

May 17, 2022

City of Manitowoc  
900 Quay Street  
Manitowoc, WI 54220

RE: Cycle 3 Restatement of City of Manitowoc 401a Special Pay Plan (“Plan”)

Dear :

In order to maintain the qualified status of your Plan, your company must adopt certain amendments required by the Internal Revenue Service (IRS) to ensure your Plan continues to comply with all current laws. To adopt the appropriate amendments, the IRS requires that you adopt a new version of your Plan document, called a “Plan restatement.” To assist you with this restatement process, we have updated your Plan as required by the IRS. You will need to sign and date the attached documents to ensure your Plan continues to satisfy all current qualification requirements.

We have enclosed the following documents to assist you in the Plan restatement process:

1. Frequently Asked Questions (FAQs). We have enclosed a series of FAQs to help you understand the steps you need to take to complete the restatement process. Please review these FAQs to ensure you have properly implemented the Plan restatement process.
2. Sample resolution. We have enclosed a sample resolution describing the restatement process. This resolution should be signed to authorize the adoption of the restated plan. You should keep the signed resolution in your Plan file to document the adoption of the Plan restatement.
3. A copy of the restated Adoption Agreement containing the elections applicable to your Plan. PLEASE REVIEW THIS DOCUMENT CAREFULLY TO MAKE SURE THE ELECTIONS IN THE DOCUMENT ARE CONSISTENT WITH HOW THE COMPANY IS CURRENTLY OPERATING THE PLAN. This Adoption Agreement should be signed by the person authorized to execute the adoption of the Plan restatement. You should keep the original signed document in your Plan file and return a copy to us for our records.
4. Basic Plan Document. This document contains the boilerplate language applicable to the Plan as approved by the IRS, including the duties and responsibilities of the Employer. This document does not need to be signed but should be kept in your Plan file.
5. Trust Declaration and Agreement. The Trust Agreement establishes the trust for your Plan and provides for its governing provisions, including the duties and responsibilities of the Trustee and Employer. An authorized person from your company and the Trustee will need to sign the Trust Declaration or a separate Trust Agreement. You should keep the Trust Agreement in your Plan file.
6. A copy of the Plan’s Summary Plan Description (SPD). The SPD is a summary of the Plan provisions that must be provided to all participants. You should provide a copy of the SPD to all participants as soon as possible after executing the attached documents.

Your Plan is a special type of retirement plan called a pre-approved plan. As a pre-approved plan, the IRS reviews and approves the language in your Plan. We will provide you with a copy of the opinion letter issued by the IRS documenting the approval of your Plan language.

As noted above, it is extremely important that you carefully review the enclosed Adoption Agreement to ensure it conforms to the way you currently operate your Plan. You may wish to have your tax or legal advisor review the documents to be sure the options selected are consistent with current Plan operation.

Once you have completed your review of the restated Adoption Agreement and are comfortable with the selections in the document, please sign and date the Adoption Agreement (in the manner described in the enclosed FAQs) and return one copy to us. You should retain the signed original in your Plan file. Please return a copy of the signed Adoption Agreement to us at the following address:

Pelion Benefits, Inc  
3713-C University Drive  
Durham, NC 27707

If you have any questions regarding the Plan restatement process, you may contact us at (919) 942-2828.

Sincerely,

Pelion Benefits, Inc

Enclosures

***Plan Document Restatement Package  
Frequently Asked Questions***

***In General***

***Q-1: Why do we have to restate our Plan document?***

A-1: Under the IRS pre-approved plan program, the IRS reviews and approves plan provisions approximately every six years. This allows the IRS to ensure that the Plan reflects new laws and regulations that affect tax qualified plans. After the IRS approves the pre-approved plan provisions, it requires that all employers that have adopted the plan execute a new plan document, commonly called a plan restatement. In recent years, Congress has enacted a number of new laws affecting tax qualified retirement plans. The IRS also has issued substantial guidance regarding the operation of qualified plans. Congress and the IRS have generally permitted employers to comply with these new rules in operation without formally amending the underlying Plan document until some date after the law is effective. As indicated above, the IRS is now requiring all qualified plans to be restated to comply in form with the new laws and guidance. This restatement is being collectively referred to as Cycle 3.

***Q-2: By what date must our Plan document be restated?***

A-2: The IRS has announced that employers who use a pre-approved plan document, such as yours, must restate their Plans **no later than July 31, 2022**. If a Plan is not restated and signed by July 31, 2022, it may lose its qualified status and could subject your company to substantial tax sanctions.

***Q-3: We just adopted our Plan last year. Why do we need to restate the document so soon after adoption?***

A-3: The IRS requires all Plans be restated onto an “IRS-approved” version of the pre-approved plan. If your company adopted your Plan prior to August 1, 2020, it is likely the Plan was not on the most recent IRS-approved version. All plans must be restated onto the latest IRS-approved version no later than July 31, 2022.

***Q-4: How is the new plan document different than our current document?***

A-4: The new document has been updated to address updated laws and IRS guidance, including, but not limited to:

- Rules expanding In-Plan Roth Conversions of otherwise nondistributable amounts.
- Final regulations providing for a limited modification of the required minimum distribution rules for tax-qualified defined contribution plans holding Qualifying Longevity Annuity Contracts.
- Clarifying change relating to the application of same-sex marriage rules.
- Final regulations providing guidance on mid-year changes to Safe Harbor 401(k) Plans.
- Qualified Natural Disaster Relief provided by the IRS, including, but limited to, Louisiana storms, Hurricane Matthew, Hurricane Irma, Hurricane Maria and California Wildfires.
- Revised disability claims procedures as provided by the Department of Labor (DOL).
- New rules extending the rollover period for Qualified Plan Loan Offset Amounts.

***Q-5: Why does the new Plan document already contain an Interim Amendment?***

A-5: The Cycle 3 Defined Contribution Pre-Approved Plan documents are based on the List of Required Modifications issued by the IRS in October of 2017. The IRS issued final regulations relating to hardship distributions under 401(k) plans on September 23, 2019. Given the timing, the IRS did not permit or approve the inclusion of hardship distribution changes pursuant to the final regulations in the Cycle 3 Defined Contribution Pre-Approved Plan documents, thus a snap-on Interim Amendment is required. Similarly, the Cycle 3 Defined Contribution Pre-Approved Plan documents do not incorporate changes due to the SECURE Act or the CARES Act. A separate Interim Amendment will be necessary to adopt those changes.

***Plan Restatement Documents***

***Q-6: What documents have been provided and which do we need to sign in order to restate our Plan document?***

A-6: We have provided the following updated Plan-related documents:

- Sample Resolution
- Restated Adoption Agreement

## *Frequently Asked Questions Regarding Plan Restatements*

- Basic Plan Document
- ASC Trust Agreement, if applicable
- Favorable IRS Opinion letter
- Summary Plan Description

The appropriate individual(s) must sign the sample resolution, restated Adoption Agreement and Trust Declaration, as described below.

***Q-7: Who must sign the sample resolution to adopt the Plan restatement?***

A-7: The purpose of the resolution is to authorize your company to take the actions necessary to restate the plan. The attached resolution is a **sample** designed to satisfy the state law requirements to authorize a company to adopt the restatement of a qualified retirement plan. You should consult with your legal advisor as to whether an alternate format may or should be used to authorize adoption of the Plan restatement.

***Q-8: What pages of the Adoption Agreement must be signed? Do we need to return a copy of the signed Adoption Agreement to you?***

A-8: The pages that must be signed will depend on how the Plan is completed. The following describes each of the Adoption Agreement pages that may require a signature:

- **Employer Signature Page.** The Employer Signature Page must be signed by an authorized representative of the Employer that is sponsoring the Plan. A signature is required to implement the provisions under the restated Plan document.
- **Trust Declaration Page.** Generally, the Trust Declaration Page must be signed by the Employer and the Trustee indicating its acceptance of the fiduciary responsibilities under the Plan. If the Plan is using a separate Trust Agreement, the Trustee may adopt the Trust Agreement either by signing the Trust Declaration Page, as indicated therein, or by signing the separate Trust Agreement.
- **Participating Employer Signature Page.** If there is more than one employer that is maintaining the Plan, each additional employer must adopt the Plan document by executing a Participating Employer Signature Page.
- **Interim Amendment – Hardship Distributions Elective Provisions.** If the Employer wishes to override the default elections, the Employer must sign the Interim Amendment to adopt the alternate elections.

***Q-9: Do we need to file our plan with the IRS?***

A-9: Generally, you may rely upon the IRS opinion letter issued to the plan document sponsor in lieu of an individual determination letter. If you make significant modifications to the IRS-approved Plan, it may impact your Plan's reliance on the IRS opinion letter for which you may wish to apply for an individual IRS determination letter using Form 5307.

***Q-10: Does a new Summary Plan Description (SPD) need to be provided to each participant?***

A-10: Yes, the DOL requires that participants be informed of any material changes made to the plan document. The DOL also requires periodic restatements of the SPD. The adoption of the Cycle 3 restated document is an appropriate time to provide a new SPD. All current participants and beneficiaries receiving benefits must receive a new SPD no later than 210 days (approximately 7 months) after the close of the plan year for which the SPD is updated.

***Q-11: Whom should I call if I have questions?***

A-11: Please contact the plan provider at the address listed in the attached cover letter if you have questions regarding the restatement process.