his active duty period, make one or more contributions to a Deemed Traditional IRA or Deemed Roth IRA under this Article in an aggregate amount not to exceed the amount of his qualified reservist distribution, provided the contribution otherwise meets the requirements to be a voluntary employee contribution. The annual dollar limitations otherwise applicable to Deemed Traditional IRAs or Deemed Roth IRAs shall not apply to any contribution made pursuant to the preceding sentence.

Sec. 99. Deemed Traditional IRA Requirements.

(1) Maximum Annual Contributions.

(a) The System will accept voluntary employee contributions as cash contributions only. Such contributions are limited to $5,500 for the 2018 tax year, adjusted annually thereafter for cost-of-living increases. For a participant who will reach the age of 50 before the close of the Plan Year, this contribution limit is increased to $6,500 for the 2018 tax year, adjusted annually thereafter for cost-of-living increases. Voluntary employee contributions may be further limited by IRC Section 219. These contribution limits do not apply in the case of a rollover contribution as described in IRC Section 402(c), 402(e)(6), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), an employer contribution to a “simplified employee pension plan” as described in IRC Section 408(k), or a recharacterized contribution as described in IRC Section 408A(d)(6).

(b) If this is an inherited IRA within the meaning of IRC Section 408(d)(3)(C), no contributions will be accepted.

(2) Investment Limitations.

(a) No part of the trust funds allocable to a Deemed Traditional IRA may be invested in collectibles (within the meaning of IRC Section 408(m)) except as otherwise permitted by IRC Section 408(m)(3), which provides an exception for certain gold, silver, and platinum coins, coins issued under the laws of any state, and certain bullion.

(b) No part of the trust funds will be invested in life insurance contracts.

(c) No contributions will be accepted under a SIMPLE IRA plan established by any employer pursuant to IRC Section 408(p). Also, no transfer or rollover of funds attributable to contributions made by a particular employer under its SIMPLE IRA plan will be accepted from a SIMPLE IRA, that is, a traditional IRA used in conjunction with a SIMPLE IRA plan, prior to the expiration of the 2-year period beginning on the date the individual first participated in that employer's SIMPLE IRA plan.

(3) Required Minimum Distributions

(a) The provisions of this Section 99(3) take precedence over any inconsistent provisions of the Plan with respect to the deemed traditional IRAs. All distributions under this Plan shall be made in accordance with a reasonable, good faith interpretation of IRC Sections 401(a)(9) and 408(a)(6), all Treasury Regulations promulgated thereunder, the changes under the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019 and SECURE 2.0 of 2022, as each may be amended from time to time. The required minimum distributions calculated for this deemed traditional IRA may be withdrawn from another traditional IRA of the participant in accordance with Treasury Regulation Section 1.408-8.

(b) Distributions may only be made over one of the following periods (or a combination thereof):

(i) The life of the participant;

(ii) The life of the participant and a designated beneficiary;

(iii) A period certain not extending beyond the life expectancy of the participant; or

(iv) A period certain not extending beyond the joint and last survivor life expectancy of the participant and designated beneficiary.

(c) A participant's account shall commence to be distributed to the participant beginning at their required beginning date.

(d) Subject to regulations or other guidance issued under Code Section 401(a)(9), upon the death of the participant before distribution of their account has begun under paragraph (c), the following distribution provisions shall take effect:

(i) The portion of the participant’s account payable to a beneficiary that is not a designated beneficiary shall be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

(ii) The portion of the participant's account(s) payable to a designated beneficiary who is not an eligible designated beneficiary shall be distributed by December 31 of the calendar year containing the tenth anniversary of the participant's death.

(iii) The portion of the participant's account payable to an eligible designated beneficiary shall be distributed, pursuant to the election of the eligible designated beneficiary, either (i) by December 31 of the calendar year containing the tenth anniversary of the participant's death, or (ii) beginning no later than December 31 of the calendar year immediately following the calendar year in which the Participant died, over the life of the eligible designated beneficiary or over a period not exceeding the life expectancy of the eligible designated beneficiary. If the eligible designated beneficiary does not elect a method of distribution as provided

above, the participant's account shall be distributed in accordance with subsection (ii). Notwithstanding the foregoing, if the eligible designated beneficiary is the surviving spouse, they will be deemed to have elected payments consistent with an election under Code Section 401(a)(9)(B)(iv).

(e) Subject to regulations or other guidance issued under Code Section 401(a)(9), upon the death of the participant after distribution of their account has begun under paragraph (c), any remaining portion of their account shall continue to be distributed at least as rapidly as under the method of distribution in effect at the time of the participant's death; provided, however, that the portion of the participant's account payable to a designated beneficiary who is not an eligible designated beneficiary shall be distributed in its entirety by December 31 of the calendar year containing the tenth anniversary of the participant's death.

(f) Upon the death of an eligible designated beneficiary, or the attainment of age 21 of an eligible designated beneficiary who is a minor child of the participant, before distribution of the participant's entire account under paragraphs (d) or (e), the remainder of the participant's account shall be distributed by December 31 of the calendar year containing the tenth anniversary of the eligible designated beneficiary's death, or by December 31 of the calendar year in which the child attains age 31, as applicable.

(g) Any distribution required under the incidental death benefit requirements of Code Section 401(a) shall be treated as a distribution required under this Section 99(c).

(h) Effective March 27, 2020, or as soon as administratively practicable thereafter, a beneficiary who would have been required to receive a 2020 RMD, and who would have satisfied that requirement by receiving distributions that are equal to the 2020 RMDs will receive this distribution unless the participant or beneficiary chooses not to receive such distributions. Beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distribution described in the preceding sentence. Solely for purposes of applying the direct rollover provisions, 2020 RMDs will be treated as eligible rollover distributions in 2020.

(i) For RMDs for 2021, 2022, 2023 and 2024 that were not distributed, in reliance on Treasury relief, such required minimum distributions shall begin in 2025, and full distribution is required to be made by the end of the original applicable deadline.

(4) Nonforfeitable. The interest of a participant or beneficiary in the balance in his or her Deemed Traditional IRA is nonforfeitable at all times.

(5) No commingling. The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund within the meaning of IRC Section 408(a)(5).

Sec. 100. Deemed Roth IRA Requirements.

(1) Maximum Annual Contributions.

(a) Maximum Permissible Amount. Except in the case of a qualified rollover contribution (as defined in subsection (g) below) or a recharacterization (as defined in subsection (f) below), no contribution will be accepted unless it is in cash and the total of such contributions to all the participant's Roth IRAs for a taxable year does not exceed the applicable amount (as defined in subsection (b) below), or the participant's compensation (as defined in subsection (h) below), if less, for that taxable year. The contribution described in the previous sentence that may not exceed the lesser of the applicable amount or the participant's compensation is referred to as a "regular contribution." Contributions may be limited under subsections (b) through (d) below.

(b) Applicable Amount. The applicable amount is determined below, unless otherwise limited by IRC Section 219:

(i) If the participant is under age 50, the applicable amount is $5,500 for the 2018 tax year, adjusted annually thereafter for cost-of-living increases.

(ii) If the participant is age 50 or older or will reach the age of 50 by the close of the Plan Year, the applicable amount is $6,500 for the 2018 tax year, adjusted annually thereafter for cost-of-living increases.

(c) Regular Contribution Limit. If subsections (b)(i) and/or (ii) apply, the maximum regular contribution that can be made to all the participant's Roth IRAs, including a Deemed Roth IRA, for a taxable year is the lesser amount determined under (i) or (ii) below.

(i) The maximum regular contribution is phased out ratably between certain levels of modified adjusted gross income ("modified AGI," as defined in Section IRC Section 408A(c)(3)(C)(i)). If the participant's modified AGI for a taxable year is in the phase-out range, the maximum regular contribution determined by the applicable table published by the IRS for that taxable year is rounded up to the next multiple of $10 and is not reduced below $200.

(ii) If the participant makes regular contributions to both Roth IRAs and traditional IRAs for a taxable year, the maximum regular contribution that can be made to all the participant's Roth IRAs (including a Deemed Roth IRA) for that taxable year is reduced by the regular contributions made to the participant's traditional IRAs for the taxable year.

(d) SIMPLE IRA Limits. No contributions will be accepted under a SIMPLE IRA plan established by any employer pursuant to IRC Section 408(p). Also, no transfer or rollover of funds attributable to contributions made by a particular employer under its SIMPLE IRA plan will be accepted from a SIMPLE IRA, that is, a traditional IRA used in conjunction with a SIMPLE IRA plan, prior to the expiration of the 2-year period beginning on the date the individual first participated in that employer's SIMPLE IRA plan.

(e) Inherited IRA. If this is an inherited IRA within the meaning of IRC Section 408(d)(3)(C), no contributions will be accepted.

(f) Recharacterization. A regular contribution to a traditional IRA may be recharacterized pursuant to Treasury Regulation Section 1.408A-5 as a regular contribution to this Deemed Roth IRA, subject to the limits in subsection (c) above.

(g) Qualified Rollover Contribution. A "qualified rollover contribution" is a rollover contribution of a distribution from an eligible retirement plan described in IRC Section 402(c)(8)(B). If the distribution is from an IRA, the rollover must meet the requirements of IRC Section 408(d)(3), except the one-rollover-per-year rule of IRC Section 408(d)(3)(B) does not apply if the distribution is from a traditional IRA. If the distribution is from an eligible retirement plan other than an IRA, the rollover must meet the requirements of IRC Section 402(c), 402(e)(6), 403(a)(4), 403(b)(8), 403(b)(10), 408(d)(3) or 457(e)(16), as applicable. A qualified rollover contribution also includes (i) and (ii) below.

(i) All or part of a military death gratuity or service members' group life insurance ("SGLI") payment may be contributed if the contribution is made within 1 year of receiving the gratuity or payment. Such contributions are disregarded for purposes of the one-rollover-per-year rule under IRC Section 408(d)(3)(B).

(ii) All or part of an airline payment (as defined in Section 125 of the Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA"), Pub. L. 110-458) received by certain airline employees may be contributed if the contribution is made within 180 days of receiving the payment.

(h) Compensation. For purposes of subsection (a) above, compensation is defined as wages, salaries, professional fees, or other amounts derived from or received for personal services actually rendered (including, but not limited to commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, and bonuses) and includes earned income, as defined in IRC Section 401(c)(2) (reduced by the deduction the self-employed individual takes for contributions made to a self-employed retirement plan) or such other income as set forth in IRC Section 219(f). For purposes of this definition, IRC Section 401(c)(2) shall be applied as if the term trade or business for purposes of IRC Section 1402(c)(6) included service. Compensation does not include amounts derived from or received as earnings or profits from property (including but not limited to interest and dividends) or amounts not includible in gross income (determined without regard to IRC Section 112). Compensation also does not include any amount received as a pension or annuity or as deferred compensation. In the case of a married individual filing a joint return, the greater compensation of his or her spouse is treated as his or her own compensation, but only to the extent that such spouse's compensation is not being used for purposes of the spouse making an IRA contribution. The term "compensation" also includes any differential wage payments as defined in IRC Section 3401(h)(2).

(2) Investment Limitations.

(a) No part of the trust funds allocable to a Deemed Roth IRA may be invested in collectibles (within the meaning of IRC Section 408(m)) except as otherwise

permitted by IRC Section 408(m)(3), which provides an exception for certain gold, silver, and platinum coins, coins issued under the laws of any state, and certain bullion.

(b) No part of the trust funds will be invested in life insurance contracts.

(3) Distributions Before Death. No amount is required to be distributed prior to the death of the participant for whose benefit the account was originally established. If this is an inherited IRA within the meaning of IRC Section 408(d)(3)(C), this paragraph does not apply.

(4) Distribution Upon Participant's Death.

(a) The provisions of this Section 100(4) take precedence over any inconsistent provisions of the Plan. All distributions under this Plan shall be made in accordance with a reasonable, good faith interpretation of IRC Sections 401(a)(9), all Treasury Regulations promulgated thereunder, the changes under the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019 and SECURE 2.0 of 2022, as each may be amended from time to time.

(b) Subject to regulations or other guidance issued under Code Section 401(a)(9), upon the death of the participant prior to the attainment of their applicable age, the following distribution provisions shall take effect:

(i) The portion of the participant's account payable to a beneficiary that is not a designated beneficiary shall be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

(ii) The portion of the participant's account payable to a designated beneficiary who is not an eligible designated beneficiary shall be distributed by December 31 of the calendar year containing the tenth anniversary of the participant's death.

(iii) The portion of the participant's account payable to an eligible designated beneficiary shall be distributed, pursuant to the election of the eligible designated beneficiary, either (i) by December 31 of the calendar year containing the tenth anniversary of the Participant's death, or (ii) beginning no later than December 31 of the calendar year immediately following the calendar year in which the participant died, over the life of the eligible designated beneficiary or over a period not exceeding the life expectancy of the eligible designated beneficiary. If the eligible designated beneficiary does not elect a method of distribution as provided above, the participant's account shall be distributed in accordance with subsection (ii). Notwithstanding the foregoing, if the eligible designated beneficiary is the surviving spouse, they will be deemed to have elected payments consistent with an election under Code Section 401(a)(9)(B)(iv).

(c) Subject to regulations or other guidance issued under Code Section 401(a)(9), upon the death of the participant on or after the attainment of their applicable

age, the participant's entire interest will be distributed, or begin to be distributed, in the same manner as that applicable in the case of a participant who dies prior to the attainment of their applicable age.

(d) Upon the death of an eligible designated beneficiary, or the attainment of age 21 of an eligible designated beneficiary who is a minor child of the participant, before distribution of the participant's entire account under paragraphs (d) or (e), the remainder of the participant's account shall be distributed by December 31 of the calendar year containing the tenth anniversary of the eligible designated beneficiary's death, or by December 31 of the calendar year in which the child attains age 31, as applicable.

(e) Effective March 27, 2020, or as soon as administratively practicable thereafter, a beneficiary who would have been required to receive a 2020 RMD, and who would have satisfied that requirement by receiving distributions that are equal to the 2020 RMDs will receive this distribution unless the participant or beneficiary chooses not to receive such distributions. Beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distribution described in the preceding sentence. Solely for purposes of applying the direct rollover provisions, 2020 RMDs will be treated as eligible rollover distributions in 2020.

(f) For RMDs for 2021, 2022, 2023 and 2024 that were not distributed, in reliance on Treasury relief, such required minimum distributions shall begin in 2025, and full distribution is required to be made by the end of the original applicable deadline.

(5) Rollovers Into Deemed Roth IRA. Upon any distribution event pursuant to which a participant, a spouse beneficiary, or a spousal alternate payee would be permitted to have all or any portion of the participant's account that qualifies as an eligible rollover distribution rolled over into another eligible retirement plan, such participant, spouse beneficiary, or spousal alternate payee may elect to have the portion of such eligible rollover distribution that is not attributable to contributions to the Deemed Roth IRA directly rolled over into a separately maintained account within his or her Deemed Roth IRA. Any such amounts will be included in gross income as if the distribution had been made to such participant, surviving spouse beneficiary, or spousal alternate payee.

(6) Nonforfeitable. The interest of a participant or beneficiary in the balance in his or her Deemed Roth IRA is nonforfeitable at all times.

(7) No Commingling. The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund within the meaning of IRC Section 408(a)(5).

Sec. 101. Distribution Rights.

(1) A participant may elect to receive a distribution of his or her Deemed IRA(s) at any time, subject to the minimum distribution requirements applicable to a Deemed Traditional IRA before the participant's death under Section 100(3).

(2) A participant may elect to receive a distribution in any form of payment permitted under Section 58 of the Plan Document.

Sec. 102. Beneficiaries.

(1) Upon the death of a participant, the primary beneficiar(ies) or contingent beneficiar(ies), if any, nominated by the participant may apply for and receive the accumulated balance of the deceased participant's Deemed IRA(s), on forms prescribed by the System with all documentation that the System may require.

(2) To designate a beneficiary or beneficiaries, a participant shall file a written designation form provided by the System with the System based on procedures established by the Retirement Board.

(3) If the participant dies without a designated beneficiary, the benefit shall be paid in the following order of priority:

(a) The surviving spouse of the participant.

(b) If none, the individual designated by the participant with respect to another benefit provided by this Plan with respect to benefits accrued by the deceased participant with the same participating employer.

(c) If none, the individual designated by the participant with respect to another Plan benefit administered by MERS with respect to benefits accrued by the deceased participant with the same participating employer.

(d) If none, surviving children of the participant in equal shares.

(e) If none, surviving parents of the participant in equal shares.

(f) If none, the participant's estate.

(g) If none, the individual(s) identified as entitled to a share of the participant's property in a sworn Affidavit of Decedent's Successor for Delivery of Certain Assets Owned by Decedent with respect to the participant, in accordance with MCL Sections 700.3983-700.3984, in proportion to the shares identified on that form.

(4) Notwithstanding anything in this Plan Document to the contrary, distributions to participants and beneficiaries shall not commence later nor in an amount that is less than required by IRC Section 401(a)(9).

(5) With respect to a spouse for whom a participant has established a spousal IRA, the beneficiary provisions of this Section (with the exception of subsections (3)(b) and (3)(c)) shall apply to the spouse with respect to the spousal IRA as if the spouse were the participant.

Sec. 103. Transfers of Deemed IRAs Pursuant to Divorce.

Pursuant to a decree of divorce or separate maintenance or a written instrument incident to such a decree, the plan administrator may approve a direct transfer of all or a portion of a participant's interest in his or her Deemed IRA to a separate individual retirement account or individual retirement annuity owned by such participant's spouse or former spouse. The plan administrator shall establish reasonable procedures for determining the status of any such decree or written instrument and for effectuating transfer in accordance with IRC Section 408(d)(6).

Sec. 104. Construction.

Notwithstanding any other Sections which may be added or incorporated, the provisions of this Article and this sentence will be controlling with respect to each Deemed Traditional IRA and Deemed Roth IRA created under the System. Any additional Sections inconsistent with the Internal Revenue Code, the Treasury Regulations, and other published guidance will be invalid.