

# MERS Defined Contribution Loan Addendum



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## I. Loan Reference

This loan addendum is for the \_\_\_\_\_ employees of the \_\_\_\_\_ (Eligible Employees) which modifies the Defined Contribution Plan Adoption Agreement effective \_\_\_\_\_ (Employer) (MM/DD/YYYY) **(Adoption Date)** with respect to current participants in MERS.

The Employer offers the following retirement plans (e.g., 457, 401a, 403(b) plans, etc.) to its employees in addition to the MERS Defined Contribution Plan: \_\_\_\_\_  
 None

If the Employer has other plans listed above, the Employer agrees to coordinate the application of the maximum loan limits among the MERS Defined Contribution Benefit Plan and any other retirement plans which the Employer may sponsor. The Employer hereby acknowledges that MERS is not able to perform such coordination and accepts the delegation of this responsibility.

The Employer agrees to report to MERS within 1 month any of the following events relating to a participant with an outstanding loan: death, disability, unpaid leave of absence, military leave, change to a part-time position, termination of employment, or any other circumstances which the Employer has reason to believe will impact the repayment of the outstanding loan.

## II. Loan Procedures

1. **Availability.** Any participant who is an active employee may apply to the Employer, or its designee, for a loan from the employee's account balance in the Plan. Loans will be available to all such participants on a uniform and nondiscriminatory basis upon submission of the required loan application forms. All loans are subject to the approval of the Employer and MERS, or its designee.
2. **Purpose.** A general purpose loan may be obtained for any purpose.
3. **Restrictions on Availability.** A participant may not have more than two (2) outstanding loan(s) at any one time.
4. **Frequency.** A participant may not apply for a loan any more frequently than once per a rolling 12-month period.
5. **Minimum Amount.** The minimum loan amount is One Thousand Dollars (\$1,000.00).

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### 6. **Maximum Amount**

The maximum amount for all outstanding loans to the participant from the Plan and all other plans participated in is the lesser of:

- (a) Fifty Thousand Dollars (\$50,000.00), reduced by the highest outstanding balance of loans from all the plans in which the participant participates during the one (1) year period ending on the day before the date on which the loan is to be made; or
- (b) One-half (1/2) of the sum of the vested account balance, reduced by the participant's current outstanding balance of all loans from all plans of the participant for that participant, determined as of the loan application date.

The maximum amount will also be reduced by the amount of any existing loan balance (including accrued interest).

### 7. **Domestic Relations Orders**

No loans will be made during a period when MERS, or its designee, is determining whether a domestic relations order affecting the participant's accounts is an "eligible domestic relations order" as defined by the Eligible Domestic Relations Order Act, MCL 38.1701, *et seq.*

### 8. **Interest Rate**

- (a) The interest rate to be charged on a loan will be the prime interest rate (as reported by the Wall Street Journal or any successor thereto) plus two percent (2.00%) and is fixed for the life of the loan. The interest rate will be the established rate in effect on the date the loan application becomes effective and is approved by MERS.
- (b) Interest payments on the loans by participants are not deductible for tax purposes.

### 9. **Term**

- (a) The term of the loan must extend for at least one (1) year from the date of the loan but must not exceed five (5) years.
- (b) The term of the loan will end prior to the end of the applicable period and the outstanding balance (principal and accrued interest) will become immediately due and payable on the earlier of:
  - (1) in the case of a participant who becomes eligible for a plan distribution (other than an in-service distribution beginning at age 70½) which begins after the beginning date of the loan, the date such distribution begins;
  - (2) the date of distribution or separation of (1) the participant's accounts pursuant to an eligible domestic relations order, or (2) any portion of the accounts which causes the remaining portion of the accounts to be less than the security interest established at the time of inception of the loan;
  - (3) the date of termination of employment of the participant as provided in paragraph 15; or
  - (4) the date of a default on the loan as provided in paragraph 16.
- (c) The term of the loan shall not exceed a period which would cause the payment to be less than Five Dollars (\$5.00) per week.
- (d) Loans may not be refinanced for any reason.

### 10. **Repayment**

- (a) Each loan must be repaid in substantially equal installments, with payments not less frequently than each payroll period beginning as specified in loan document but no later than 30 days from receipt of payment.
- (b) The participant must authorize repayment of the principal and interest of each loan to be made by regular payroll deduction payments and reported to MERS according to reporting cycle selected in Adoption Agreement. If the scheduled repayment amount is greater than the participant's payroll, the participant must make payment in full for any remaining repayment amount not collected through payroll deduction by delivering to the Employer or its designee, a check or other negotiable instrument (not cash) payable to the Employer.
- (c) Repayments will be reallocated to the participant's account according to the investment election made by the participant, and in effect at the time the payment is processed to the participant's account.

### 11. **Unpaid Leave of Absence**

During the term of a loan, if a participant takes an approved leave of absence without pay, the participant may choose to suspend regular loan payments for up to one year during such unpaid leave of absence. Suspension of payments will not cause the term of the loan to be extended beyond its original term, and such suspended payments (and accrued interest) will become due and payable at the end of the original loan term in one lump sum payment. If a participant on a leave of absence without pay chooses to continue regular payments during such unpaid leave of absence, payments may be made by check or other negotiable instrument (not cash) made payable to the Employer and delivered to the Employer, or its designee.

### 12. **Military Service**

As permitted under Code Section 414(u), if a participant with an outstanding plan loan takes a leave of absence for a period of military service; such participant may elect to suspend regular loan payments during such period of military service, regardless of the duration of such service. Upon completion of such military service, the participant must resume making loan repayments in an amount which is not less than the original repayment amount, and in installments which are not less frequent than the frequency required under the terms of the original loan. The loan must be repaid in full (including interest that accrues during the period of military service at a rate not to exceed 6% compounded annually) by no later than the date of the original loan plus the period of military service. Any balance due and payable at the end of the adjusted loan term must be paid in one lump sum payment. Such lump sum payments may be made by check or other negotiable instrument (not cash) made payable to the Employer and delivered to the Employer, or its designee.

### 13. **Prepayments**

The participant may repay, without penalty, the entire outstanding principal balance of the loan and accrued interest to date of repayment. Prepayments should be made by check or other negotiable instrument (not cash) made payable to the Employer and delivered to the Employer or its designee, who shall report the payment to MERS.

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### 14. **Loan Processing Fees**

Any loan processing fee charged by MERS will be paid by the participant. Following loan issuance, MERS will deduct an initial processing fee of One Hundred and Fifty Dollars (\$150.00) from the participant's remaining vested account balance. MERS reserves the right to charge an annual maintenance fee.

### 15. **Termination of Employment**

(a) The entire amount outstanding on the participant's loan will be due and payable on the date of the participant's termination of employment. The date a participant terminates employment is the date on which the participant quits, retires, is discharged, or dies. If the loan is not paid in full at termination, default will occur and paragraph 16 applies.

(b) No distributions to a participant (other than in-service withdrawals, as limited under paragraph 18(b)) will be made prior to repayment of all outstanding loans, including interest, costs, and expenses due thereon regardless of termination of employment. If there is a distributable event with respect to the participant, the accounts of the participant will be applied against any outstanding loans to the extent necessary to fully repay the same as provided in paragraph 17.

### 16. **Defaults and Remedies**

(a) The Plan, or its designee, may declare a default on a loan as of the last day of the quarter following the quarter in which either of the following occurs:

- (1) the participant fails to make a payment (other than due to an unpaid leave of absence as provided in item 11 or military service as provided in item 12 of these Loan Procedures); or
- (2) MERS, or its designee, in good faith deems the Benefit Program DC insecure with respect to the repayment of the loan and notifies the participant of this deemed insecurity.

(b) If a default occurs prior to a distributable event, the defaulted loan amount will be a taxable "deemed" distribution. When the participant is later eligible for a distribution, the amount distributed will be net of the loan balance, adjusted for interest. This "offset" at the time of distribution is not taxable.

(c) When a default occurs simultaneously with a distributable event, the defaulted loan balance will be treated as part of the actual taxable distribution.

(d) A participant will not be eligible to receive any subsequent loans if the participant has ever defaulted on a plan loan.

### 17. **Source of Loan Funds**

Any loan to a participant will be considered a separate asset of the trust fund segregated for the benefit of such participant. The loan proceeds will come from the fund or funds of the participant in which the vested accumulated balance is invested on a pro-rata basis.

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### 18. **Security**

- (a) The participant must pledge his or her remaining vested account balance as the security interest for the loan, which will be reduced by the amount of loan plus any accrued interest should the loan be defaulted.
- (b) The unpaid portion of the loan is not available for the participant in-service withdrawals.
- (c) No loans will be permitted to a participant who has previously defaulted on a loan.

### 19. **Loan Application and Processing**

- (a) Loan applications may be made by completing the required forms obtained from the Employer or its designee, and submitting them to the Employer or its designee.
- (b) All loans will be subject to approval by the Employer or its designee. The Employer, or its designee, will designate the individual or individuals authorized to approve loans.
- (c) If a loan application is approved, the Employer, or its designee, will forward the approved application materials to MERS. The amount of the loan will be issued to the participant as soon as administratively feasible after the completed application is submitted to MERS and MERS determines that the participant is eligible for the requested loan.
- (d) If a loan application is denied, the Employer, or its designee, will notify the participant in writing.

### **III. Enforcement**

In the event a filing under the IRS Employee Plans Compliance Resolution System becomes necessary with respect to a loan, the filing may, at MERS' discretion, be managed by MERS; however, the Employer shall be responsible for paying all costs and fees associated with such filing, including legal fees.