

**COUNTY OF NASSAU
FLEXIBLE BENEFITS PLAN**

WHEREAS, the Congress of the United States has enacted legislation in the form of Sections 105, 106 and 125 of the Internal Revenue Code of 1986, which was designed to encourage employers to offer their employees certain benefits through flexible benefits plans operated on a nondiscriminatory basis; and

WHEREAS, the County of Nassau has determined that it is in the best interest of eligible County employees to adopt a flexible benefits plan that will better enable eligible employees to provide for health benefits in a flexible and cost-effective manner; and

NOW THEREFORE, in order to accomplish these purposes, the County has, by appropriate resolution, adopted the County of Nassau Flexible Benefits Plan, as hereinafter stated, to be effective January 1, 2022.

It is the intention of the County that this Plan qualify as a "Cafeteria Plan" within the meaning of Section 125 of the Internal Revenue Code of 1986, as amended.

ARTICLE I – NAME AND PURPOSE

1.1 Name and Purpose of Plan - This Plan will be known as the “County of Nassau Flexible Benefits Plan.”

1.2 This Plan is intended to be a “Cafeteria Plan” within the meaning of Section 125(d) of the Internal Revenue Code of 1986, as amended from time to time.

ARTICLE II - DEFINITIONS

2.1 “Administrator” means the person(s) or corporation appointed by the County to carry out the administration of the Plan.

2.2 “Benefits” means the benefits pursuant to the Plan that are described in Section 4.1.

2.3 “Code” means the Internal Revenue Code of 1986, as amended from time to time.

2.4 “Compensation” means the total cash remuneration received by an Eligible Employee from the County during a Plan Year prior to any reductions pursuant to a salary redirection agreement pursuant to the terms of this Plan. It will include overtime, longevity, stipends, differentials, bonuses and any form of remuneration to an Eligible Employee for services rendered to the County as an employee.

2.5 “Dependent” means an individual who qualifies as a dependent of an eligible employee within the meaning of Code Section 152. In the case of health benefits provided pursuant to an insurance policy, the “Dependent” must also be defined as a dependent pursuant to the Policy.

2.6 “Election Period” means the period beginning two months and ending one month immediately before the beginning of each Plan Year for the election of benefits and salary redirection.

2.7 “Eligible Employee” means any current County employee who is eligible to participate in the Plan pursuant to Section 3.1.

2.8 “Employer” means the County of Nassau.

2.9 “Insurer” means an insurance company or health maintenance organization organized or incorporated in any one of the States of the United States that is licensed or authorized by the State of New York to provide a health insurance policy.

2.10 “Insurance Policies” means the agreements between the County and the various insurers pursuant to which the insurer(s) provide health coverage to Eligible Employees and/or their Dependents.

2.11 “Participant” means an Eligible Employee who voluntarily agrees to participate in the Plan.

2.12 “Plan Contribution” means the amounts paid by Participants or on their behalf during the Plan Year either by foregoing cash options or by reducing salary to pay for health benefits. Plan Contributions may be made on a pretax basis, in which case the Plan Contributions are not included in the Participant’s taxable income for the Plan Year, or on an after-tax basis, and in which case the Plan Contributions are included in the Participant’s taxable income for the Plan Year.

2.13 “Plan Year” means the 12-month period starting on January 1 and ending on December 31. The Plan Year will be the coverage period for the benefits provided for pursuant to this Plan. If an eligible employee commences participation pursuant to the Plan after the commencement date of the Plan Year, the first period of coverage will begin with the date of participation and will end on the last day of the Plan Year.

2.14 “Premiums” means the Participant’s cost for medical (including health, dental and optical) insurance policy coverage.

2.15 “Salary Redirection” means Plan Contributions made by the Employer for a Participant. These are allocated to the Reimbursement Account as authorized by a Participant’s election of benefits pursuant to the Plan.

2.16 “Salary Redirection Agreement” is an agreement between the Participant and the County in which the Participant agrees to reduce his or her compensation that has not yet been earned by a certain amount and the County agrees to contribute that amount to the Plan on behalf of the Participant.

ARTICLE III - ELIGIBILITY AND PARTICIPATION

3.1 Eligibility – All employees who, on the effective date of this Plan, and any future employees, are members of a County Bargaining Unit that has collectively bargained for its Unit Members’ participation in the Plan, as well as all current and future employees covered by Ordinance 543-1995, as amended, are eligible to participate in the Plan.

3.2 Participation - Each Eligible Employee may become a Participant in the Plan on the first day of the Plan Year following the date the Employee becomes an employee.

3.3 Terms of Participation - By utilizing the Plan, each Eligible Employee agrees to indemnify and save the County harmless against any and all claims and/or liabilities, including attorneys’ fees, which may arise out of or by reason of action taken or not taken by the County for the purposes of complying with Code Section 125 and other relevant law. Participation in the Plan ends if a Participant becomes ineligible, terminates or is discharged from employment or dies, or if the Plan is terminated. All benefits pursuant to the Plan will cease at that time, except that any rights that the Participant may have pursuant to Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 as amended (“COBRA”) and any other State or federal law will survive to the extent provided by those laws.

ARTICLE IV - BENEFITS PURSUANT TO THE PLAN

4.1 Benefit Options

The Plan’s Benefit options are as follows:

Medical (including health, dental and optical) Coverage Account: Each eligible Participant may elect on his or her Election Form to direct that the Participant’s salary for the period to which the election relates will be reduced each payroll period and that the amount of the reduction will be credited to his or her Medical (including health, dental and optical) Coverage Account for one of the medical (including health, dental and optical) coverage options designated by the County. The elected salary reduction, as applicable to any Participant, is subject to reduction by the Administrator to the extent deemed necessary by the Administrator to avoid the Plan being discriminatory as defined in the Code.

(a) Health Care Flexible Spending Account: Each Participant may elect on his or her Election Form to have salary reduction contributions credited to his or her Health Care Flexible Spending Account according to the guidelines established by the Administrator. The amount of the salary reduction contributions that may be credited to a Participant’s Health Care Flexible

Spending Account will be no greater than the maximum permitted pursuant to applicable IRS Regulations per Plan Year.

Payments from this will be made to the Participant as a reimbursement for health-related expenses incurred during the Plan Year and after the Participant's first date of participation and during the Plan Year by the Participant or his or her spouse or Dependents that:

- (1) Are not covered, paid or reimbursed pursuant to any other health plan coverage;
- (2) Meet the criteria for deductible medical (including health, dental and optical) expenses pursuant to Code Section 213 and for reimbursable medical (including health, dental and optical) expenses pursuant to Code Section 125; and
- (3) Are not taken as a deduction from income on the Participant's federal income tax return in any tax year.

Notwithstanding any contrary provision in the Plan, any amount in a Participant's Health Care Flexible Spending Account at the end of a Plan Year against which amount liabilities have not been accrued during the Plan Year will be forfeited. Requests for reimbursement must be submitted by the 60th day following the close of the Plan Year or by a later date designated by the Administrator.

(b) Dependent Care Flexible Spending Account: Each Participant may elect on his or her Election Form to have a salary reduction made in an aggregate amount not to exceed the maximum permitted pursuant to applicable IRS Regulations per Plan Year (or, in the case of a married Participant filing a separate return for the taxable year in question, one-half of the maximum amount per Plan Year) credited to the Participant's Dependent Care Flexible Spending Account according to the guidelines established by the Administrator. Payments from this Account will be made to the Participant in the form of a County-provided payment in accordance with Code Section 129.

4.2 Benefit Process – For any Plan Year, a participant who is an eligible employee may affirmatively elect to receive a benefit listed in 4.1 above by completing and signing an election form during the election period. The County will provide the form. After a form has been properly submitted, received and accepted by the County, the initial election will become effective on the first day of the first pay period beginning after the election form is received. Once effective, an election pursuant to this Section will remain in effect throughout the Plan Year in which it was made and throughout all subsequent Plan Years unless a change is made pursuant to 4.3 below.

4.3 Change In Benefit Elections - Each Eligible Employee will have the opportunity to change his or her benefit election effective on the first date of the subsequent Plan Year. The

election will be made on an election form provided by the Administrator and must be made during the Election Period before the start of the Plan Year.

An Eligible Employee may not change any benefit election for a Plan Year unless there is a change of status as provided in: (1) Code Section 125 and the rules and regulations issued thereunder, including Treasury Regulation Section 1.125-4; and (2) the applicable insurance policy, provided that the Eligible Employee files the change with the Administrator on an election form and provides the Administrator with any requested forms or documentation within 30 calendar days of the date of the event constituting the change in status.

4.4 Termination of Participation - A Participant may terminate his or her benefit election by notifying the Administrator in writing during the Election Period that he or she does not want to participate in that benefit for the next Plan Year. The employee will then have to wait for the next election period before electing to participate in the Plan.

4.5 Forfeiture of Unused Benefits – A Participant will receive no reimbursement for any reason for benefits elected, but unused, during a Plan Year. Forfeitures may be used to pay Plan administration expenses or costs.

ARTICLE V - SALARY REDIRECTION

5.1 Right of Election - An Eligible Employee may elect to receive full salary in cash or to participate in a salary redirection agreement. Unless the Eligible Employee affirmatively states that he or she wishes to receive full salary in cash, he or she will be deemed to participate in salary redirection.

5.2 Salary Redirection Agreement – Pursuant to the terms of a salary redirection agreement, a Participant agrees to have deducted from his or her salary an amount that is equal to the Participant's Premiums as required pursuant to the terms of a collective bargaining agreement, agreed to by the County and/or the Participant's election amount for qualifying health care and dependent care expenses. The County agrees to contribute to the Plan as a Plan Contribution allocated for that Participant an amount equal to the amount deducted from the Participant's salary for that purpose. Premiums will be paid on behalf of the Participant from the amount of Plan Contributions allocated to the Participant. If more than one insurance benefit is selected, sub-accounts for each of the Participant's elections will be made.

5.3 Term of Election - A Participant will determine salary redirection prior to the beginning of the Plan Year during the Election Period.

5.3 Revocations or New Elections - A salary redirection may not be revoked or changed for a Plan Year unless there is a change of status as provided in: (1) Code Section 125 and the rules and regulations issued thereunder, including Treasury Regulation Section 1.125-4; and (2) the applicable insurance policy, provided that the Eligible Employee files the change as described in Section 4.3.

5.4 Rules and Regulations - The Administrator may establish reasonable rules and regulations for the determination of amounts of salary redirection for each payroll period and for the implementation of this benefit.

5.5 Application of Premium - As soon as practicable after each payroll period, the County will apply the salary redirection to the Participant's Premium expense and/or health reimbursement/dependent care account.

5.6 Changes in Premium Rates - The amount of salary redirection will be determined by the Premiums, which may increase or decrease during a Plan Year, and the rate of contribution to be made by a Participant pursuant to the terms of a collective bargaining agreement, contract, resolution or by virtue of the rate of contribution required of non-union employees. If insurance costs charged by the insurer increase or decrease during the Plan Year, the amount of salary redirection will be accordingly adjusted.

5.7 Medical (including health, dental and optical) Benefits - The medical (including health, dental and optical) coverage provided, the types and amounts of benefits, the eligibility for participation and all rights and obligations concerning the terms and conditions of medical coverage and benefits will be determined by the medical (including health, dental and optical) plan that is in effect from time to time. Neither the County nor the Plan make any representations or assume any responsibility for the determination of medical (including health, dental and optical) coverage, benefit, eligibility for participation or any other terms and/or conditions of the medical (including health, dental and optical) coverage. Premiums will be determined by the insurer providing the medical (including health, dental and optical) coverage.

ARTICLE VI - BENEFIT CLAIMS PROCEDURE

6.1 Insurance Claims - Claims for benefits that are provided by an insurance contract will be made to the Insurer. If the claim is denied, the Participant will follow the Insurer's claim procedure. Neither the County nor the Plan make any representations or assume any responsibility for the determination of medical (including health, dental and optical) coverage, benefit, eligibility or any other terms and/or conditions of the medical coverage. Under no circumstances will the Plan, the Administrator or the County be liable for any insurance claim benefit that is denied.

6.2 Noninsurance Claims Review – A review of a denial in whole or in part of a noninsurance claim for benefits pursuant to this Plan will be made to the Plan Administrator. Claims must be made within 60 calendar days after denial unless special circumstances require an extension of time for presenting the claim. The Plan Administrator will determine the validity of the claim within 60 calendar days after its receipt. If the Plan Administrator does not make a determination within 60 calendar days, the claim will be deemed to be denied.

6.3 Administrator Authority - The Administrator will have full authority to resolve any and all disputes pursuant to this Plan. The Administrator will have full authority to interpret Plan language and to resolve any ambiguities and to determine the application of this Plan.

6.4 Notice of Claim Denial - In the event the Administrator denies a claim in whole or in part, the Administrator will furnish the claimant with a written notice giving the claimant the following information:

- (a) the reason for the denial and reference to the specific Plan provisions upon which the denial is based;
- (b) information or material that the claimant must submit to perfect his or her claim and why this information or material is necessary; and
- (c) an explanation of the Plan Appeal Procedure as set forth in Section 6.4.

6.5 Appeal Procedure - Within 60 calendar days of denial of a claim, the claimant may submit in writing to the Administrator a request for a review of the denial by the Administrator. The claimant will have the right to examine all pertinent documents, submit issues and comments in writing, have counsel of his or her own choice, and submit any relevant evidence.

No later than 60 calendar days after receipt of a request for a review, the Administrator will render a decision in writing. The decision will state the reasons for the decision and will refer to relevant Plan provisions or Code sections upon which it is based. The decision of the Administrator is final and binding.

ARTICLE VII - ADMINISTRATOR

7.1 Appointment – The County Executive will appoint the Administrator. At the option and sole discretion of the County Executive, the Administrator may be a single individual, corporation or committee of three persons.

7.2 Authority and Responsibility of the Administrator - The Administrator will have authority and responsibility to take any reasonable actions necessary to control and manage the operation and administration of this Plan. The Administrator will have the authority to establish rules and regulations that will be applied on a uniform and nondiscriminatory basis to all Participants to fulfill the purposes of this Plan.

The Administrator will have the authority to resolve all disputes pursuant to this Plan.

The Administrator will have the authority to interpret the language of this Plan and to resolve any and all ambiguities. These determinations will be final.

7.3 Removal of Administrator - The County Executive may remove any Administrator at any time for any reason by giving written notice to the Administrator.

ARTICLE VIII - AMENDMENT OR TERMINATION

8.1 Amendment - The County reserves the right to amend this Plan at any time or from time to time in any manner that the County deems appropriate or advisable subject to Section 8.3. Any amendment to this Plan will be made in writing.

8.2 Termination - The County established this Plan with the *bona fide* intention that it indefinitely remain in effect. Nevertheless, the County has no obligation to continue the Plan for any given length of time, and it may terminate the Plan without any liability at any time subject to Section 8.3 and the requirements of Civil Service Law § 200; *et. seq.*

8.3 Participants' Rights - No Plan amendment or termination may affect the right of any Participant to collect a benefit for that portion of the Plan Year or coverage period prior to amendment or termination to the extent those amounts are payable pursuant to the terms of the Plan in effect before the calendar month in which the Plan is amended or terminated.

8.4 Effective Date of Plan Amendment or Termination - Any amendment or termination will take effect only at the end of a pay period.

ARTICLE IX - MISCELLANEOUS

9.1 Personal Liability - Nothing in this Plan will impose or create any personal liability for any County elected or appointed official, or employee, or their agents, acting within the scope of their authority.

9.2 Gender and Number - Reference to any gender will include the masculine, feminine and gender neutral. The plural will include the singular and the singular the plural, where appropriate.

9.3 Construction - The terms of this Plan will be construed in accordance with the laws of the State of New York, except for its conflict of law provisions, and except to the extent that New York's laws are preempted by any federal statute.

9.4 No Employment Contract Rights - Neither the establishment of the Plan nor any amendment thereto will create any right for any employee to continued employment. Nor will this be construed as a contract of employment between the County and the employee.

ARTICLE X - ENTIRE AGREEMENT

10.1 - This document sets forth the entire Plan and, except as provided in this Plan, no other employee benefit plan that is now in existence or may be created will be part of this Plan.