

PROTOTYPE 403(b) ADOPTION AGREEMENT & PLAN DOCUMENT

The IRS has established a program for Section 403(b) Plan Sponsors to adopt a prototype plan document. This program, modeled after the pre-approved “master and prototype” plan program for qualified retirement plans described in Code Section 401(a), allows employers who adopt an IRS-approved 403(b) plan document to be assured that their plan generally meets the requirements under Section 403(b) and the Final 403(b) Regulations that were issued in 2007. The IRS has approved Mutual of America’s prototype 403(b) plan document and has issued a favorable opinion letter for this plan. Plan sponsors who adopt Mutual of America’s prototype plan will therefore be able to rely on the opinion letter as proof of the plan’s qualification status.

The 403(b) plan that your organization sponsors must be restated by March 31, 2020. The restated document must reflect the legislative and regulatory changes affecting your plan that have been issued over the past several years, in particular the Final 403(b) Regulations that were issued in 2007.

Our records indicate that your 403(b) plan fits within the parameters of our 403(b) prototype plan document. Therefore, to assist you in complying with these legislative and regulatory changes, we have enclosed the following.

Left-Side of the Folder:

1. A copy of Mutual of America’s new Prototype 403(b) Thrift Plan Document Adoption Agreement. We have completed the Adoption Agreement for your new plan document based on information about your current plan provisions from our files. Please carefully review the completed Adoption Agreement to be sure it correctly reflects the provisions that you have previously elected for your plan and review the other items listed below. We encourage you to share and review these documents with your organization’s legal counsel or professional tax adviser.
2. A copy of the IRS Opinion Letter issued for our Prototype as to its form.
3. A postage-paid return envelope for returning to us a signed copy of the Adoption Agreement.

Right-Side of the Folder:

1. A Procedure Checklist that explains each step in the restatement process.
2. A copy of the Highlights of the new Prototype 403(b) Thrift Plan Document, which explains the most significant updates to your 403(b) Thrift Plan Document.
3. A complete copy of the Prototype 403(b) Thrift Plan Document, including Adoption Agreement, which you should sign and retain in your files after you review it and are satisfied it correctly reflects your plan provisions. This is intended to replace your current 403(b) Thrift plan document. This new plan document incorporates all of the changes required by prior legislation, including the Final 403(b) Regulations and the Pension Protection Act of 2006 (including the final Internal Revenue Code (IRC) Section 415 regulations), as well as changes

required by legislation relating to the Heroes Earnings Assistance and Relief Tax Act of 2008 and the Worker, Retiree, and Employer Recovery Act of 2008.

The restated plan document must be signed and dated by a duly authorized officer of your organization.

Your organization must adopt its restated 403(b) plan document by no later than March 31, 2020.

In addition to your restated 403(b) document, we are also enclosing an amendment for you to sign, to comply with the Bipartisan Budget Act of 2018 (the "Act"). The Act made several changes that impact tax-qualified retirement plans, including relaxing certain hardship distribution rules for plan years beginning after December 31, 2018.

The Act makes hardship distribution rules less restrictive in three significant ways:

- **Elimination of the six-month suspension following hardship withdrawals.**
Previously, participants were prohibited from making salary deferrals into the plan for a period of six months after receiving a hardship distribution. The Act eliminates the six month suspension.
- **Elimination of the requirement to take available loans before a hardship withdrawal.**
Previously, a participant was required to take other available distributions and plan loans prior to taking a hardship withdrawal. A participant will still be required to take other available distributions prior to taking a hardship withdrawal, but the Act removes the requirement to take available plan loans prior to taking a hardship withdrawal.
- **Expansion of amounts available for hardship withdrawals.**
Previously, hardship withdrawals were not permitted from safe harbor employer contributions, from qualified non-elective contributions or from qualified matching contributions. The Act allows for hardship withdrawals to be distributed from all of these accounts.

Please review the enclosed amendment carefully. If you agree to these changes to your plan, please have a duly authorized representative of your organization sign the amendment. Please return the signed amendment in the enclosed self-addressed stamped envelope and retain a copy for your records.

If you do not agree with these changes to your plan, and you wish to retain the old hardship distribution rules in your plan, do not sign the enclosed amendment. Instead, please contact your Mutual of America representative, who is available to answer any questions you may have concerning this amendment.

Please note that Mutual of America will administer your plan using the new hardship distribution rules only after we have received the signed plan amendment. We will also issue you an update to your summary plan description that will reflect these new rules.

If you have any questions, please contact your Mutual of America Regional Office service representative. For the location and telephone number of your local office, please visit our website, *mutualofamerica.com*, or call 1-800-468-3785 and select option 1.

Amendment to the 403(b) Thrift Plan

of

Western Virginia Emergency Medical Services Council

The Employer hereby amends its Plan to comply with the Bipartisan Budget Act of 2018, effective as of the later of the first day of the first Plan Year beginning on or after January 1, 2019 or the date that the amendment is signed:

1. The second paragraph of Section 5.1, regarding Salary Reduction Contributions, is amended to read as follows:

Salary Reduction Contributions on behalf of any eligible Employee shall be subject to the provisions of Sections 5.5, 5.6, and 5.7 of the Plan. The amount of includible compensation deferred by an eligible Employee for any calendar year shall not exceed the limitations described in Sections 402(g) of the Code. Any Salary Reduction Contributions on behalf of an Employee may be reduced prospectively at the discretion of the Employer to satisfy the limitations of Sections 401(m), 402(g), 403(b)(2) and 415 of the Code. In addition, for Plan Years beginning before January 1, 2019, Salary Reduction Contributions on behalf of a Participant who has made a withdrawal due to financial Hardship shall be restricted in accordance with Section 8.4. For Plan Years beginning after December 31, 2018, Salary Reduction Contributions on behalf of a Participant who has made a withdrawal due to financial Hardship shall not be restricted in accordance with Section 8.4. Moreover, to the extent required under Section 414(u) of the Code, a Participant who is re-employed after a period of military service shall be permitted to make additional contributions to this Plan in an amount not to exceed the Salary Reduction Contributions that he would have been permitted to make if he had continued in employment with the Employer during that period of military service.

2. Section 8.4(b) is changed to read as follows:

(b) Exhaustion Of Other Resources

For Plan Years beginning before January 1, 2019, the Plan Administrator determines that the Participant has already obtained all nontaxable loans and all distributions (other than Hardship withdrawals) currently available under all plans maintained by the Employer. For Plan Years beginning after December 31, 2018, the Participant shall not be required to have already obtained all nontaxable loans, but shall be required to have already obtained all distributions (other than Hardship Withdrawals) currently available under all plans maintained by the Employer.

3. Section 8.4(d) is changed to read as follows:

(d) Suspension Of Salary Reduction Contributions

For Plan Years beginning before January 1, 2019, as soon as reasonably practicable after receipt of his Hardship withdrawal, the Participant ceases all employee contributions and elective deferrals to all plans maintained by the Employer (including Automatic Enrollment Contributions and other Salary Reduction Contributions under Section 5.1) for a period of six consecutive months, except as provided by IRS regulations. For Plan Years beginning after December 31, 2018, the Participant shall not be required to cease all employee contributions and elective deferrals to all plans maintained by the Employer (including Automatic Enrollment Contributions and other Salary Reduction Contributions under Section 5.1) after receipt of his Hardship withdrawal.

This Amendment executed in the State of _____ on this _____ day
of _____, 20_____.

Western Virginia Emergency Medical Services Council

By: _____

Title: _____