

ARTICLE IV PLAN DOCUMENT AMENDMENT

AMENDMENT TO THE Mississippi Forestry Commission

CAFETERIA PLAN

This Amendment to the Cafeteria Plan is adopted by Mississippi Forestry Commission (the "Employer"), effective as of the date set forth herein.

WITNESSETH:

WHEREAS, the Employer maintains the Mississippi Forestry Commission Cafeteria Plan (the "Plan"), and such Plan is currently in effect; and

WHEREAS, the Employer desires to amend the Plan in certain respects;

NOW, THEREFORE, the Employer hereby amends the Plan as follows:

Mississippi Forestry Commission hereby adopts the Flexible Benefit Cafeteria Plan and hereby amends and agrees to be bound by all of the terms, provisions, conditions and limitations of this Plan Document.

Effective **April 1, 2009** Article IV to the Plan is hereby amended as follows:

Article IV Benefit Elections, with respect to Section 4.04 Change of Election during the Plan Year, item (b) Special Health Insurance Portability and Accountability Act (HIPAA) Enrollment Rights, as amended by the Children's Health Insurance Program Reauthorization Act of 2009, amending HIPAA Special Enrollment Rights, effective April 1, 2009.

ARTICLE IV BENEFIT ELECTIONS

4.01 ELECTION OF BENEFITS

A Participant may elect any combination of Pre-tax Contributions or After-tax Contributions, as described more fully below, and in Articles I, to fund any Benefit(s) or Policy available under the Plan, provided however, that only Qualified Benefits may be funded with Pre-tax Contributions. The board and/or Plan Administrator may amend, modify, or change contribution rates for the component Benefit Plans or Plan Policies described in Article I.

4.02 INITIAL ELECTION PERIOD

- (a) *Currently Eligible Employees.* An Employee who is eligible to become a Participant in this Plan, as of the Effective Date, must complete, sign and file an Election and Salary Reduction Agreement with the Plan Administrator during the

election period (as specified by the Plan Administrator) immediately preceding the Effective Date in order to become a Participant on the Effective Date. The elections made by the Participant on this initial Election and Salary Reduction Agreement shall be effective, subject to Section 4.04, for the Plan Year beginning on the Effective Date.

- (b) *New Employees and Employees who have not yet satisfied the Plan's waiting period.* An Employee who becomes eligible to become a Participant after the Effective date of the Plan, must complete, sign and file an Election and Salary Reduction Agreement with the Plan Administrator on or prior to the day the Employee first becomes eligible to participate in the Plan. The elections made by the Participant on this initial Election and Salary Reduction Agreement shall be prospectively effective as of the first pay period coinciding with or immediately following the date that the Election and Salary Reduction Agreement is filed (or if later, the date of the Employee's eligibility under the Plan) and, subject to Section 4.04, ending on the last day of the Plan Year in which such participant began. Coverage under the component Benefits Plan or Policies will be effective in accordance with the eligibility requirement contained in such Benefits Plans or Policies.
- (c) *An eligible Employee who fails to complete, sign and file an Election and Salary Reduction Agreement with the Plan Administrator in accordance with paragraphs (a) or (b) above during an initial election period may become a Participant on a later date in accordance with Section 4.03 or 4.04.*

4.03 ANNUAL ELECTION PERIOD

Each Employee who is a Participant in this Plan or who is eligible to become a Participant in this Plan, shall be notified, prior to each Anniversary Date of this Plan of his right to become a Participant in this Plan, or to modify or to cease participation in this Plan, and shall be given a reasonable period of time in which to exercise such right. Such period of time shall be known as the "annual election period." An Election shall be made by submitting an Election and Salary Reduction Agreement to the Plan Administrator during the election period, and shall be effective for the entire Plan Year beginning on the Anniversary Date. The Plan Administrator may promulgate procedures for annual re-enrollment elections. Except as otherwise provided for in such procedures, a Participant or Employee who fails to complete, sign and file an Election and Salary Reduction Agreement as required by this Section 4.03 shall be deemed to have elected to continue the same coverage(s) under this Plan then in effect for such Participant or Employee.

4.04 CHANGE OF ELECTION DURING THE PLAN YEAR

Except as provided in Section 3.04 and 4.03, and 4.04(k), a Participant shall not make any changes to the Pre-tax contribution amount elected under the Plan, except as provided herein:

- (a) *Change in Status.* A participant may change or terminate his/her actual or deemed election under the Plan upon the occurrence of a Change in Status, but only if such change or termination is made on account of, and is consistent with, the Change in Status. The Plan Administrator (in its sole discretion) shall determine whether a requested change is on account and consistent with a Change in Status.

- (1). *Group term life insurance benefit.* With respect to any group term life insurance (as defined in Code §79), A participant may change his/her election only if the change is consistent with the Change in Status, as set forth below:
 - (i) In the case of a Participant's marriage or the birth, adoption or placement for the adoption of a child, a Participant may elect to increase life insurance coverage, but not decrease such coverage.
 - (ii) In the case of a Participant's divorce, legal separation, annulment, or the death of a Participant's Spouse or Dependant, a Participant may elect to decrease life insurance coverage, but not increase it.
- (2). *Accident and health benefits as defined in Code §106 and Premium Reimbursement Account as define in IRS Revenue Ruling 61-146.* With respect to any accident and health benefits, a Participant may change his/her Election and Salary Reduction Agreement election only if (i) the Change in Status results in the Participant, the Participant's Spouse, or the Participant's Dependent gaining or losing eligibility for the benefit (Or a particular benefit option) under the Plan or the Participant's Spouse's or Dependent's, Employer's plan, and (ii) the election change corresponds with such gain or loss of coverage. Notwithstanding the foregoing, if the Participant, the Participant's spouse (but not ex-spouse) or the Participant's Dependent becomes eligible for COBRA (or similar health plan continuation coverage under state law) under the Employer's Plan, the Participant may increase his/her election to pay for such coverage.
- (3). *Dependent Care Spending Account.* With respect to the Dependent Care Spending Account, a Participant may change or terminate his/her election only if such change or termination is made on account of, and is consistent with, the Change in Status. The Plan Administrator (in its sole discretion) shall determine whether a requested change is consistent with and attributable to a Change in Status.
- (b). *Special Health Insurance Portability and Accountability Act (HIPAA) Enrollment Rights.* If a Participant, a Participant's Spouse or a Participant's Dependent is entitled to special enrollment rights under a group health plan, as required by Code §9801(f), and medical coverage and eligibility for such coverage is subsequently lost due to legal separation, divorce, death, termination of employment, reduction in hours, or exhaustion of COBRA period, or a new Dependent is acquired as a result of marriage, birth, adoptions, or placement for adoption, then a Participant may revoke a prior election for health or accident coverage and make a new election, provided that the election corresponds with such enrollment right and only to the extent required by Code §9801, and the Children's Health Insurance Program (CHIP) Reauthorization Act of 2009, effective April 1, 2009:
 - (1) Special Enrollment Rights based on the Children's Health Insurance Program (CHIP) Reauthorization Act of 2009, allows Employees to enroll under two additional circumstances, which are:
 - (a) termination of Medicaid or CHIP coverage resulting from loss of eligibility and the employee requests coverage under the plan; or
 - (b) becoming eligible for a premium assistance subsidy in the employer-provided group health plan under Medicaid or CHIP.

For the Special Enrollment Rights change for CHIP, an Employee must request coverage within sixty (60) days of termination or the date it is determined the Participant is eligible for assistance in order to be entitled to these special enrollment rights.

- (c) *Certain judgments, decrees and orders.* If a judgment, decree, or order (an “Order”) resulting from a divorce, legal separation, annulment or change in legal custody (including a qualified medical child support order) requires accident or health coverage for a Participant’s child, a Participant may (i) change his/her election to provide coverage for the child (provided that the Order requires the Participant to provide coverage) or (ii) change his/her election to revoke coverage for the child if the Order requires that the former spouse provide coverage under the former spouse’s plan.
- (d) *Medicare and Medicaid.* If the Participant, the Participant’s Spouse, or the Participant’s Dependent who is enrolled in a health or accident benefit under this Plan becomes entitled to Medicare or Medicaid (other than coverage consisting solely of benefits under §1928 of the Social Security Act providing for pediatric vaccines), the Participant may cancel the health or accident coverage of the person becoming entitled to Medicare or Medicaid. In addition, if the Participant, the Participant’s Spouse or the Participant’s Dependent who has been entitled to such coverage under Medicare or Medicaid loses eligibility for such coverage, the Participant may make, on a prospective basis, an election to commence or increase coverage of that Participant, Participant’s Spouse or Participant’ Dependent under a health or accident plan.
- (e) *Significant Change in cost or coverage.* A Participant may revoke a prior election with respect to Pre-tax contributions and in lieu thereof, receive on a prospective basis, coverage under another health plan with similar coverage, if any independent third-party provider of medical benefits previously elected by the Participant either significantly increases the premiums for such coverage, or significantly curtails the coverage(s) available under such plans, during the Plan Year coverage period. (Note: If any mid-year premium increase by the third-party provider is insignificant, the Participant’s salary reduction election may be automatically adjusted by the Plan Administrator.) Alternatively, in the event there is a significant curtailment that is a loss of coverage (as defined in Treasury Regulation §1.125-4) the Participant may elect to revoke a prior election and drop coverage if no similar benefit is available. Additionally, in the event there is a significant decrease in the cost of a benefit, a Participant may elect to commence participating under such benefit on a prospective basis. The provisions of this paragraph are applicable with regard to changes under the Dependent Care Assistance Account Plan only if the cost change is imposed by a dependent care provider who is not a relative (as defined in Code §1.52(a)) of the Participant.
- (f) *Significant Change in Health Coverage attributable to Spouse’s Employment.* A Participant may revoke a prior election and make a new election where there has been a significant change in the health coverage of the Participant or the Participant’s Spouse attributable to the Spouse’s employment. Such change is allowed only if the change is consistent (i.e., necessary or appropriate as a result of the significant change in health coverage attributable to the Spouse’s employment). The Plan Administrator (in its sole discretion) shall determine whether a requested change is consistent with and attributable to a significant change in health coverage attributable to a Participant’s Spouse’s employment.
- (g) *Addition or improvement of a Benefit Plan or Option.* If the Plan adds a new Benefit

Plan or option thereunder, or if coverage under an existing Benefit Plan or option thereunder is significantly improved during the Plan Year, Participants (whether or not they have previously made an election under the Plan or have previously elected the Benefit Plan or option thereunder) may revoke their election under this Plan, and, in lieu thereof, elect on a prospective basis coverage under the new or improved Benefit Plan.

- (h) *Changes in coverage under another Employer Plan.* A participant (or an Employee who has not made a previous election under this Plan for a particular Plan Year) may make a prospective election change that is on account of and corresponds with a change made under another employer plan (including a plan of the Employer or of another employer) if the other cafeteria plan or Benefit Plan allows participants to make an election change that would be permitted under the rules of Treasury Regulations §1.125-4(c).
- (i) *Loss of other Group Health Plan Coverage.* A Participant (or an Employee who has not made a previous election under this plan for a particular Plan Year) may make an election on a prospective basis to add coverage under this Plan for the Participant or other Employee, Spouse, or Dependent if the Participant, Employee, Spouse, or Dependent loses coverage under any group health coverage sponsored by a government or educational institution, including:
 - a. a state's children's health insurance program (SCHIP) under Title XXI of the Social Security Act;
 - b. a medical care program of an Indian tribal government (as defined in Code §7701(a)(40)), the Indian Health Service, or a tribal organization;
 - c. a state health benefit risk pool; or
 - d. a foreign government group health plan.
- (j) *Changes Due to Family Medical Leave Act, "FMLA" Leaves.* A Participant who takes FMLA leave shall have the right to make any election change under an Employer-sponsored group health plan option as may be provided for under Family and Medical Leave Act "FMLA" of 1993, as amended by the National Defense Authorization Act for 2008, Section 585.

No Participant shall be allowed to reduce his/her election for Unreimbursed Medical, Dependent Care Spending and/or Premium Reimbursement Account to a point where the annualized contribution for such benefit is less than the amount already reimbursed. In addition, any change in an election affecting annual Plan Contributions Unreimbursed Medical, Dependent Care Spending and/or Premium Reimbursement Account Plans, pursuant to this Article, also will change the Maximum Reimbursement Benefits for the period of coverage remaining in the Plan Year. Such Maximum Reimbursement Benefits for the period of coverage following an election change shall be calculated by adding the balance (if any) remaining in each of the Participant's Reimbursement Accounts as of the end of the portion of the Plan Year, immediately preceding the change in election, to the total Plan Contributions scheduled to be made by the Participant during the remainder of such Plan Year to such Account(s).

An Employee who is eligible to become a Participant but declined to become a Participant during the initial election period pursuant to Section 4.02 of this Plan Document (a) or (b) may become a Participant and file a Pre-tax election within ninety (90) days of the occurrence of an event described in Section 4.04 (a), (b), (c), (d), (e) and (f) above, but only if the election under the new Election and Salary Reduction Agreement is made on account of and is consistent with the event

(as described above). A Participant otherwise entitled to make a new election under this Section must do so within ninety (90) days of the event (e.g., Change in Status, significant change in coverage, Medicare or Medicaid eligibility, special enrollment right or judgment, decree, or order). Subject to the provisions of the underlying group health plan, elections made to add medical coverage for a newborn or newly adopted dependent child, pursuant to HIPAA special enrollment rights may be retroactive for up to thirty (30) days. All other new elections shall be effective-no sooner than the first day of the payroll period coincident with or immediately following the date the Participant files his/her new Election and Salary Reduction Agreement with the Plan Administrator. Elections made pursuant to this Section shall be effective for the balance of the Plan Year in which the election was made unless a subsequent event allows a further election change.

*Amendment of Plan Document to include Change to the
Special Enrollment Rights, for CHIP.
Effective April 1, 2009*

Adopted on behalf of the **Mississippi Forestry Commission's** Cafeteria Plan, by the Mississippi Forestry Commission's Plan Administrator, effective for April 1, 2009.

Please place in your Plan Document, in the areas of page 14 or 15. If you have any comments or questions regarding any of the above information, please do not hesitate to contact SABC at (601) 856-9933 or email www.sabcflex.com.