

Pre-Approved Plan Provider/Employer Adoption of Hardship Distribution Interim Amendment for ASC Plans

As a pre-approved prototype and/or volume submitter plan provider (“Pre-Approved Plan Provider”), you are responsible for making all necessary “good-faith” interim amendments to your plans and to timely communicate the amendments to all of your adopting Employers. This requirement is a condition for being a Pre-Approved Plan Provider. If you applied for an opinion letter for your Cycle 3 defined contribution plans, you have already certified to the IRS that you will satisfy this requirement.

ASC has determined that a good-faith interim amendment is necessary for the ASC pre-approved defined contribution plans to comply with the final hardship distribution regulations issued on September 23, 2019. A Hardship Distribution Defined Contribution Plan Interim Amendment (“Hardship Distribution Interim Amendment”) should be adopted by all Pre-Approved Plan Providers of the ASC pre-approved defined contribution plans, including the Defined Contribution Volume Submitter Plan, the Defined Contribution Prototype Plan, the Governmental Defined Contribution Volume Submitter Plan, and the Owners-Only Defined Contribution Volume Submitter Plan. The following Q&As will help answer questions you may have regarding the adoption of the Hardship Distribution Interim Amendment.

Q-1 What does the Hardship Distribution Interim Amendment cover?

The Hardship Distribution Interim Amendment covers changes made by the final hardship distribution regulations (“Final Regulations”) issued by the IRS on September 23, 2019. The Final Regulations finalize previously proposed regulations to reflect changes in the law under the Tax Cuts and Jobs Act of 2017 and the Bipartisan Budget Act of 2018. In addition, the Final Regulations make other changes that reflect other laws and revise IRS positions on certain regulatory requirements. Among the changes are:

- **Deemed (safe harbor) list of hardship expenses.** *The Final Regulations revise the deemed (safe harbor) hardship expenses for showing that a distribution is made on account of an immediate and heavy financial need. Among the revisions are the following:*
 - **Primary Beneficiary** – *The Final Regulations add “primary beneficiary under the plan” as an individual for whom qualifying medical, educational, and funeral expenses may be incurred. This change reflects the Pension Protection Act of 2006 change that allowed a hardship distribution on account of medical, educational and funeral expenses incurred by a “primary beneficiary.” (This provision is already addressed in the Cycle 2 ASC documents.);*
 - **Clarification of the casualty loss expense under Code §165** - *The Final Regulations modify the expense listed in Treas. Reg. §1.401(k)-1(d)(3)(iii)(B)(6) (relating to damage to a principal residence that would qualify for a casualty deduction under Code §165) to provide that, for this purpose, the new limitations in Code §165(h)(5) (added by §11044 of the Tax Cuts and Jobs Act) do not apply; and*
 - **New disaster-related expense** – *The Final Regulations add a new type of expense to the deemed (safe harbor) list, relating to expenses incurred as a result of certain disasters. The Final Regulations make it automatic, without the need for a plan amendment, that a hardship distribution for those in FEMA-designated areas is permissible when there is a major federally-declared disaster.*
- **Revised requirements for showing that a hardship distribution is necessary to satisfy the financial need, including:**
 - *Eliminating the requirement to suspend elective deferrals and after-tax contributions after receiving a hardship distribution;*
 - *Making optional the condition to obtain plan loans before receiving a hardship distribution; and*
 - *Establishing one general standard for establishing the financial need.*
- **Adding to the permissible amounts available for hardship distributions, including QNEC accounts, QMACs accounts, safe harbor contributions accounts (plus earnings), regardless of when contributed or earned.**
- **Relief provisions for victims of Hurricanes Michael and Florence.**

Q-2 What documents are included in this Plan Provider Package?

The following documents are included in this Package: (1) Plan Provider Q&A; (2) Adoption of Pre-Approved Defined Contribution Plan Hardship Distribution Interim Amendment by Pre-Approved Plan Provider; (3) Hardship Distribution Interim Amendment; (4) Sample letter for adopting Employers; (5) Adoption of Pre-Approved Defined Contribution Plan Hardship Distribution Interim Amendment by Pre-Approved Plan Provider (Owners Only); (6) Hardship Distribution Interim Amendment (Owners Only); (6) Sample letter for adopting Employers (Owners Only).

Q-3 How is the Hardship Distribution Interim Amendment structured for the ASC Defined Contribution Volume Submitter, the Defined Contribution Prototype, and the Governmental Defined Contribution Volume Submitter Plans?

The Hardship Distribution Interim Amendment is the same for the ASC Defined Contribution Volume Submitter Plan, the Defined Contribution Prototype Plan, and the Governmental Defined Contribution Volume Submitter Plan. The Hardship Distribution Interim Amendment includes revisions to the ASC Defined Contribution basic plan documents (BPDs) as well as separate elective provisions. The BPD revisions are contained in Articles I through III, which amend the hardship distribution provisions in the BPD, including replacing current Plan Section 8.10(e) (Section 7.10(e) of the Governmental Plan). The elective provisions set forth different design approaches (for example, when an employer made or will make certain provisions effective and opening up additional sources for hardship distributions). An adopting Employer will only need to sign the elective provisions if it wishes to select options that are different from the “Default” elections of the Pre-Approved Plan Provider. The process to formally adopt the Hardship Distribution Interim Amendment by the Pre-Approved Plan Provider and execution by the adopting Employer is further explained in Q&A-6 below.

Note: A different Hardship Distribution Interim Amendment applies to the Owners-Only Defined Contribution Volume Submitter Plan. See Q&A-4 below.

Q-4 How is the Hardship Distribution Interim Amendment structured for the ASC Owners-Only Defined Contribution Volume Submitter Plan?

The Hardship Distribution Interim Amendment for the Owners-Only Defined Contribution Volume Submitter Plan includes no elective provisions and therefore needs to be adopted only by the Pre-Approved Plan Provider and not the adopting Employer. The Hardship Distribution Interim Amendment amends the BPD only, including replacing Plan Section 6.09(d). The Hardship Distribution Interim Amendment for the Owners-Only Defined Contribution Volume Submitter Plan was drafted to adopt the provisions of the Final Regulations at the earliest permissible date. The Plan Administrator may adopt administrative procedures to apply later effective dates consistent with the Hardship Distribution Interim Amendment and the Final Regulations, if applicable. The process to formally adopt the amendment by the Pre-Approved Plan Provider is further explained in Q&A-7 below.

Q-5 When should Pre-Approved Plan Providers adopt the Hardship Distribution Interim Amendment?

Under Rev. Proc. 2020-09, released on December 12, 2019, the deadline for Pre-Approved Defined Contribution Plan Providers and adopting Employers to adopt the Hardship Distribution Interim Amendment has been extended to December 31, 2021, regardless of the Employer’s tax year. However, we recommend that Providers adopt the Interim Amendment, along with their Defaults well before the deadline to ensure sufficient time to communicate the changes to your adopting Employers and for the Employers to make alternative elections, if desired.

Q-6 What is the process for adopting the Hardship Distribution Interim Amendment for the ASC Defined Contribution Volume Submitter Plan, the Defined Contribution Prototype Plan, and the Governmental Defined Contribution Volume Submitter Plan?

*ASC drafted the Hardship Distribution Interim Amendment to make the adoption of the amendment as easy as possible for both the Pre-Approved Plan Provider and adopting Employers. **However, unlike other recent interim amendments, adopting Employers may need to execute the Hardship Distribution Interim Amendment, if the Employer wishes to choose options other than the “Default” options selected by the Pre-Approved Plan Provider.***

The following outlines the steps you should take to adopt the Hardship Distribution Interim Amendment for the ASC Defined Contribution Volume Submitter Plan, the Defined Contribution Prototype Plan, and the Governmental Defined Contribution Volume Submitter Plan. (See Q&A-7 for the process for adopting the Hardship Distribution Interim Amendment for the ASC Owners-Only Defined Contribution Volume Submitter Plan.)

*Note: If you sponsor Pre-Approved Defined Contribution Plan documents, and the Owners Only Plan, you will need to adopt **both** versions of the attached Hardship Distribution Interim Amendments.*

- 1. Review the provisions of the attached Hardship Distribution Interim Amendment(s) so that you are familiar with the changes and clarifications it makes to the pre-approved plans that you sponsor.*
- 2. Using the fillable Word form provided in this Plan Provider Package, under the Elective Provisions of the Hardship Distribution Interim Amendment, select your “Default” choices by checking the appropriate options under the “Provider Default” column. You should select Defaults that will minimize the number of adopting Employers that will need to execute the Hardship Distribution Interim Amendment.*
- 3. Print out the Hardship Distribution Interim Amendment **with your Default selections** and then execute the attached Adoption of Pre-Approved Plan Hardship Distribution Interim Amendment by Pre-Approved Plan Provider (“Adoption of Interim Amendment”). Associate the Hardship Distribution Interim Amendment with the applicable ASC pre-approved plan(s) that you sponsor. You should retain the signed Adoption of Interim Amendment page with*

your permanent plan document records. You do **not** need to send the executed Adoption of Interim Amendment to adopting Employers, to ASC or the IRS.

4. Using DGEM's Hardship Interim Amendment Wizard, create Hardship Distribution Interim Amendments for all employers that have adopted an ASC Defined Contribution Plan. (Note – Hardship Distribution Interim Amendments may be created in batch – see detailed instructions for creating Hardship Distribution Interim Amendments in the DGEM User Guide, beginning on page 62.)
5. Provide the appropriate Hardship Distribution Interim Amendment to all adopting Employers of the pre-approved defined contribution plans that you sponsor. (We have provided a sample cover letter that you may use to send the Hardship Distribution Interim Amendment to adopting Employers.)
 - a. Only adopting Employers that allow for hardship distributions in their plans need to review the Elective Provisions (with Defaults) of the Hardship Distribution Interim Amendment.
 - i. If an adopting Employer accepts your Default provisions, no signature is needed by the adopting Employer.
 - ii. If the adopting Employer does not want to use your Defaults, the adopting Employer must complete the Elective Provisions, sign and return a signed copy of the Hardship Distribution Interim Amendment to you. Upon your receipt of a modified Hardship Distribution Interim Amendment, you will need to edit the "Hardship IA" checklist you created in DGEM so that it reflects the correct Employer elections, generate a new Hardship Distribution Interim Amendment and send the new SMM to the Employer.
 - b. Plans that do not provide for Hardship Distributions should receive a copy of the Hardship Distribution Interim Amendment with no Elective Provisions selected.

The Hardship Distribution Interim Amendment must be provided to your adopting Employers within a reasonable period of time after you formally adopt it.

Q-7 What is the process for adopting the Hardship Distribution Interim Amendment for the ASC Owners-Only Defined Contribution Volume Submitter Plan?

ASC drafted the Hardship Distribution Interim Amendment for the ASC Owners-Only Defined Contribution Volume Submitter Plan as a Provider-level amendment with no elective choices for the employer to select. Therefore, no signature is required by adopting Employers. Instead, you (as the Pre-Approved Plan Provider) only need to adopt the amendment on behalf of your adopting Employers. We have provided a special "Adoption of Interim Amendment" which you will use to document your adoption of the Hardship Distribution Plan Interim Amendment on behalf of all of your adopting Employers on the ASC Owners-Only Defined Contribution Volume Submitter Plan.

The Hardship Distribution Interim Amendment for the ASC Owners-Only Defined Contribution Volume Submitter Plan must be provided to your adopting Employers within a reasonable period of time after you formally adopt it. Adopting Employers need only to associate the Hardship Distribution Interim Amendment with their current document. No formal adoption of the amendment by the employer is required.

The following outlines the steps you should take to adopt the Hardship Distribution Interim Amendment for the ASC Owners-Only Defined Contribution Volume Submitter Plan:

1. Review the provisions of the attached Hardship Distribution Interim Amendment so that you are familiar with the changes and clarifications it makes to the pre-approved plans that you sponsor.
2. Execute the attached "Adoption of Interim Amendment" and associate the Hardship Distribution Interim Amendment with the ASC Owners-Only Defined Contribution Volume Submitter Plan that you sponsor. You should retain the signed Adoption Interim Amendment page with your permanent plan document records. You do **not** need to send the executed Adoption of Interim Amendment to adopting Employers, to ASC or the IRS.
3. Within a reasonable period of time after you execute the Adoption of Hardship Distribution Interim Amendment by Pre-Approved Plan Provider, provide the amendment to all adopting Employers of your ASC Owners-Only Defined Contribution Volume Submitter Plan. (We have provided a sample cover letter that you may use to send the Hardship Distribution Interim Amendment to adopting Employers.) Since the Hardship Distribution Interim Amendment for the ASC Owners-Only Defined Contribution Volume Submitter Plan does not provide for any adopting Employer elections, **no signature of the Hardship Distribution Interim Amendment is needed by the adopting Employers**. An adopting Employer simply needs to associate the Hardship Distribution Interim Amendment with their plan document.

Q-8 Do we need to send the Hardship Distribution Interim Amendment to employers that sponsor plans that do not currently permit Hardship Distributions?

Yes. As a word-for-word adopter of an ASC plan, your firm, as a Pre-Approved Plan Provider, must adopt the Hardship Distribution Interim Amendment on behalf of all of your DC plans, whether or not the plan actually permits Hardship

Distributions, and the Hardship Distribution Interim Amendment will also need to be provided to all employers that have adopted those plans.

Note: When the Hardship Distribution Interim Amendment is generated for plans without Hardship Distributions, no selections should be made under the Elective Provisions.

Q-9 How should the Hardship Distribution Interim Amendment be handled for new plans? Will the snap-on amendment be required for those plans or will the Elective Provisions be added to the PPA DC Plan Checklists? Will the amendments to the Basic Plan Document (BPD) be added to the BPD on the DGEM Download Page?

We will be expanding the checklist for PPA DC plans to include the Elective Provisions from the Hardship Distribution Interim Amendment in the near future. When that has been done, the Hardship Distribution Interim Amendment will automatically be included in new, restated and amended plans and the separate snap-on amendment will no longer be needed. Until then, you will need to continue to create the Hardship Distribution Interim Amendment using the Wizard.

When the checklist is expanded, the BPD-specific provisions of the Hardship Distribution Interim Amendment (the 1st four pages) will also be attached to the BPD on the DGEM Download Page. ASC will notify users when that has been completed.

Q-10 Will plan participants need to be provided with a Summary of Material Modifications (SMM) for the Hardship Distribution Interim Amendment?

Yes, the DGEM system will generate a Summary of Material Modification (SMM) to reflect the changes made by the Hardship Distribution Interim Amendment, including the elective provisions selected. Only plans that provide for Hardship Distributions will need to distribute the SMM to plan participants. The SMM will be automatically suppressed for plans that do not currently permit Hardship Distributions.

[For use with the ASC Defined Contribution Volume Submitter, the Defined Contribution Prototype, and the Governmental Defined Contribution Volume Submitter Plans]

ADOPTION OF PRE-APPROVED DEFINED CONTRIBUTION PLAN HARDSHIP DISTRIBUTION INTERIM AMENDMENT BY PRE-APPROVED PLAN PROVIDER

Pursuant to Revenue Procedure 2015-36 (or Revenue Procedure 2017-41 (if applicable)) and Section 14.01(a) of the Pre-Approved (Prototype or Volume Submitter) Defined Contribution Plan and Trust (“Pre-Approved Plan”), the undersigned, on behalf of the below-named Provider of the Pre-Approved Plan, hereby adopts the attached **Pre-Approved Defined Contribution Plan Hardship Distribution Interim Amendment** on behalf of all adopting Employers. If an adopting Employer wishes to override the pre-selected (“Default”) elections (if any) of the Pre-Approved Plan Provider, the Employer (or the authorized representative of the Employer) must execute the Hardship Distribution Interim Amendment.

This amendment is being adopted as a “good-faith” amendment to reflect IRS’ final hardship distribution regulations issued on September 23, 2019. This amendment supersedes any contrary provisions under the Pre-Approved Plan, except as otherwise provided.

Pursuant to Rev. Proc. 2015-36 (or Revenue Procedure 2017-41 (as applicable)), the Pre-Approved Plan Provider will provide a copy of the amendment to all adopting Employers of the Pre-Approved Plan.

Name of Pre-Approved Plan Provider

Authorized Signature

Date

HARDSHIP DISTRIBUTION INTERIM AMENDMENT
*[ASC Defined Contribution Volume Submitter, Defined Contribution Prototype
and Governmental Defined Contribution Volume Submitter Plans]*

ARTICLE I
PURPOSE OF INTERIM AMENDMENT

- 1.01** **Adoption by Pre-Approved Plan Provider.** Pursuant to Revenue Procedures 2015-36 and 2017-41 (as applicable) and Section 14.01(a) of the Plan, the Plan is being amended by the Prototype and/or Volume Submitter Sponsor (hereinafter referred to as the Pre-Approved Plan Provider) on behalf of all adopting Employers. This Hardship Distribution Interim Amendment is intended to qualify as a good-faith amendment to document the Plan's compliance with the final regulations relating to Hardship distributions issued on September 23, 2019 (84 Fed. Reg. 49651) (hereinafter referred to as the Final Regulations). A copy of this amendment will be provided to all adopting Employers and made a part of their Plans.
- 1.02** **Application.** This Hardship Distribution Interim Amendment supersedes any contrary provisions under the Plan. **Unless the Employer wishes to override the pre-selected elections (Defaults), if any, made by the Pre-Approved Plan Provider as indicated in the Hardship Distribution Interim Amendment Elective Provisions (Elective Provisions),** no signature is required by the Employer to adopt this Hardship Distribution Interim Amendment. This Hardship Distribution Interim Amendment applies to the signatory Employer and any other Participating Employers of the Plan.

ARTICLE II
AMENDMENTS RELATING TO THE FINAL REGULATIONS ON HARDSHIP DISTRIBUTIONS

- 2.01** **In General.** The Internal Revenue Service has issued Final Regulations that amend the rules relating to Hardship distributions from the Plan. These Final Regulations may affect certain Plan provisions. This Hardship Distribution Interim Amendment sets forth the provisions of the Final Regulations and their application to the Plan by amending Section 8.10(e) of the Plan (Section 7.10(e) of the Governmental Plan), and providing appropriate Elective Provisions. The Plan Administrator shall administer the provisions of this Hardship Distribution Interim Amendment, and its Elective Provisions, consistent with a good-faith interpretation of the requirements of the Final Regulations as set forth under Treas. Reg. §§1.401(k)-1, 1.401(k)-3 and 1.401(m)-3, as amended.
- 2.02** **Applicability Dates.** Except as otherwise provided in this Hardship Distribution Interim Amendment, and its Elective Provisions, the Final Regulations and this Hardship Distribution Interim Amendment apply to Hardship distributions made on or after January 1, 2020. For Hardship distributions made before January 1, 2020, the rules applicable to Hardship distributions prior to the Final Regulations apply, unless the Employer elects earlier application as permitted under subsections (a) and (b) below.
- (a) **Options for earlier application.** If elected under the Elective Provisions, the provisions of this Hardship Distribution Interim Amendment may be applied to distributions made in Plan Years beginning after December 31, 2018. The Employer may elect to apply the prohibition on the suspension of Salary Deferrals and After-Tax Employee Contributions as of the first day of the first Plan Year beginning after December 31, 2018, even if the Hardship distribution was made in a prior year. In addition, the Employer may operationally apply the revised deemed immediate and heavy financial need expenses under Section 8.10(e)(1) of the Plan (Section 7.10(e)(1) of the Governmental Plan), as amended by this Hardship Distribution Interim Amendment, to distributions made on or after a date as early as January 1, 2018.
- (b) **Certain rules optional in 2019.** If, in accordance with the provisions of Section 2.02(a) of this Hardship Distribution Interim Amendment, the Employer applies certain Hardship distribution provisions to distributions made before January 1, 2020, then the Employer may disregard the rules relating to the employee representation, as described under Section 8.10(e)(3)(ii)(B) of the Plan (Section 7.10(e)(3)(ii)(B) of the Governmental Plan), as amended by this Hardship Distribution Interim Amendment, and the rules prohibiting the suspension of contributions, as described under Section 8.10(e)(3)(iii) of the Plan (Section 7.10(e)(3)(iii) of the Governmental Plan), as amended by this Hardship Distribution Interim Amendment, to such distributions.
- (c) **2020 effective date for employee representations and suspension prohibition.** In any event, the rules relating to the employee representation, as described under Section 8.10(e)(3)(ii)(B) of the Plan (Section 7.10(e)(3)(ii)(B) of the Governmental Plan), as amended by this Hardship Distribution Interim Amendment, and the rules prohibiting the suspension of contributions, as described under Section 8.10(e)(3)(iv) of the Plan (Section 7.10(e)(3)(iv) of the Governmental Plan), as amended by this Hardship Distribution Interim Amendment, are formally made effective for Hardship distributions made on or after January 1, 2020.

2.03 Amendment of Section 8.10(e) of the Plan (Section 7.10(e) of the Governmental Plan), Section 8.10(e) of the Plan (Section 7.10(e) of the Governmental Plan) is deleted and replaced with the following:

(e) **Hardship distribution.** The Employer may elect under AA §10-1 or AA §10-2 of the Profit Sharing/401(k) Plan Adoption Agreement or under Section HD-1 of the Elective Provisions to authorize an in-service distribution upon the occurrence of Hardship. A distribution is made on account of Hardship only if the distribution both is made on account of an immediate and heavy financial need and is necessary to satisfy the financial need.

- (1) **Deemed immediate and heavy financial need.** A distribution is deemed to be made on account of an immediate and heavy financial need of the Employee if the distribution satisfies one of the following needs:
- (i) Expenses incurred or necessary for medical care (as described in Code §213(d)) of the Participant, the Participant's Spouse or dependents (determined without regard to whether the expenses exceed 7.5% of adjusted gross income);
 - (ii) Costs directly related to the purchase (excluding mortgage payments) of a principal residence for the Participant;
 - (iii) Payment of tuition, related educational fees and room and board for up to the next 12 months of post-secondary education for the Participant, the Participant's Spouse, children or dependents;
 - (iv) Payments necessary to prevent the eviction of the Participant from, or a foreclosure on the mortgage of, the Participant's principal residence;
 - (v) Payments for funeral or burial expenses for the Participant's deceased parent, Spouse, child or dependent;
 - (vi) Expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under Code §165 (determined without regard to Code §165(h)(5) and whether the loss exceeds 10% of adjusted gross income);
 - (vii) Expenses and losses (including loss of income) incurred by the Participant on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 100-707, provided that the Participant'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; or
 - (viii) for any other event that the IRS recognizes as a deemed immediate and heavy financial need Hardship distribution event under ruling, notice or other guidance of general applicability.

For purposes of determining eligibility for a Hardship distribution under this subsection (1), a dependent is determined under Code §152. However, the determination of dependent for purposes of tuition and related educational fees under subsection (iii) above will be made without regard to Code §§152(b)(1), (b)(2), and (d)(1)(B) and the determination of dependent for purposes of funeral or burial expenses under subsection (v) above will be made without regard to Code §152(d)(1)(B).

A Participant must provide the Plan Administrator with a written request for a Hardship distribution. The Plan Administrator may require written documentation, as it deems necessary, to sufficiently document the existence of a proper Hardship event.

(2) **Non-deemed immediate and heavy financial need.** The Employer may elect under in the Profit Sharing/401(k) Plan Adoption Agreement to permit Participants to take a Hardship distribution without satisfying one of the needs in subsection (1) above by setting forth nondiscriminatory and objective standards under AA §10-3(f).

(3) **Distribution necessary to satisfy financial need.**

(i) **Distribution may not exceed amount of need.** A distribution is treated as necessary to satisfy an immediate and heavy financial need of an Employee only to the extent the amount of the distribution is not in excess of the amount required to satisfy the financial need (including any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution).

- (ii) **No alternative means reasonably available.** A distribution is not treated as necessary to satisfy an immediate and heavy financial need of an employee unless each of the following requirements is satisfied:
 - (A) The Employee has obtained all other currently available distributions (including distributions of ESOP dividends under Code §404(k), but not Hardship distributions) under the Plan and all other plans of deferred compensation, whether qualified or nonqualified, maintained by the Employer;
 - (B) The Employee has provided to the Plan Administrator a representation in writing (including the use of an electronic medium as defined in Treas. Reg. §1.401(a)-21(e)(3)), or in such other form as may be prescribed by the IRS, that he or she has insufficient cash or other liquid assets reasonably available to satisfy the need; and
 - (C) The Plan Administrator does not have actual knowledge that is contrary to the representation.
- (iii) **Additional conditions.** The Plan generally may provide for additional conditions to demonstrate that a distribution is necessary to satisfy an immediate and heavy financial need of an employee. For example, a plan may provide that, before a Hardship distribution may be made, an Employee must obtain all nontaxable loans (determined at the time a loan is made) available under the Plan and all other plans maintained by the Employer.
- (iv) **No suspensions allowed for Hardship distributions made on or after January 1, 2020.** The Plan may not provide for a suspension of an Employee's Salary Deferrals or After-Tax Employee Contributions under any plan described in Code §§401(a) or 403(a), any Code §403(b) plan, or any eligible governmental plan described in Treas. Reg. §1.457-2(f) as a condition of obtaining a Hardship distribution for Hardship distributions made on or after January 1, 2020.
- (4) **Sources for Hardship distributions.** For Plan Years beginning after December 31, 2018 (or such later date specified under the AA §10-1 or under §HD-1(a) and/or (b) of Elective Provisions, the Employer may permit Hardship distributions from the vested portion of a Participant's Employer Contribution Account, Matching Contribution Account, Pre-Tax Salary Deferral Account, Roth Deferral Account, Qualified Nonelective Employer Contribution (QNEC) Account, Qualified Matching Contribution (QMAC) Account, Safe Harbor Employer Contribution Account, Safe Harbor Matching Contribution Account, QACA Safe Harbor Contribution Account and QACA Safe Harbor Matching Contribution Account. The Hardship distribution may include earnings on these Accounts, regardless of when amounts were contributed or earned. The Employer may designate the Accounts (including earnings) from which a Participant may receive a Hardship distribution under §HD-1 of the Elective Provisions. The Plan Administrator may adopt distribution ordering rules consistent with the sources available for Hardship distributions under separate administrative procedures. This subsection (4) supersedes any contrary provisions under the Plan, including any provision that limits the sources for Hardship distribution.
- (5) **Availability to terminated Employees.** If a Hardship distribution is permitted under AA §10-1 or AA §10-2 or under §HD-1 of the Hardship Distribution Interim Amendment, a Participant may take such a Hardship distribution after termination of employment to the extent no other distribution is available from the Plan.
- (6) **Application of Hardship distributions rules with respect to primary beneficiaries.** If elected under AA §10-3(e) of the Profit Sharing/401(k) Plan, if the Plan otherwise permits Hardship distributions based on the deemed immediate and heavy needs under subsection (1)(i) (medical expenses), (1)(iii) (educational expenses) or (1)(v) (funeral expenses) above, the existence of an immediate and heavy financial need may be determined with respect to a primary beneficiary under the Plan. For this purpose, a primary beneficiary is an individual who is named as a beneficiary under the Plan and has an unconditional right to all or a portion of a Participant's Account Balance upon the death of the Participant. Any Hardship distribution with respect to a primary beneficiary must satisfy all the other requirements applicable to Hardship distributions under Section 8.10(e) of the Plan (Section 7.10(e) of the Governmental Plan), as amended by this Hardship Distribution Interim Amendment.

**ARTICLE III
RELIEF FOR VICTIMS OF CERTAIN QUALIFIED NATURAL DISASTERS**

3.01 Relief for Victims of Certain Qualified Natural Disasters. Notwithstanding other provisions of the Plan, the Employer may operate the Plan to provide relief from certain qualification rules relating to Hardship distributions and loans for

Participants who are victims of certain Qualified Natural Disasters, as set forth under applicable IRS or legislative guidance.

3.02 Qualified Natural Disasters. For purposes of this section, Qualified Natural Disasters, in addition to the Qualified Natural Disasters listed under the 2017 Pre-Approved Defined Contribution Plan Interim Amendment previously adopted by the Pre-Approved Plan Provider, include Hurricane Michael and Hurricane Florence, as provided under the preamble to the Final Regulations.

3.03 General Rules. If the Employer and the Plan Administrator make good-faith efforts to apply the Plan provisions in conformance with the relief provided under applicable guidance, the Plan will not be treated as failing to satisfy the requirements of the Code or regulations. In general, the following rules apply:

- (a) In order to make a loan or distribution (including a Hardship distribution), the Plan must provide for loans or distributions, as applicable.
- (b) Participants (victims) for whom the relief is available are determined under the appropriate IRS or legislative guidance.
- (c) The amount available for Hardship distribution is limited to the maximum amount that would be available for a Hardship distribution under the Plan. However, the relief provided applies to any Hardship distribution of the Participant and no post-distribution contribution restrictions apply.
- (d) To qualify for relief under this section, a Hardship distribution must be made on account of a Hardship resulting from the applicable Qualified Natural Disaster and within the time frame provided under the applicable guidance relating to the Qualified Natural Disaster.
- (e) The Plan will not be treated as failing to follow Plan procedural requirements for loans or distributions during the periods provided under guidance relating to the applicable Qualified Natural Disaster, which for Hurricane Michael and Hurricane Florence ended on March 15, 2019.

**HARDSHIP DISTRIBUTION INTERIM AMENDMENT
ELECTIVE PROVISIONS**

These Elective Provisions provide for elections as allowed by the Final Regulations and this Hardship Distribution Interim Amendment. In some cases, the Pre-Approved Plan Provider has Defaults as indicated by the items checked under the Provider Default column under these Elective Provisions. If the adopting Employer approves of the Defaults of the Pre-Approved Plan Provider, the adopting Employer does not need to execute the Hardship Distribution Interim Amendment. If the adopting Employer wishes to override any of the Defaults of the Pre-Approved Plan Provider, the adopting Employer should make the appropriate election(s) in the Elective Provisions below and sign the Hardship Distribution Interim Amendment. If Plan does not permit Hardship distributions, no elections should be made below.

HD-1 SOURCES FOR HARDSHIP DISTRIBUTIONS

- (a) **Source accounts (not including earnings).** For Plan Years beginning after December 31, 2018 (or such later date specified under HD-1(a)(8) or HD-1(a)(9) below or the effective date of a new Plan), a Participant may take an in-service distribution upon the occurrence of a Hardship that satisfies the Hardship distribution rules under Section 8.10(e) of the Plan (Section 7.10(e) of the Governmental Plan), as amended by this interim amendment, with respect to the following sources:

Provider

Default

- (1) No change to current Plan sources available for Hardship distributions under AA §§10-1 and 10-2.
- (2) Qualified Nonelective Contribution (QNEC) Account (Not applicable to 401(a) Governmental Plans)
- (3) Qualified Matching Contribution (QMAC) Account (Not applicable to 401(a) Governmental Plans)
- (4) Safe Harbor Employer Contribution Account (Not applicable to 401(a) Governmental Plans)
- (5) Safe Harbor Matching Contribution Account (Not applicable to 401(a) Governmental Plans)
- (6) QACA Safe Harbor Employer Contribution Account (Not applicable to 401(a) Governmental Plans)
- (7) QACA Safe Harbor Matching Contribution Account (Not applicable to 401(a) Governmental Plans)
- (8) Effective date is January 1, 2020, whether Plan has a calendar or fiscal Plan Year.
- (9) Describe effective date (if later than the beginning of the Plan Year beginning after December 31, 2018) for which the election(s) above apply: _____

- (b) **Earnings on source accounts.** For Plan Years beginning after December 31, 2018 (or such later date specified under HD-1(b)(11) or HD-1(b)(12) below or the effective date of a new Plan), amounts available for Hardship distributions include earnings on the following available sources:

Provider

Default

- (1) Amounts available for Hardship include earnings on all available sources.
- (2) No change to current Plan rule (i.e., earnings are not available on Salary Deferrals, except for those on grandfathered (pre-1989) earnings, if applicable).
- (3) Pre-Tax Salary Deferral Account
- (4) Roth Deferral Account
- (5) Qualified Nonelective Contribution (QNEC) Account (Not applicable to 401(a) Governmental Plans)
- (6) Qualified Matching Contribution (QMAC) Account (Not applicable to 401(a) Governmental Plans)
- (7) Safe Harbor Employer Contribution Account (Not applicable to 401(a) Governmental Plans)
- (8) Safe Harbor Matching Contribution Account (Not applicable to 401(a) Governmental Plans)
- (9) QACA Safe Harbor Employer Contribution Account (Not applicable to 401(a) Governmental Plans)
- (10) QACA Safe Harbor Matching Contribution Account (Not applicable to 401(a) Governmental Plans)
- (11) Effective date is January 1, 2020, whether Plan has a calendar or fiscal Plan Year.
- (12) Describe effective date (if later than the beginning of the Plan Year beginning after December 31, 2018) for which the election(s) above apply: _____

HD-2 NEED TO OBTAIN ALL AVAILABLE LOANS (Complete only if Employer maintains any qualified plan(s) that permits Participant loans.)

Provider

Default

- (a) For Plan Years beginning after December 31, 2018 (or such later date specified in HD-2(d) or HD-2(e) below or the effective date of a new Plan), if a Participant requests a Hardship distribution from any of the Accounts specified in HD-1 above and AA §§10-1 and 10-2, the Participant is **NO LONGER** required to obtain all nontaxable loans available under the Plan and all other plans maintained by the Employer.

- (b) No change to current Plan provisions. Participants are required to obtain all nontaxable loans available under the Plan and all plans maintained by the Employer.
- (c) Describe any special requirements with respect to the need to first obtain all available loans: _____
- (d) Effective date is January 1, 2020, whether Plan has a calendar or fiscal Plan Year.
- (e) Describe other effective date (if later than the beginning of the Plan Year beginning after December 31, 2018) for which the election(s) above apply: _____

HD-3 SUSPENSION OF ABILITY TO MAKE SALARY DEFERRALS AND AFTER-TAX EMPLOYEE CONTRIBUTIONS DURING 2019. (Applicable only to Plans that were using the safe harbor Hardship distribution suspension rule.)

[Note: Under the Final Regulations, adopting Employers may continue to apply the suspension of Salary Deferrals and After-Tax Employee Contributions rules for the 2019 Plan Year. However, in no event, may the Plan provide for a suspension of an Employee's Salary Deferrals or After-Tax Employee Contributions as a condition of obtaining a Hardship distribution for Hardship distributions made on or after January 1, 2020.]

**Provider
Default**

- (a) For Plan Years beginning after December 31, 2018 (or such later date specified in HD-3(d) below) and applicable to Hardship distributions made before January 1, 2020, if a Participant takes a Hardship distribution as permitted under the Plan, the Participant was NOT suspended from making Salary Deferrals (and After-Tax Employee Contributions, if applicable) for any period of time after the receipt of the Hardship distribution.
- (b) No change to current Plan provisions. For Hardship distributions made before January 1, 2020, the Participant continued to be suspended from making Salary Deferrals (and After-Tax Employee Contributions, if applicable) for a period of 6 months after the receipt of the Hardship distribution.
 - Suspensions on Hardship distributions made after July 1, 2019 will cease effective January 1, 2020.
- (c) Describe any special requirements with respect to the suspension from making Salary Deferrals (and After-Tax Employee Contributions, if applicable): _____
- (d) Describe the effective date (if later than the beginning of the Plan Year beginning after December 31, 2018) for which the election(s) above apply: _____

HD-4 APPLICATION OF SUSPENSION REQUIREMENT FOR PRE-2019 PLAN YEAR HARDSHIP DISTRIBUTIONS. (Applicable only to Plans that were using the Hardship distribution suspension rule as of the last day of the 2018 Plan Year.)

**Provider
Default**

- (a) No change to current Plan provisions. A Participant who received a Hardship distribution prior to the beginning of the 2019 Plan Year continued to be suspended from making Salary Deferrals (and After-Tax Employee Contributions, if applicable) for a period of 6 months after the receipt of the Hardship distribution.
- (b) Effective on the first day of the Plan Year beginning after December 31, 2018 (or such later date specified in HD-4(d) below), a Participant who received a Hardship distribution prior to the beginning of the 2019 Plan Year was no longer suspended from making Salary Deferrals (and After-Tax Employee Contributions, if applicable).
- (c) Describe any special rules with respect to the suspension from making Salary Deferrals (and After-Tax Employee Contributions, if applicable) for Participants who have received pre-2019 Hardship distributions: _____
- (d) Describe the effective date (if later than the beginning of the Plan Year beginning after December 31, 2018) for which the election(s) above apply: _____

HD-5 OTHER APPLICABLE RULES. Describe any other rules, such as conditions for receiving a Hardship distribution, not otherwise reflected in the Plan or Hardship Distribution Interim Amendment: _____

HD-6 MEMORIALIZATION OF PRIOR OPERATION. The elections in this Hardship Distribution Interim Amendment should reflect current Plan operations. The Employer may memorialize prior plan operations relevant to the implementation of the Final Regulations by describing such operations below: _____

[Sample letter for adopting Employers of the ASC Defined Contribution Volume Submitter, the Defined Contribution Prototype, and the Governmental Defined Contribution Volume Submitter Plans]

Date:

To:

From:

RE: Hardship Distribution Interim Amendment

On September 23, 2019, the IRS issued final regulations that affect the hardship distribution rules for qualified retirement plans. As an adopting Employer of a qualified retirement plan, you are required to update your plan document to comply with the IRS regulations. Attached is a Hardship Distribution Interim Amendment to your pre-approved defined contribution retirement plan that we sponsor.

If your plan provides for hardship distributions, you will need to review the Hardship Distribution Interim Amendment and the Default selections we have made on the Elective Provisions pages. If you decide to go with the Defaults selections, all you need to do is file a copy of the Hardship Distribution Interim Amendment with your current plan documents and provide a copy of the enclosed Summary of Material Modifications (SMM) to your plan participants.

Alternatively, if you wish to select options other than the Default selections, you should clearly indicate those changes under the Elective Provisions, sign the Hardship Distribution Interim Amendment and return it to us. We will then provide you with a new copy of the Hardship Distribution Interim Amendment with your specific elections, along with a new SMM reflecting those elections. Sign the revised Hardship Distribution Interim Amendment, file a copy of the executed Hardship Distribution Interim Amendment with your current plan documents and provide a copy of the revised SMM to your plan participants.

If your plan does not provide for hardship distributions, you do not need to sign the Hardship Distribution Interim Amendment, nor do you need to provide an SMM to your plan participants. However, to keep your plan up to date, you must file a copy of the Interim Amendment with your current plan documents.

If you have any questions about the attached amendment, you may contact us.

Sincerely,

[For use with the ASC Owners-Only Defined Contribution Volume Submitter Plan]

ADOPTION OF PRE-APPROVED DEFINED CONTRIBUTION PLAN HARDSHIP DISTRIBUTION INTERIM AMENDMENT BY PRE-APPROVED PLAN PROVIDER

Pursuant to Revenue Procedure 2015-36 (or Revenue Procedure 2017-41 (if applicable)) and Section 11.01(a) of the Pre-Approved Owners-Only Defined Contribution Plan and Trust (“Pre-Approved Plan”), the undersigned, on behalf of the below named Provider of the Pre-Approved Plan, hereby adopts the attached **Pre-Approved Defined Contribution Plan Hardship Distribution Interim Amendment** on behalf of all adopting Employers. This amendment is being adopted as a “good-faith” amendment to reflect IRS’ final hardship distribution regulations issued on September 23, 2019. This amendment supersedes any contrary provisions under the Pre-Approved Plan, except as otherwise provided.

Pursuant to Rev. Proc. 2015-36 (or Revenue Procedure 2017-41 (as applicable)), the Pre-Approved Plan Provider will provide a copy of the amendment to all adopting Employers of the Pre-Approved Plan.

Name of Pre-Approved Plan Provider

Authorized Signature

Date

HARDSHIP DISTRIBUTION INTERIM AMENDMENT
[ASC Owners-Only Defined Contribution Volume Submitter Plan]

ARTICLE I
PURPOSE OF INTERIM AMENDMENT

- 1.01** **Adoption by Pre-Approved Plan Provider.** Pursuant to Revenue Procedures 2015-36 and 2017-41 (as applicable) and Section 11.01(a) of the Plan, the Plan is being amended by the Pre-Approved Plan Provider on behalf of all adopting Employers. This Hardship Distribution Interim Amendment is intended to qualify as a good-faith amendment to document the Plan's compliance with the final regulations relating to Hardship distributions issued on September 23, 2019 (84 Fed. Reg. 49651) (hereinafter referred to as the Final Regulations). A copy of this amendment will be provided to all adopting Employers and made a part of their Plans.
- 1.02** **Application.** This Hardship Distribution Interim Amendment supersedes any contrary provisions under the Plan. No signature is required by the Employer to adopt this Hardship Distribution Interim Amendment.

ARTICLE II
AMENDMENTS RELATING TO THE FINAL REGULATIONS ON HARDSHIP DISTRIBUTIONS

- 2.01** **In General.** The Internal Revenue Service has issued Final Regulations that amend the rules relating to Hardship distributions from the Plan. These Final Regulations may affect certain Plan provisions. This Hardship Distribution Interim Amendment sets forth the provisions of the Final Regulations and their application to the Plan by amending Section 6.09(d) of the Plan. The Plan Administrator shall administer the provisions of this Hardship Distribution Interim Amendment consistent with a good-faith interpretation of the requirements of the Final Regulations as set forth under Treas. Reg. §§1.401(k)-1, 1.401(k)-3 and 1.401(m)-3, as amended.
- 2.02** **Applicability Dates.** Except as otherwise provided in this Hardship Distribution Interim Amendment, the Final Regulations and this Hardship Distribution Interim Amendment apply to Hardship distributions made in Plan Years beginning after December 31, 2018. The Plan Administrator may adopt administrative procedures consistent with this Hardship Distribution Interim Amendment and the Final Regulations.
- (a) **Earlier application of certain provisions.** The Employer may have applied the prohibition on the suspension of Salary Deferrals and After-Tax Employee Contributions as of the first day of the first Plan Year beginning after December 31, 2018, even if the Hardship distribution was made in a prior year. In addition, the Employer may have operationally applied the revised deemed immediate and heavy financial need expenses under Section 6.09(d) of the Plan, as amended by this Hardship Distribution Interim Amendment, to distributions made on or after a date as early as January 1, 2018.
- (b) **Employee representation in 2019.** For Hardship distributions made before January 1, 2020, the Employer may disregard the rules relating to the employee representation, as described under Section 6.09(d)(ii)(B) of the Plan, as amended by this Hardship Distribution Interim Amendment.
- 2.04** **Amendment of Section 6.09(d) of the Plan.** Section 6.09(d) of the Plan is deleted and replaced with the following:
- (d) **Hardship distribution.** A Hardship distribution of Employer Contributions and Salary Deferrals must meet the requirements of a deemed immediate and heavy financial need as described under subsection (1) below.
- (1) **Deemed immediate and heavy financial need.** A distribution is deemed to be made on account of an immediate and heavy financial need of the Employee if the distribution satisfies one of the following needs:
- (i) Expenses incurred or necessary for medical care (as described in Code §213(d)) of the Participant, the Participant's Spouse or dependents (determined without regard to whether the expenses exceed 7.5% of adjusted gross income);
- (ii) Costs directly related to the purchase (excluding mortgage payments) of a principal residence for the Participant;
- (iii) Payment of tuition, related educational fees and room and board for up to the next 12 months of post-secondary education for the Participant, the Participant's Spouse, children or dependents;
- (iv) Payments necessary to prevent the eviction of the Participant from, or a foreclosure on the mortgage of, the Participant's principal residence;

- (v) Payments for funeral or burial expenses for the Participant's deceased parent, Spouse, child or dependent;
- (vi) Expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under Code §165 (determined without regard to Code §165(h)(5) and whether the loss exceeds 10% of adjusted gross income);
- (vii) Expenses and losses (including loss of income) incurred by the Participant on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 100-707, provided that the Participant'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; or
- (viii) for any other event that the IRS recognizes as a deemed immediate and heavy financial need Hardship distribution event under ruling, notice or other guidance of general applicability.

For purposes of determining eligibility for a Hardship distribution under this subsection (1), a dependent is determined under Code §152. However, the determination of dependent for purposes of tuition and related educational fees under subsection (iii) above will be made without regard to Code §§152(b)(1), (b)(2), and (d)(1)(B) and the determination of dependent for purposes of funeral or burial expenses under subsection (v) above will be made without regard to Code §152(d)(1)(B).

A Participant must provide the Plan Administrator with a written request for a Hardship distribution. The Plan Administrator may require written documentation, as it deems necessary, to sufficiently document the existence of a proper Hardship event.

(2) **Distribution necessary to satisfy financial need.**

- (i) **Distribution may not exceed amount of need.** A distribution is treated as necessary to satisfy an immediate and heavy financial need of an Employee only to the extent the amount of the distribution is not in excess of the amount required to satisfy the financial need (including any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution).
- (ii) **No alternative means reasonably available.** A distribution is not treated as necessary to satisfy an immediate and heavy financial need of an employee unless each of the following requirements is satisfied:
 - (A) The Employee has obtained all other currently available distributions (including distributions of ESOP dividends under Code §404(k), but not Hardship distributions) under the Plan and all other plans of deferred compensation, whether qualified or nonqualified, maintained by the Employer;
 - (B) The Employee has provided to the Plan Administrator a representation in writing (including the use of an electronic medium as defined in Treas. Reg. §1.401(a)-21(e)(3)), or in such other form as may be prescribed by the IRS, that he or she has insufficient cash or other liquid assets reasonably available to satisfy the need; and
 - (C) The Plan Administrator does not have actual knowledge that is contrary to the representation.
- (iii) **No suspensions allowed for Hardship distributions made on or after January 1, 2020.** The Plan may not provide for a suspension of an Employee's Salary Deferrals or After-Tax Employee Contributions under any plan described in Code §§401(a) or 403(a), any Code §403(b) plan, or any eligible governmental plan described in Treas. Reg. §1.457-2(f) as a condition of obtaining a Hardship distribution for Hardship distributions made on or after January 1, 2020.

- (3) **Amounts available for Hardship distributions.** A Participant may receive a Hardship distribution of any portion of his/her Pre-Tax Salary Deferral Account, Roth Deferral Account, Employer Contribution Account, After-Tax Employee Contributions, Rollover Contribution Account, Roth Rollover Contribution Account and In-Plan Roth Conversion Account. A Hardship distribution may include earnings on such Accounts, regardless of when amounts were allocated or earned.

- (4) **Application of Hardship distributions rules with respect to primary beneficiaries.** The existence of an immediate and heavy financial need under subsections (1)(i) (medical expenses), (1)(iii) (educational expenses) and (1)(v) (funeral expenses) above may be determined with respect to a primary beneficiary under the Plan. For this purpose, a primary beneficiary is an individual who is named as a beneficiary under the Plan and has an unconditional right to all or a portion of a Participant's Account Balance upon the death of the Participant. Any Hardship distribution with respect to a primary beneficiary must satisfy all the other requirements applicable to Hardship distributions under subsection (d).

**ARTICLE III
RELIEF FOR VICTIMS OF CERTAIN QUALIFIED NATURAL DISASTERS**

- 3.04 Relief for Victims of Certain Qualified Natural Disasters.** Notwithstanding other provisions of the Plan, the Employer may operate the Plan to provide relief from certain qualification rules relating to Hardship distributions and loans for Participants who are victims of certain Qualified Natural Disasters, as set forth under applicable IRS or legislative guidance.
- 3.05 Qualified Natural Disasters.** For purposes of this section, Qualified Natural Disasters, in addition to the Qualified Natural Disasters listed under the 2017 Pre-Approved Defined Contribution Plan Interim Amendment previously adopted by the Pre-Approved Plan Provider, include Hurricane Michael and Hurricane Florence, as provided under the preamble to the Final Regulations.
- 3.06 General Rules.** If the Employer and the Plan Administrator make good-faith efforts to apply the Plan provisions in conformance with the relief provided under applicable guidance, the Plan will not be treated as failing to satisfy the requirements of the Code or regulations. In general, the following rules apply:
- (a) In order to make a loan or distribution (including a Hardship distribution), the Plan must provide for loans or distributions, as applicable.
 - (b) Participants (victims) for whom the relief is available are determined under the appropriate IRS or legislative guidance.
 - (c) The amount available for Hardship distribution is limited to the maximum amount that would be available for a Hardship distribution under the Plan. However, the relief provided applies to any Hardship distribution of the Participant and no post-distribution contribution restrictions apply.
 - (d) To qualify for relief under this section, a Hardship distribution must be made on account of a Hardship resulting from the applicable Qualified Natural Disaster and within the time frame provided under the applicable guidance relating to the Qualified Natural Disaster.
 - (e) The Plan will not be treated as failing to follow Plan procedural requirements for loans or distributions during the periods provided under guidance relating to the applicable Qualified Natural Disaster, which for Hurricane Michael and Hurricane Florence ended on March 15, 2019.

[Sample letter for adopting Employers of the ASC Owners-Only Defined Contribution Volume Submitter Plan]

Date:

To:

From:

RE: Hardship Distribution Interim Amendment

On September 23, 2019, the IRS issued final regulations that affect the hardship distribution rules for qualified retirement plans. As an adopting Employer of a qualified retirement plan, you are required to update your plan document to comply with the IRS regulations. Attached is a Hardship Distribution Interim Amendment to your pre-approved defined contribution retirement plan that we sponsor, along with a summary of the changes that may affect you.

You should review the Hardship Distribution Interim Amendment to become familiar with the changes. You do not need to sign the Hardship Distribution Interim Amendment since we have adopted the amendment on your behalf. However, to keep your plan up to date, you must file this amendment with your current plan documents.

If you have any questions about the attached amendment, you may contact us.

Sincerely,