



## **ATTACHMENT 2 – NC 403(b) Program**

### **A. NC 403(b) Program – Base Plan Document**

#### **Section 6.2 Distribution On Account of Hardship**

(a) **General Rule.** Unless otherwise provided for the Adoption Agreement, and subject to the provisions of this Section 6.2, a Participant, upon written application, may request a hardship withdrawal from his or her Elective Deferrals Account if:

- (1) **Immediate and Pressing Financial Need.** The Participant has an immediate and heavy financial need as described in Section 6.2(d); and
- (2) **Necessary to Satisfy Financial Need.** The withdrawal is necessary to satisfy the immediate and heavy financial need pursuant to Treasury Regulation section 1.401(k)-1(d)(3)(~~iii~~)(**E**).

A hardship distribution made pursuant to this Section 6.2 shall be paid in a lump sum.

- (b) **Inclusion of Taxes and Penalties.** An “immediate and pressing financial need” includes all taxes and penalties attributable to a distribution.
- (c) **Approval.** If provided for in the Adoption Agreement, the Plan Administrator’s approval is required for each hardship withdrawal request. Otherwise, the Funding Agent shall process each hardship withdrawal request.
- (d) **Immediate and Pressing Financial Need.** Under Section 6.2(a)(1), in accordance with Treasury Regulation section 1.401(k)-1(d)(3)(~~iii~~)(**B**), a withdrawal is treated as on account of an immediate and heavy financial need of the Participant if the withdrawal is on account of:

- (1) **Medical Care.** Expenses for (or necessary to obtain) medical care that would be deductible under~~described in~~ Code section 213(d), determined without regard to the limitations in Code section 213(a) (relating to the applicable percentage of adjusted gross income and the recipients of the medical care), provided that, if the recipient of the medical care is not listed in Code section 213(a), the recipient is a primary Beneficiary under the Plan~~previously incurred by the Participant, the Participant’s Spouse, any dependents of the Participant (as defined in Code section 152), or a primary Beneficiary, or amounts necessary for these persons to obtain medical care described in Code section 213(d);~~
- (2) **Principal Residence.** Purchase (excluding mortgage payments) of a principal residence ~~for~~of the Participant;



- (3) **Educational Fees.** Tuition payment and related educational fees for the next twelve months of post-secondary education for the Participant, the Participant's spouse or a dependent (as defined in Code section 152, without regard to Code sections 152(b)(1), (b)(2) and (d)(1)(B)) in his or her immediate family, or a primary Beneficiary under the Plan;
- (4) **Eviction.** Need to prevent the eviction of the Participant from his or her principal residence or foreclosure on the Participant's principal residence;
- (5) **Funeral Expenses.** Payments for burial or funeral expenses for the Participant's deceased parents, Spouse, children, dependents (as defined in Code section 152, without regard to Code section 152(d)(1)(B)), or primary Beneficiary under the Plan; and
- (6) **Casualty.** Expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under Code section 165 (determined without regard to Code section 165(h) and whether the loss exceeds 10% of adjusted gross income).
- (7) **FEMA Disaster.** Expenses and losses (including loss of income) incurred by a Member on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100-707, provided that the Member's principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster.

For the purposes of this Section 6.2(d), "primary Beneficiary under the Plan" is an individual who is named as a Beneficiary under the Plan and has an unconditional right, upon the death of the Participant, to all or a portion of the Participant's account balance under the Plan.

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**B. NC 403(b) Program – Adoption Agreement**

**6.2 DISTRIBUTIONS**

a. *Distribution Events.*

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(4)  Hardship Distributions. A Participant may receive a distribution when he or she incurs a hardship. Any contributions (not including earnings on those contributions) otherwise available to the Participant for a hardship withdrawal shall be reduced by the amount of any distributions of such contributions previously made to the Participant. The rules governing the determination of hardship are as follows (*complete (i) and (ii)*).

(i) *Definition of "Immediate and Heavy Financial Need."* The Plan's definition of "immediate and heavy financial need" is:

(A)  The definition set forth in Section 6.2(d) of the Base Plan Document.

(B)  *Other (please describe).*

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*Note: This definition may be more or less restrictive than the definition set forth in Section 6.2(d) but must be nondiscriminatory, objective, and satisfy Treasury Regulation sections 1.401(k)-1(d)(3)(ii)(A) and (iii)(A).*

(ii) *Plan Administrator Approval.* The Plan Administrator's approval  is /  is not (*check one*) needed for each hardship withdrawal request.

(iii) *Employer Contributions.* A Participant  may /  may not receive a hardship distribution from Employer Contributions.

(iv) *Rollover Contributions.* A Participant  may /  may not receive a hardship distribution from Rollover Contributions.