

MERS Hybrid Plan Adoption Agreement



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The Employer, a participating municipality or participating court within the State of Michigan that has adopted MERS coverage, hereby establishes the following MERS Hybrid Plan provided by MERS of Michigan, as authorized by 1996 PA 220 in accordance with the MERS Plan Document, as both may be amended, subject to the terms and conditions herein.

I. Employer Name _____ **Municipality #:** _____

If new to MERS, provide your municipality's/court's fiscal year: _____ through _____.
(Month) (Month)

II. Effective Date

Check one:

A. If this is the **initial** Adoption Agreement for this group, the effective date shall be the first day of _____, 20____.

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

Vesting credit from date of hire No vesting credit

This division is for new hires, rehires, and transfers of current Defined Benefit* division # _____ and/or current Defined Contribution division # _____

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

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

Will have a one-time opportunity to convert the value of their current defined benefit into a lump sum transferred to the Defined Contribution portion of Hybrid sum, or continue accruing service in the Defined Benefit. (Complete *MERS Hybrid Conversion Addendum*.)

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

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

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

B. If this is an **amendment** of an existing Adoption Agreement (Hybrid division # _____), the effective date shall be the first day of _____, 20____. *Please note:* You only need to mark **changes** to your plan throughout the remainder of this Agreement.

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C. If this is to **separate employees** from an existing Hybrid division

(existing division number(s) _____)

into a new Hybrid division, the effective date shall be the first day of _____, 20_____.

III. Eligible Employees

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

(Name of Hybrid division – e.g. All Full Time Employees, or General after 7/10/13)

To receive one month of service credit (check one):

An employee shall work 10 _____ hour days

An employee shall work _____ hours in a month

All employees classified under eligible employees, whether full or part time, who meet this criteria must be reported to MERS. If you change your current day of work definition to be more restrictive, the new definition only applies to employees hired after the effective date.

To further define eligibility, check all that apply:

Probationary periods are allowed in one-month increments, no longer than 12 months. During this probationary period the Employer will not report or make contributions, and none will be due on behalf of the new employee retroactively. Service will begin after the probationary period has been satisfied.

The probationary period will be _____ month(s).

Temporary employees in a position normally requiring less than a total of 12 whole months of work in the position may be *excluded* from membership. These employees must be notified in writing by the participating municipality that they are excluded from membership within 10 business days of date of hire or execution of this Agreement.

The temporary exclusion period will be _____ month(s).

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IV. Provisions

Employer Caps

Employer hereby elects to cap the annual contribution to Hybrid (total amount for both Defined Benefit and Defined Contribution portions) _____% of payroll.

The Defined Benefit component shall be exclusively funded by the employer, with no member contributions permitted, unless the employer elects to cap annual employer contributions to a fixed percentage. The employer's annual contributions are capped at ____%. Employee Contributions will make up the difference.

Hybrid – Defined Benefit Component Provisions

The Defined Benefit Provisions, once adopted, are irrevocable and shall not be later changed except for definition of compensation.

Valuation Date: _____, 20____

1. This Adoption Agreement will be implemented in conjunction with a current actuarial valuation certified by a MERS actuary or normal cost calculation created by MERS that sets contribution rates.
2. Annually, the MERS actuary will conduct an actuarial valuation to determine the employers' contribution rates for the Defined Benefit portion of Hybrid. Employers are responsible for payment of said contributions at the rate, in the form and at the time that MERS determines.

3. Benefit Multiplier

The multiplier shall be one of the following dependent upon the division's Social Security status:

Social Security Coverage

- 1.00%
- 1.25%
- 1.50%

No Social Security Coverage

- 1.00%
- 1.25%
- 1.50%
- 1.75%
- 2.00%

4. Final Average Compensation (FAC) shall be based on the highest consecutive 3 years
5. Vesting shall be 6 years

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6. Compensation for the Defined Benefit Plan means the salary or wages paid to an employee for personal services rendered while a member of MERS. Compensation and any applicable employee contributions must be reported to MERS on a monthly basis.

Employers shall define compensation using the following options (choose one):

- Compensation including all items as allowed in the MERS Plan Document (Section 14).

If anything varies, specify here:

Included: _____

Excluded: _____

- Base wages only

If any items should be included, specify here:

Included: _____

- Medicare taxable wages as reported on W2

- Wages plus amounts otherwise not reported as gross compensation, such as elected amounts for Section 125(a) or 457(b) deferrals

7. Normal Retirement Age: _____ (any age from 60 – 70)

8. Early Normal Retirement with unreduced benefits

- Age 55-65 _____ with 25 years of service

Hybrid – Defined Contribution Component Provisions

1. Vesting (Check one):

- Immediate

- Cliff Vesting (fully vested after below number years of service)

1 year 2 years 3 years 4 years 5 years

- Graded Vesting

_____ % after 1 year of service

_____ % after 2 years of service

_____ % after 3 years of service (min 25%)

_____ % after 4 years of service (min 50%)

_____ % after 5 years of service (min 75%)

100 % after 6 years of service

Vesting will be credited using (check one):

- Elapsed time method – Employees will be credited with one vesting year for each 12 months of continuous employment from the date of hire.

- Hours reported method – Employees will be credited with one vesting year for each calendar year in which _____ hours are worked

In the event of disability or death while actively employed, an employee's (or his/her beneficiary's) entire employer contribution account shall be 100% vested.

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2. Contributions

- a. Will be remitted according to Employer's payroll withholding which represents the actual period amounts are withheld from employee paychecks, or within the month during which amounts are withheld (check one):
- Weekly
 - Bi-Weekly (every other week)
 - Semi-Monthly (twice each month)
 - Monthly
 - Other (must specify) _____
- b. Required Employee Contribution Structure to DC (subject to Internal Revenue Code 415(c) limitations)
- Employees are required to contribute per payroll period, the percentage ____% OR flat dollar amount \$_____
 - Employees are required to contribute within the following range for each payroll: Percentage range from ____% to ____% OR dollar amount range \$_____ to \$_____
 - Direct Required Employee Contributions pre-tax
- c. Post-tax voluntary employee contributions are allowable into a Defined Contribution account subject to Section 415(c) limitations of the Internal Revenue Code.
- d. The Participating Employer may make matching contributions and/or non-matching contributions into the Defined Contribution plan based on an employee's voluntary election into the MERS 457 (or any other 457 qualified plan where MERS is the Defined Contribution administrator). Check *Matching*, *Non-Matching*, or *both* as applicable below:

Matching Contributions

Employer Contributions shall be made to match all or a portion of an employee's compensation deferred into this Program. The Employer elects the following matching contribution formula **(check and complete *Percentage* or *Flat Dollar* and *Employer Cap*, if applicable, below):**

- Percentage:** For each payroll period in which the employee deferred compensation into the Program, the Employer will contribute _____%.
For example, if an Employer elects a 50% match, then for every \$10 the employee defers to the Program, the Employer will contribute \$5 to the Program.
- Flat Dollar:** For each payroll period in which the employee deferred at least \$ _____ to the Program, the Participating Employer will contribute \$ _____ per payroll period.

Employer Cap: The Employer elects to establish a cap on its matching contributions, so that the match amount cannot exceed a certain amount. The Employer hereby elects the following cap on its percentage matching contribution:

- Flat Dollar Cap:** In no event will matching contributions made on behalf of a employee exceed a flat dollar amount equal to \$ _____ per _____.
(pay period / year / etc.)

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Cap Equal to Percentage of Total Compensation: In no event will matching contributions made on behalf of an employee exceed _____% of the employee's IRS Section 457(e)(5) includable compensation (gross income from the Employer).

Non-Matching Contributions

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

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

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

3. **Compensation:**

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

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

All income subject to income tax reported in Box 1 of Form W-2, plus elective deferrals

Compensation, for retirement purposes, is defined as base wages. Any of the following may be included:

Longevity pay

Overtime pay

Shift differentials

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

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

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

Transcript fees paid to a court reporter

A taxable car allowance

Short term or long term disability payments

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

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

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

Other: _____

Other 2: _____

NOTE: In any of the above elections, an employee's compensation shall not exceed the annual limit under section 401(a)(17) of the Internal Revenue Code.

4. **Loans:** shall be permitted shall not be permitted

If Loans are elected, please complete and attach the *MERS Hybrid Loan Addendum*.

5. **Rollovers** from qualified plans are permitted as set forth in the Hybrid Plan and the plan will account separately for pre-tax and post-tax contributions and earnings thereon.

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V. Appointing MERS as the Plan Administrator

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

VI. Modification of the terms of the Adoption Agreement

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

VII. Enforcement

1. The Employer acknowledges that the Michigan Constitution of 1963, Article 9, Section 24, provides that accrued financial benefits arising under a public Employer's retirement plan are a contractual obligation of the Employer that may not be diminished or impaired, and prohibits the use of the Employer's required current service funding to finance unfunded accrued liabilities.
2. The Employer agrees that, pursuant to the Michigan Constitution, its obligations to pay required contributions are contractual obligations to its employees and to MERS and may be enforced in a court of competent jurisdiction;
3. In accordance with the Constitution and this Agreement, if at any time the balance standing to the Employer's credit in the reserve for employer contributions and DB benefit payments is insufficient to pay all service benefits due and payable to the entity's retirees and beneficiaries, the Employer agrees and covenants to promptly remit to MERS the amount of such deficiency as determined by the Retirement Board within thirty (30) days notice of such deficiency;
4. The Employer acknowledges that the DB wage and service reports are due monthly, and the employee contributions (if any) and Employer contributions are due and payable monthly, and must be submitted in accordance with the MERS Enforcement Procedure for Prompt Reporting and Payment, the terms of which are incorporated herein by reference;
5. The Employer acknowledges that employee contributions (if any) and employer contributions must be submitted in accordance with the MERS Enforcement Procedure for Prompt Reporting and Payment, the terms of which are incorporated herein by reference;
6. The Employer acknowledges that late or missed contributions will be required to be made up, including any applicable gains for the Defined Contribution portion of Hybrid, pursuant to the Internal Revenue Code;
7. Should the Employer fail to make its required contribution(s) when due, the retirement benefits due and payable by MERS on behalf of the entity to its retirees and beneficiaries may be suspended until the delinquent payment is received by MERS. MERS may implement any applicable interest charges and penalties pursuant to the MERS Enforcement Procedure for Prompt Reporting and Payment and Plan Document Section 79, and take any appropriate legal action, including but not limited to filing a lawsuit and reporting the entity to the Treasurer of the State of Michigan in accordance with MCL 141.1544(d), Section 44 of PA 436 of 2012, as may be amended;

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8. It is expressly agreed and understood as an integral and non-severable part of this Agreement that Section 43 of the Plan Document shall not apply to this Agreement and its administration or interpretation. In the event any alteration of the terms or conditions of this Agreement is made or occurs, under Section 43 or other plan provision or law, MERS and the Retirement Board, as sole trustee and fiduciary of the MERS plan and its trust reserves, and whose authority is non-delegable, shall have no obligation or duty to administer (or to have administered) the Hybrid Plan, to authorize the transfer of any assets to the Hybrid Plan, or to continue administration by MERS or any third-party administrator of the Hybrid Plan.

VIII. Execution

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

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

Authorized signature: _____

Title: _____

Witness signature: _____

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

Dated: _____, 20____ Signature: _____
(Authorized MERS Signatory)