

TOWN OF MILFORD
SECTION 125 FLEXIBLE BENEFITS PLAN
ADOPTION AGREEMENT

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SECTION 125 FLEXIBLE BENEFITS PLAN**

The undersigned adopting Employer hereby adopts this Plan. The Plan is intended to qualify as a cafeteria plan under Code section 125. The Plan shall consist of this Adoption Agreement, the related Section 125 Flexible Benefits Plan Document and any related Appendices and Addendums. Unless otherwise indicated, all Section references are to Sections in the Section 125 Flexible Benefits Plan Document.

EMPLOYER AND PLAN ADMINISTRATOR INFORMATION

1. Name of adopting Employer (Plan Sponsor): Town of Milford
2. Address: 1 Union Square
3. City: Milford
4. State: NH
5. Zip: 03055
6. Phone number: (603) 249-0605
7. Fax number: (603) 673-2273
8. Plan Sponsor EIN: 02-6002175
9. Entity Type:
 - a. Government Entity or Agency
 - b. Other:
10. Plan Administrator:
 - a. Employer (Plan Sponsor)
 - b. Other: _____
11. Additional Participating Employers: N/A
12. HIPAA Compliance - Person(s) Authorized to Access PHI. In accordance with and subject to HIPAA and Section 18.02, only the following employees, classes (titles) of employees or other persons under the control of the Employer may be given access to Protected Health Information ("PHI") by the Employer internally for purposes of administering this Plan:

Titles of Employees

Human Resources Director

NOTE: Notwithstanding the above list of authorized employees, the FSA Administrator will only release PHI to persons otherwise authorized to receive PHI in accordance with the HIPAA Privacy policies of the FSA Administrator.

PLAN INFORMATION

A. GENERAL INFORMATION AND DEFINITIONS

1. **Plan Number:** N/A
2. **Plan Name:** Town of Milford Section 125 Flexible Benefits Plan
3. **Effective Dates:**
 - a. Original effective date of Plan: 04/01/1991
 - b. Effective Date of Current Plan Document and Adoption Agreement: 01/01/2024 ("Effective Date")
 This is a restatement of a previously-adopted plan document.
4. **Plan Year:**
 - a. Plan Year means each 12-consecutive month period ending on 12/31 (e.g. 6/30 or 12/31).
 - b. The Plan has a short Plan Year. The short Plan Year begins N/A and ends on N/A. Any special provisions regarding a short Plan Year shall be placed in the Addendum to the Adoption Agreement.

5. **Plan Benefits.** The following Benefits are available under the Plan:
- a. Premium Conversion Account
 - b. General Purpose Health Flexible Spending Account
 - c. Limited Purpose HSA-Compatible Health Flexible Spending Account
 - d. Dependent Care Assistance Plan Account
 - e. Health Savings Account (HSA) Contributions
 - f. Non-Elective Employer Contributions and/or Flex Credits
 - g. Cash Opt-out

B. ELIGIBILITY

Eligible Employees

The following eligibility requirements apply in determining Eligible Employees with respect to Benefits selected in A.5 above.

1. **Premium Conversion Account and/or Cash Opt-Out Benefit(s) Eligibility** - The eligibility requirements for participating in the medical, dental, or other plan for which Premium Conversion Account and/or a Cash Opt-Out Benefit is available are as detailed in the specific Contract documents applicable to such plan (such as certificate of coverage, enrollment form, personnel policy, etc.).
2. **Health FSA Eligibility*** - The following classes of Employees who are eligible for the Employer's group medical plan coverage are also eligible for participation in the General Purpose Health FSA or Limited Purpose Health FSA (if offered by Employer and Employee is enrolled in a High Deductible Health Plan and contributing to an HSA).

All Employees eligible for Employer's medical plan coverage in the following classes:

Employee Class Description and Eligibility Begins

All employees eligible for group medical plan coverage. - First of the month following date of hire.

**Employees who are participating in an HSA-compatible High Deductible Health Plan and contributing to an HSA are not eligible to participate in the General Purpose Health FSA, but may be eligible to participate in the Limited Purpose Health FSA if offered by the Employer.*

3. **DCAP Account Eligibility** - The following classes of Employees are eligible for participation in the DCAP Account:

Employee Class Description and Eligibility Begins

All employees eligible for group medical plan coverage. - First of the month following date of hire.

4. **HSA Contributions** - Employees participating in an HSA-compatible High Deductible Health Plan who are eligible to make HSA Contributions.
5. **Excluded Employees** - Describe any additional exclusions or modifications to the definition of the term "Eligible Employee" for the specified Plan Benefit not already included in B.1-B.4 above: N/A

Leave of Absence under FMLA

6. If a Participant takes a **paid** leave of absence under FMLA, the Participant (**select at least one**):
 - a. Shall continue coverage with respect to the health Benefits under the Plan (e.g., Premium Conversion Account, General Purpose Health FSA, and Limited Purpose Health FSA) to the extent eligibility for such Benefit is not otherwise affected (and provided Participants on paid non-FMLA leave are required to continue such coverage). The Participant's contributions shall be made by the method normally used by the Employer during any paid leave (e.g. on a pre-tax basis by salary reduction as if the leave was not taken).
 - b. May elect to revoke coverage with respect to the health Benefits under the Plan (i.e., Premium Conversion Account, General Purpose Health FSA, and Limited Purpose Health FSA), which will be reinstated under the same terms upon the Participant's return from the FMLA leave of absence.
7. If a Participant takes an **unpaid** leave of absence under FMLA, the Participant shall have the right to continue health Benefits (e.g., Premium Conversion Account, General Purpose Health FSA, and Limited Purpose Health FSA) under the Plan and make Participant contributions in accordance with B.8 below. Alternatively, the Participant may elect the following with respect to the health Benefits under the Plan (**select at least one**):
 - a. Revoke coverage, which will be reinstated under the same terms upon the Participant's return from the FMLA leave of absence.
 - b. Continue coverage but discontinue payment of his or her contribution for the period of the FMLA leave of absence. If a Participant discontinues payment, the Employer may recover the Participant's suspended contributions when the Participant returns to work from the FMLA leave of absence in accordance with B.8c below.

8. A Participant who continues coverage for Benefits while on **unpaid** FMLA leave of absence may make contributions for such Benefits by one of the following methods (or a combination of the following methods as agreed upon with the Employer) (**select at least one**):
- Pre-pay.** Pre-pay on a pre-tax (to the extent permissible under Code section 125) or after-tax basis, prior to commencement of the FMLA leave of absence period, the contributions due for the FMLA leave of absence period.
 - Pay-as-you-go.** Pay on an after-tax basis the same schedule as payments would have been made if the Participant were not on a leave of absence or if contributions were being made under COBRA.
 - Catch-up.** To the extent agreed in advance, the Participant will repay amounts advanced by the Employer to the Plan on behalf of the Participant upon the Participant's return from the FMLA leave of absence.

NOTE: B.8a may only be elected together with B.8b or B.8c.

NOTE: B.8b must be elected if available for non-FMLA leaves of absence.

NOTE: B.8c may only be elected together with B.8a and/or B.8b unless it is the only option available to Participants on a non-FMLA leave of absence.

9. In addition to the rights of a Participant to continue health Benefits under the Plan while on FMLA leave, a Participant:
- May continue coverage for **non-health Benefits** (e.g. DCAP Account) under the Plan, in accordance with the Employer's established policy for providing such Benefits when a Participant is on non-FMLA leave (paid or unpaid).
 - May not continue coverage for **non-health Benefits** under the Plan, in accordance with the Employer's established policy regarding eligibility for Benefits when a Participant is on non-FMLA leave (paid or unpaid).

Non-FMLA Leave of Absence

10. If a Participant takes a non-FMLA leave of absence (whether paid or unpaid), the Participant shall continue Benefits under the Plan unless they otherwise qualify to make a change in election in accordance with Article 4 (e.g. due to loss of eligibility or other change in status). In the case of paid leave, the Participant's contributions for such Benefits shall be made by the method normally used by the Employer during any paid leave (e.g. on a pre-tax basis by salary reduction as if the leave was not taken). In the case of unpaid leave, the Participant's contributions shall be made in the same manner as set forth in B.8 for unpaid FMLA leave of absence.

Termination of Participation

11. If a Participant remains an Employee but is no longer an Eligible Employee, his or her participation in the Plan shall terminate: In accordance with the relevant Plan provisions for the applicable Benefit.

Reemployment

12. If an Eligible Employee has a Termination of Employment and is subsequently reemployed by the Employer as an Eligible Employee within 30 days after Termination:
- the Plan Administrator shall automatically reinstate the Benefit elections in effect at the time of Termination
 - the Eligible Employee shall not resume or become a Participant until the first day of the subsequent Plan Year
13. If an Eligible Employee has a Termination of Employment and is subsequently reemployed by the Employer as an Eligible Employee more than 30 days after Termination:
- the Plan Administrator shall automatically reinstate the Benefit elections in effect at the time of Termination
 - the Eligible Employee shall not resume or become a Participant until the first day of the subsequent Plan Year
 - the Eligible Employee may elect to reinstate the Benefit election in effect at the time of Termination or make a new election under the Plan

C. PARTICIPATION ELECTIONS

Rules regarding Participant elections including the effect of any failure to elect or change in status events are as set forth in the relevant Sections of the Plan Document.

D. PREMIUM CONVERSION ACCOUNT

NOTE: If Premium Conversion Account is not a selected Benefit under A.5a, this Section D is disregarded.

- 1. If Premium Conversion Accounts are allowed under the Plan, select the types of Contracts with respect to which a Participant may contribute under Section 5.04:
 - a. Employer Medical Plan
 - b. Employer Dental Plan
 - c. Employer Short-Term Disability Plan
 - d. Employer Long-Term Disability Plan
 - e. Employer Group Term Life Plan (up to \$50,000)
 - f. Individually-Owned Dental
 - g. Individually-Owned Vision
 - h. Individually-Owned Disability
 - i. Other: Employer Supplemental Life

NOTE: "Nonqualified benefits" as defined in IRC Section 125(f) and/or IRS Proposed Regulation Section 1.125-1(q) are not permitted in an IRC Section 125 cafeteria plan and are not offered through this Plan. Such nonqualified benefits include, but are not limited to, elective deferrals to a Section 403(b) plan and group term life insurance for an individual other than the employee.

Contributions

- 2. **Participant elections** will be automatically adjusted for changes in the cost of Employer-sponsored Contracts pursuant to the terms of Treas. Reg. 1.125-4(f)(2)(i).

Non-Tax Dependent Coverage as Taxable Benefit

- 3. Participants may elect to make Premium Conversion Account salary reduction contributions for Non-Tax Dependent Coverage for the following group health plan(s) in accordance with Section 5.06 of the Plan:
 - a. Medical Plan
 - b. Dental Plan

NOTE: The Employer may only make this election to apply Section 5.06 of the Plan if the Employer allows an Eligible Employee to enroll Non-Tax Dependents (e.g. domestic partners) in the Employer's group medical and/or dental plan and the Employer is treating the full fair market value of Non-Tax Dependent Coverage as taxable to the Employee.

E. HEALTH FSA AND DCAP ACCOUNT BENEFITS

NOTE: If Health FSA and DCAP Accounts are not selected Benefits under A.5, this Section E is disregarded.

Employer Contributions

- 1. **Employer Contributions.** Indicate the maximum Employer contributions to the applicable Benefit Accounts in any Plan Year:

a. Non-Elective Employer Contributions

General Purpose Health Flexible Spending Account:	Amount:	<u>N/A</u>
Limited Purpose Health Flexible Spending Account:	Amount:	<u>N/A</u>
Dependent Care Assistance Plan Account:	Amount:	<u>N/A</u>

b. Matching Contributions

General Purpose Health Flexible Spending Account:	Amount:	<u>N/A</u>
Limited Purpose Health Flexible Spending Account:	Amount:	<u>N/A</u>
Dependent Care Assistance Plan Account:	Amount:	<u>N/A</u>

NOTE: If there are no Employer contributions, E.1 is disregarded.

NOTE: Non-elective Employer Contributions include Employer Flex Credits to a Health FSA that may not be taken as cash.

NOTE: Employer matching and non-elective contributions shall not exceed the limits set forth in the Plan Document.

NOTE: Maximum amount of Employer Health FSA contributions may not exceed \$500 (unless the Employer matches salary reduction contributions, in which case the maximum amount may not exceed \$500 plus the amount of the Employee's Health FSA salary reduction contribution) per 45 CFR 146.145(c)(3)(v).

NOTE: If applicable, the classes of Employees eligible for non-elective Employer contributions and/or Flex Credits and other details are set forth in Section G of this Adoption Agreement.

Participant Contributions

2. **Participant Salary Reduction Contribution Limits.** Indicate the minimum and maximum allowable Participant salary reduction contribution to the applicable Benefit Accounts in any Plan Year:

General Purpose Health Flexible Spending Account:	Minimum: <u>\$0</u>	Maximum: <u>\$3,050</u>
Limited Purpose Health Flexible Spending Account:	Minimum: <u>N/A</u>	Maximum: <u>N/A</u>
Dependent Care Assistance Plan Account:	Minimum: <u>\$0</u>	Maximum: <u>\$5,000</u>

NOTE: Maximum amounts for General Purpose Health Flexible Spending Account and Limited Purpose Health Flexible Spending Account cannot exceed the Code section 125(i) maximum. For this purpose, any Flex Credit amount that a Participant may elect to receive as cash but elects to apply to a Health FSA will be treated as a salary reduction contribution.

NOTE: Maximum amounts for Dependent Care Assistance Plan Account cannot exceed Code 129(a)(2) maximum amounts.

Eligible Expenses

3. **Individual Expenses Eligible for Reimbursement.** Participant may only be reimbursed from the applicable Benefit Account for expenses that are incurred by the Participant, Spouse and Dependents as defined in the Plan Document for the applicable Benefit.

Reimbursement

4. **DCAP Account Spend Down (Section 8.06).** An individual who ceases to be a Participant in the Plan (due to Termination or any other reason) may be reimbursed for unused benefits through the end of the Plan Year in which the Termination of Participation occurs (or end of the Grace Period if applicable) to the extent the claims do not exceed the balance of the DCAP Account.

Grace Period

5. The Plan will reimburse claims incurred during a Grace Period immediately following the end of the Plan Year for the following Benefits.

- a. General Purpose Health Flexible Spending Account
- b. Limited Purpose Health Flexible Spending Account (HSA-Compatible FSA)
- c. Dependent Care Assistance Plan Account

NOTE: The Plan cannot reimburse claims incurred during a Grace Period if carryovers are permitted in Part E.9.

6. **Last day of Grace Period:** Fifteenth day of the 3rd month following end of the Plan Year.

Run-Out Period

7. If **no Grace Period** applies for the Plan Year, an active Participant must submit claims for the Plan Year for reimbursement from the applicable FSA no later than: 90 days after the end of the Plan Year.
8. If a **Grace Period** applies for the Plan Year, an active Participant must submit claims for the Plan Year for reimbursement from the applicable FSA no later than: 90 days after the end of the Grace Period.

Carryover

9. The Plan will carry over unused Health FSA balances at the end of the Plan Year for the following Benefits:
- a. General Purpose Health Flexible Spending Account: **Up to the maximum Health FSA carryover limit (as determined and indexed in accordance with IRS Notice 2020-33 and any applicable superseding law), effective January 1, 2020.**
 - b. Limited Purpose Health Flexible Spending Account (HSA-Compatible FSA): **Up to the maximum Health FSA carryover limit (as determined and indexed in accordance with IRS Notice 2020-33 and any applicable superseding law), effective January 1, 2020.**

NOTE: If carryover is selected (E.9a or E.9b is selected for the applicable FSA), the Plan may not provide for a Grace Period for the applicable FSA and the Plan may not provide for a Grace Period for the applicable FSA in the Plan Year to which the carryover amount is applied.

Termination of Employment

10. In the event of a Termination of Employment, a Participant may submit claims for reimbursement from the applicable FSA no later than: 90 days after a Termination of Employment.

Qualified Reservist Distributions

11. **Qualified Reservist Distributions are available for:** The amount contributed to the applicable Health FSA as of the date of the Qualified Reservist Distribution request minus applicable FSA reimbursements received as of the date of the Qualified Reservist Distribution request.

F. HEALTH SAVINGS ACCOUNT (HSA) CONTRIBUTIONS (Article 9)

NOTE: If HSA Contributions are not a selected Benefit under A.5, this Section F is disregarded.

1. **Non-Elective Employer HSA Contributions** are available under the Plan.

NOTE: If there are no Employer contributions, F.1 is disregarded.

NOTE: The amount(s) of any available Employer contributions shall be established by the Employer and shall be set forth on the Enrollment Form or in other plan materials provided by the Employer to Eligible Employees.

NOTE: Non-elective Employer contributions include Employer Flex Credits to an HSA that may not be taken as cash.

NOTE: Maximum amount of Employer contributions cannot exceed the Code section 223(b), when combined with any Participant contributions.

NOTE: If applicable, the classes of Employees eligible for non-elective Employer contributions and/or Flex Credits and other details are set forth in Section G of this Adoption Agreement.

2. **Participant Salary Reduction Contribution Limits.** Indicate the minimum and maximum allowable Participant salary reduction contribution to the HSA in any Plan Year:

Health Savings Account: Minimum: N/A Maximum: N/A

NOTE: Maximum amounts cannot exceed the Code section 223(b), when combined with any Employer Contributions.

G. NON-ELECTIVE EMPLOYER CONTRIBUTIONS AND FLEX CREDITS (Section 11.01 and Section 11.03)

NOTE: If Non-Elective Employer Contributions and Flex Credits are not selected Benefits under A.5, this Section G is disregarded.

NOTE: The amount of any Non-Elective Employer Contributions and/or Flex Credits provided by the Employer in accordance with Section 11.01 of the Plan are subject to the maximum amounts set forth in Sections E.1, E.2, F.1 and F.2 of this Adoption Agreement.

The specific terms of such Non-Elective Employer Contributions and/or Flex Credits (including classes of Eligible Employees, amounts and Benefits to which they may be allocated, availability of cash outs of Flex Credits, etc.) are as follows: N/A

H. CASH OPT-OUT BENEFIT (Section 11.02)

NOTE: If the Cash Opt-out Benefit is not a selected Benefit under A.5, this Section H is disregarded.

1. If the Cash Opt-out Benefit is allowed under the Plan, an Eligible Employee may elect, for any Plan Year, to receive a cash payment in lieu of receiving coverage under the following Contract(s):
- a. Employer Group Medical Plan
 - b. Employer Group Dental Plan
 - c. Other:

NOTE: The amount(s) of any available Cash Opt-Out Benefit shall be established by the Employer prior to each Plan Year and shall be set forth on the Enrollment Form or in other plan materials provided by the Employer to Eligible Employees for the relevant Plan Year.

I. EXECUTION

Failure to properly fill out the Adoption Agreement may result in the failure of the Plan to achieve its intended tax consequences.

The Plan shall consist of this Adoption Agreement, the related Section 125 Flexible Benefits Plan Document and any related Appendices and Addendums.

The undersigned agrees to be bound by the terms of this Adoption Agreement and the related Section 125 Flexible Benefits Plan Document and acknowledge receipt of same. The Employer has caused this Plan and Adoption Agreement to be executed by a duly authorized agent, to be effective as of the date set forth in Section A.3b above.

TOWN OF MILFORD:

Signature: 

Print Name: Lincoln Daley

Title/Position: Town Administrator

Date: 11/28/23