

COMMONWEALTH OF VIRGINIA

Flexible Benefits Plan

Dependent Care Flexible Spending Account III

Plan Document

ARTICLE I

Name, Purpose, and Effective Date

- 1.01** **Name and Purpose of Plan.** The Department of Human Resource Management , hereby restates the Commonwealth of Virginia Dependent Care Flexible Spending Account III (hereinafter referred to as the "Dependent Care Flexible Spending Account III").

The purpose of this Dependent Care Flexible Spending Account III is to reimburse Employees for the cost of dependent care assistance incurred by such Employees. It is the intention of the Employer that the Dependent Care Flexible Spending Account III qualify as a plan providing dependent care assistance within the meaning of Section 129(d)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), and that the benefits provided under the Dependent Care Flexible Spending Account III be eligible for exclusion from the Employees' income under Section 129(a) of the code.

The Dependent Care Flexible Spending Account III is intended to comply with the requirements of Sections 125 and 129 of the Code and shall be interpreted where possible to comply with the terms of the code and all regulations and rulings issued under the Code and amendments thereto.

This document restates the plan to incorporate all amendments and changes in regulations subsequent to its adoption January 1, 1996.

- 1.02** **Effective Date.** **The effective date of the Plan is January 1,2004. Revised February 1, 2011. Revised July 1, 2015. Amended July 1, 2020.**

ARTICLE II

Definitions

The following words and phrases shall have the following meanings unless a different meaning is plainly required by the context.

- 2.01 Benefits means the amounts paid to Participants under the Dependent Care Flexible Spending Account III as Flexible Spending for Eligible Employment Related Expenses paid or incurred by a Participant.
- 2.02 Code means the Internal Revenue Code of 1986, as amended from time to time. Any reference to any section of the Code shall be deemed to include any applicable regulations and rulings pertaining to such sections and shall also be deemed a reference to comparable provisions of future laws.
- 2.03 Coverage Period normally means the Plan Year. For any Employee who becomes a Participant after the start of a Plan Year, the initial Coverage Period shall mean the period commencing on the effective date of such Participant's participation and extending through the remainder of the Plan Year. For any Employee who terminates membership in the Plan in accordance with Section 3.04, such participation shall extend through the date of termination of participation as specified in Section 3.04.
- 2.04 Dependent means any individual who is a dependent of a Participant within the meaning of Code Section 152(a).
- 2.05 Dependent Care Account III means the bookkeeping account established for each Participant to reflect the transactions of the Dependent Care Flexible Spending Account III Plan in accordance with Article VI.
- 2.06 Earned Income means all income derived from wages, salaries, tips, other employee compensation (such as disability benefits) plus net earnings from self-employment, but such term does not include any amounts (a) received under the Dependent Care Flexible Spending Account III or any other dependent care assistance program under Code Section 129; or (b) as a pension or annuity.
- 2.07 Educational Organization means any organization the primary function of which is the presentation of formal instruction and which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance at the place where educational activities are regularly carried on.
- 2.08 Effective Date means January 1, 2004, or such later date as of which an Employer shall adopt the Dependent Care Flexible Spending Account III for its Employees.
- 2.09 Election Form means the form on, or Employee Self-Service system process in which the Participant specifies, his election for the Plan Year.
- 2.10 Election Period means a period of at least 14 calendar days ending no less than 15 days prior to the beginning of the next Coverage Period (except for any Employee who first becomes eligible to be a Participant during a Coverage Period, in which case Section 3.01 shall apply).
- 2.11 Elective Employer Contribution means contributions made under the Plan pursuant to the salary reduction agreement between Employees and the Employer.

- 2.12 Eligible Employment Related Expenses means all Employment Related Expenses incurred by a participant which would be considered to be employment related expenses under Section 21 (b)(2) of the code and which are paid to a person who is not:
- (i) a Dependent of the Participant;
 - (ii) the Participant's Spouse; or
 - (iii) a child of the Participant under the age of 19.
- 2.13 Employee means an employee as defined in paragraph 2.08 of the Commonwealth of Virginia Flexible Benefit Plan.
- 2.14 Employer means the Commonwealth of Virginia.
- 2.15 Employment Related Expenses means expenses incurred for Qualifying Services or for the cost of sending a child of the Participant to a Qualifying Day Care Center.
- 2.16 Family Medical Leave – means any leave, paid or unpaid, that has been approved under the Family Medical Leave Act (FMLA) of 1993, as amended.
- 2.17.1 Highly Compensated Employee means an Employee described in Internal Revenue Code Section 414(q) and regulations thereunder Key Employees means an Employee described in Internal Revenue Code Section 416(i)(I) and regulations thereunder.
- 2.18 Participant means any Employee who becomes a Participant pursuant to Article II.
- 2.19 Plan means the Commonwealth of Virginia Dependent Care Flexible Spending Account III.
- 2.20 Plan Administrator means the Department of Human Resource Management or its successor or successors which shall have the authority to administer the Dependent Care Flexible Spending Account III as provided in Article VII
- 2.21 Plan Year means the period beginning January 1, and ending on June 30, 2004 and each twelve (12) month period thereafter commencing on July 1, and ending on June 30.
- 2.22 Qualifying Midyear Event – any event described in schedule A, as well as any other events included under subsequent changes to Code § 125 or regulations issued thereunder, which the Employer or designee, in its discretion as Plan Administrator and on a uniform and consistent basis, determines are permitted under IRS regulations and under this Plan
- 2.23 Qualifying Day Care Center means (a) a day care center which complies with all applicable laws and regulations of a State or unit of local government, (b) provides care for more than six (6) individuals (other than individuals who reside at the day care center), and (c) receives a fee, payment or grant for services for any of the individuals to whom it provides services (regardless of whether such facility is operated for a profit).
- 2.24 Qualifying Individual means:
- (i) a Dependent of a Participant who is under the age of thirteen (13) and with respect to whom the Participant is entitled to a deduction under Code Section 151 (c);
 - (ii) a Dependent of a Participant who is physically or mentally incapable of care for himself; or

- (iii) the Spouse of a Participant, if physically or mentally incapable of taking care of himself.

2.25 Qualifying Services means Services performed:

- (i) in the home of the Participant; or
- (ii) outside the home of the Participant for (a) the custodial care of a Dependent of the Participant under the age of thirteen (13) or (b) the care of any other Qualifying Individual who spends at least eight (8) hours a day in the Participant's home.

2.26 Services means the services performed to enable a Participant or his Spouse to remain gainfully employed and which are related to the care of a Qualifying Individual or Individuals.

2.27 Spouse means the legally married spouse of a Participant. The marriage must be recognized as legal in the Commonwealth of Virginia.

2.28 Student means an individual who during each of five (5) calendar months during a Plan Year is a full-time student at an Education Organization.

ARTICLE III

Participation

- 3.01 Eligibility. Each Employee who is eligible to participate under the terms of the Commonwealth of Virginia Flexible Benefits Program shall be eligible to participate in this plan. Any new Employee may elect to participate effective as of the first day of the month following his date of hire. Employees hired on the first day of the month may participate in that month.
- 3.02 Enrollment. Each Participant in this Dependent Care Flexible Spending Account III shall, during the applicable Election Period, complete a form or enrollment process through the Employee Self-Service system provided by the Plan Administrator evidencing the Participant's election. Such election shall be irrevocable until the end of the applicable Coverage Period unless the Participant is entitled to change his election pursuant to Section 3.03 hereto.
- 3.03 Enrollment Periods:
- (a.) Annual Elections Each Participant shall have a Regular Election Period during which to make elections for the next Plan Year. The Regular Election Period for such Plan Year shall be determined by the Plan Administrator, but in no event shall be less than a 14 day period, and shall terminate no later than 15 days prior to the commencement of the next Plan Year. During the Election Period, each eligible Employee shall be given the opportunity to elect, on a form or Employee Self-Service system process provided by the Plan Administrator, the benefit as set forth in Section 5.01.
 - (b.) Elections by Newly Eligible Employees A newly eligible Employee's initial Election Period shall begin on the first day the Employee has met the requirements for participation herein and shall terminate 30 calendar days thereafter. If the newly eligible Employee does not elect to participate during his initial Election Period, he may make an election at any subsequent Election Period.
 - (c.) Change of Elections A participant will not be permitted to change any elections made pursuant to the Dependent Care Flexible Spending Account III for a Plan Year after the deadline established by the Plan Administrator for the timely filing of such elections, except as provided in the next sentence. A Participant may change his benefit election, in accordance with rules promulgated by the Plan Administrator, for the remainder of such Plan Year solely to accommodate a qualifying mid-year event as set forth in Exhibit A of this plan. A participant who incurs a qualifying mid-year event shall have a special Enrollment period which shall begin on the date of his or her qualifying event and shall terminate 60 calendar days thereafter or such other reasonable period of time as may be determined by the Plan Administrator
- 3.04 Termination of Participation. A Participant shall continue to participate in this Dependent Care Flexible Spending Account III until the earliest of the following dates: (a) the end of the month in which the Participant terminates employment by death, disability, retirement or other separation from service; (b) the end of the month in which the Participant ceases to work for the Employer as an eligible Employee; (c) the end of the month in which the Participant elects to terminate participation in the plan because of and consistent with a qualifying mid-year event as set forth in Exhibit "A" of this plan, or (d) the Participant fails to make an election during an Election Period, in which case his participation will cease at the end of the Coverage Period for which a prior election was made, if any.
- 3.05 Reinstatement of Former Participants. A former Participant who is rehired within 30 calendar days or less of a termination of employment will be reinstated with the same elections that such individual had before

termination. If a former Participant is rehired more than 30 calendar days following termination of employment, such individual shall be allowed to make a new election for the remaining portion of the Plan Year under the same provisions as a new hire for the Commonwealth.

- 3.06 Special Rules for Family Medical Leave. A Participant taking Family Medical Leave may revoke an existing election; and upon return from Family Medical Leave, may make such other election for the remaining election period as may be provided for under the Family Medical Leave. If the Family Medical Leave is paid, pre-tax contributions may continue to be made under the Plan as elected under Article III, Participation 3.02. However, an Employee shall be required to resume participation following a Family Medical Leave if the Employer requires Employees who return from non-family medical leaves to resume participation in the Plan.

ARTICLE IV

Benefits

- 4.01 Reimbursable Benefits. Every Participant in the Dependent Care Flexible Spending Account III shall be eligible to receive a Benefit, only to the extent that funds are available in his account, for all Eligible Employment Related Expenses incurred by such Participant or his Spouse subject to the limitations of Article V.

A participant shall be entitled to Benefits under this Dependent Care Flexible Spending Account III only for Eligible Employment Related Expenses (a) incurred after he became a Participant in the Dependent Care Flexible Spending Account III, (b) incurred during the Coverage Period, and (c) supported by the submission, on or before the end of the third month following the applicable Plan Year, of the written statements required by this Article.

- 4.02 Information to be submitted. Each Participant who desires to receive a Benefit under the Dependent Care Flexible Spending Account III for Eligible Employment Related Expenses incurred by the Employee for Qualifying Services shall submit to the Plan Administrator a statement containing the following information:

- (i) the Dependent or Dependents for whom the Services are to be performed;
- (ii) the name and social security number, or employer identification number, of the person performing the services;
- (iii) the nature of the Services performed for the Participant, the cost for which he wishes to be reimbursed;
- (iv) the relationship, if any, of the person performing the Services to the participant;
- (v) if the Services are being performed by a child of the Employee, the age of the child;
- (vi) a statement as to where the Services will be performed;
- (vii) if any of the Services are to be performed outside the house, a statement as to whether the Dependent for whom such services are being performed spends at least eight (8) hours a day in the Participant's household;
- (viii) if the services are being performed in a daycare center, a statement that (a) the day care center complies with all applicable laws and regulations of the Commonwealth of Virginia; (b) the day care center provides care for more than six (6) individuals (other than individuals residing at the center) and (c) the amount of fee paid to the center;
- (ix) if the Participant is married, a statement of (a) Spouse's salary or wages if he is employed, or (b) if the participant's Spouse is not employed, a statement that (1) he is incapacitated or (2) he is a full-time student attending an Educational Organization and the months during the year which he will attend such Organization.

4.03 Payments of Benefits. If the Participant is eligible to receive benefits under the Dependent Care Flexible Spending Account III, he may submit a statement to the Plan Administrator stating the amount of Eligible Employment Related Expenses incurred by the Participant or his Spouse for the period covered by the claim. In order to be reimbursed, the Participant must submit a written statement from an independent third party stating that the expenses have been incurred, the dates services have been rendered and the amount of such expenses. He shall also submit a statement stating whether any information submitted pursuant to Section 4.02 has changed. The Plan Administrator shall pay the Participant the benefit the Participant is entitled to receive under the Dependent Care Flexible Spending Account III in accordance with Section 5.02.

If a Participant ceases to be an employee, benefits may be paid up to the amount of his account balance for Eligible Employment Related Expenses incurred by such inactive Participant until the end of the plan year.

ARTICLE V

Limitations on Benefits

5.01 Amount of Benefits. The maximum election to a Dependent Care Account shall be made in whole dollar increments, on a per pay period basis, not to exceed twenty-five hundred dollars (\$2500) for the plan year commencing January 1 and ending on June 30, 2004. Thereafter, the maximum election to a Dependent Care Account shall be made in whole dollar increments, not to exceed five thousand dollars (\$5,000), or twenty-five hundred dollars (\$2,500) in the case of a separate tax return filed by a married individual, but in no event shall the election exceed:

- (i) in the case of an Employee who is not married at the close of the Employee's taxable year, the earned income of such Employee for such taxable year; or
- (ii) in the case of an Employee who is married at the close of such taxable year, the lesser of:
 - (a) the Earned Income of such Employee for such taxable year; or
 - (b) the Earned Income of the Spouse of such Employee for such taxable year.

The minimum contribution which may be made is ten dollars (\$10.00) per pay period (\$10.00).

For purposes of this Section 5.01, a Spouse of a Participant who is not employed during any month in which the Participant incurs Eligible Employment Related Expenses and which Spouse is either incapacitated or a Student shall be deemed to have Earned Income for such month of:

- (i) two hundred dollars (\$250.00), if there is one (1) Qualifying Individual for whom the Participant incurs Eligible Employment Related Expenses; or
- (ii) four hundred dollars (\$500.00), if there is more than one (1) Qualifying Individual for whom the Participant incurs Eligible Employment Related Expenses.

5.02 Payment of Benefits. Amount contributed to the participant's Dependent Care Account shall be subject to the following requirements:

- (i) no interest shall be credited to such accounts;
- (ii) Flexible Spending shall be paid to the participant at least monthly following the submission of eligible dependent care expenses;
- (iii) funds may not be transferred between this and any other accounts;
 - (iv) a Participant may submit eligible expenses incurred during the Coverage Period until the last day of the third month following the end of the prior Plan Year, or the end of the prior coverage period if the account ends before the end of the plan year; and (v)
 - (v) any balance in the Participant's account as of the last day of the third month following the prior the end of the prior Plan Year, or the end of the prior Coverage Period if the account ends before the end of the plan year, which was not used to provide benefits incurred during the Coverage Period shall be forfeited by the Participant and retained by the Plan.

ARTICLE VI

Funding

6.01 Contributions. The contributions required for an entitlement to Benefits under this Dependent Care Flexible Spending Account III shall be made pursuant to the terms of the Commonwealth of Virginia Flexible Benefits Plan of which this Dependent Care Flexible Spending Account III shall be deemed to be a Component Plan.

6.02 Dependent Care Account III. The Plan Administrator shall maintain a separate Dependent Care Account III for each Participant. Contributions shall be credited to the Participant's account and all payments of Benefits amounts under this Dependent Care Flexible Spending Account III shall be debited against the account.

Any balance remaining in the account as of the last day of the third month following a prior Plan Year or prior Coverage Period which is not used to provide benefits incurred during the Plan Year shall be forfeited by the Participant and at the direction of the Plan Administrator shall be:

- (i) used by the Employer to defray losses, if any;
- (ii) used by the Employer to pay administrative costs; or
- (iii) distributed equally to Participants on a per capita basis.

6.03 Nature of Participant's Interest. The use of participant accounts pursuant to this Plan is intended as an accounting mechanism to measure the maximum benefit available to each Participant for each Plan Year and is not intended to create or imply any ownership or other legal or equitable interest by the Participant in the Participant account. Notwithstanding anything to the contrary in any Plan document including, without limitation, the Virginia Flexible Benefits Plan and any salary reduction agreement or other agreement with any participant in connection with the Plan, upon reduction of each Participant's covered compensation pursuant to the Plan, (a) the Participant shall have no further right to or interest in the pay thus withheld; and (b) any right or interest of the Participant is limited to the right to receive those Plan benefits and distributions which in fact become payable to, or for the benefit of, the Participant under the terms and conditions of the Plan.

ARTICLE VII

Administration

- 7.01 Allocation of Responsibility. The Employer and Plan Administrator shall have only those powers, duties, responsibilities and obligations as are specifically given or delegated to them under this Dependent Care Flexible Spending Account III.
- (i) The Employer shall have the sole responsibility for making the Employer Contributions under the Dependent Care Flexible Spending Account III as specified in Article VI.
 - (ii) The Employer shall have sole authority to appoint and remove the Plan Administrator, and to amend or terminate this Dependent Care Flexible Spending Account III in whole or in part.
 - (iii) In accordance with the provisions hereof, the Plan Administrator has been delegated certain administrative functions relating to the Plan with the duty and discretionary authority necessary to enable it to carry out properly such duties.
- 7.02 Administration. The Dependent Care Flexible Spending Account III shall be administered by the Plan Administrator which, subject to and in accordance with any applicable laws, , may appoint or employ persons to assist in the administration of the Dependent Care Flexible Spending Account III and any other agents it deems advisable, including legal counsel, actuaries, auditors, bookkeepers and recordkeepers to serve at the Plan Administrator's direction. All usual and reasonable expenses of the Dependent Care Flexible Spending Account III and the employer may be paid by the Participants. An administrative fee may be charged to each Participant. The administrative fee shall be considered a Coverage Expense as defined in Section 2.03 of the Commonwealth of Virginia Flexible Benefits Plan.
- In accordance with Sections 125 and 129 of the code, the Plan is intended not to discriminate in favor of "Highly Compensated Employees", as defined in the Internal Revenue Code. If, in the operation of the Dependent Care Flexible Spending Account III, it is discovered that the Dependent Care Flexible Spending Account III discriminates in favor of such Highly Compensated Employees (or in the opinion of the Plan Administrator, is in danger of discrimination), then notwithstanding the maximum amounts stated in Section 5.01, the Plan Administrator is empowered to change the maximum applicable for any Plan Year subject to limits required by law, and the total reduction in salary for any Participant in a Plan Year shall not exceed the amount of his compensation reported by the Employer to the Federal government on Form W-2.
- If the Plan Administrator is required to reduce the Elective Employer Contributions under the Plan for Highly Compensated Employees (to comply with Section 129(d)(8) of the code, or to report such contributions, if already made, as W-2 income) the adjustment or reporting of such contributions shall be applied to all Highly Compensated Employees participating in the Plan, pro-rata to the Elective Employee Contributions elected by each Highly Compensated Employee for the Plan Year in which such contributions were elected.
- 7.03 Rules and Decisions. The Plan Administrator may adopt such rules and procedures as it deems necessary, desirable or appropriate for the administration of this Dependent Care Flexible Spending Account III. All rules, procedures and decisions of the Plan Administrator shall be uniformly and consistently applied to all Participants in similar circumstances. When making a determination or calculation, the Plan Administrator shall be entitled to rely upon information furnished by a Participant, a Dependent, the duly authorized representative of a Participant or Dependent, or the legal counsel of the Plan Administrator.

- 7.04 Forms and Requests for Information. The Plan Administrator may require a Participant to complete and file such forms or provide information through the Employee Self-Service system process, as are provided for herein and all other forms prescribed by the Plan Administrator. The Plan Administrator may rely upon all such information, including the Participant's current mailing address.
- 7.05 Responsibility for Plan. The complete authority to control and manage the operation and administration of the Dependent Care Flexible Spending Account III shall be placed in the Plan Administrator, who shall be solely responsible for the operation of the Dependent Care Flexible Spending Account III in accordance with its terms.
- 7.06 Statements. The Dependent Care Flexible Spending Account III shall provide to Participants statement showing the amounts paid or expenses incurred in providing dependent care assistance to such Participant during the previous Plan Year.
- 7.07 Examination of Records. The Plan Administrator shall make available to each Participant such records as pertain to the Participant for examination at reasonable times during normal business hours.

ARTICLE VIII

Amendment or Termination of Plan

8.01 Amendment. The Employer by action of the Director of the Department of Human Resource Management shall have the right at any time to amend any or all of the provisions of the Dependent Care Flexible Spending Account III without the consent of any Employee or Participant. No amendment shall have the effect for any Participant of reducing any benefit election in effect at the time of such amendment, unless such amendment is made to comply with federal or local law, statute or regulations.

8.02 Termination. The Employer expects to continue the Dependent Care Flexible Spending Account III, but has the right by action of the Director of the Department of Human Resource Management, to terminate the Dependent Care Flexible Spending Account III, in whole or in part, at any time.

ARTICLE IX

Miscellaneous

- 9.01 Plan Interpretation. This Plan document sets forth the provisions of this Plan. This Plan shall be read in its entirety and not severed except as provided in Section 9.04. The Plan Administrator shall have complete and absolute discretion regarding the interpretation of this plan document.
- 9.02 Limitation on Participant Rights. Nothing appearing in or done pursuant to the Dependent Care Flexible Spending Account III shall be held or construed:
- (i) to give any person any legal or equitable right against the Employer, except as expressly provided herein or provided by law; or
 - (ii) to create a contract of employment with any Participant, to obligate the Employer to continue the service of any Participant or to affect or modify his or her terms of employment in any way.
- 9.03 Governing Law. This Dependent Care Flexible Spending Account III is governed by the Internal Revenue Code and the regulations issued thereunder. In no event shall the Employer guarantee the favorable tax treatment sought by this Dependent Care Flexible Spending Account III. To the extent not preempted by federal law, the provisions of this Dependent Care Flexible Spending Account III shall be construed, enforced and administered according to the laws of the Commonwealth of Virginia.
- 9.04 Severability. If any provision of the Dependent Care Flexible Spending Account III is held invalid or unenforceable, its invalidity or unenforceability shall not affect any other provisions of the Dependent Care Flexible Spending Account III, and the Dependent Care Flexible Spending Account III shall be construed and enforced as if such provision had not been included herein.
- 9.05 Captions. The captions contained herein are inserted only as a matter of convenience and for reference, and in no way define, limit, enlarge or describe the scope or intent of the Dependent Care Flexible Spending Account III nor in any way shall affect the Dependent Care Flexible Spending Account III or the construction of any provision thereof.
- 9.06 Construction. Whenever used in this Dependent Care Flexible Spending Account III the masculine pronoun shall be deemed to include the masculine and feminine gender; a singular word shall be deemed to include the singular and plural and a plural word shall be deemed to include the plural and singular in all cases where the context requires; and, the term form with respect to enrollment processes shall refer to a paper document or Employee Self-Service transaction, whichever is applicable.

ARTICLE X

Adoption of the Plan

IN WITNESS WHEREOF, the Commonwealth of Virginia has restated this plan document
this _____ day of _____, 2015.

ATTEST: (SEAL)

COMMONWEALTH OF VIRGINIA

By _____

By _____
Director,
Office of Health Benefits Programs
Department of Human Resource Management

Schedule A - Qualifying Mid-Year Events

1. Change In Status

An Employee may change a benefit election when a valid change in status event occurs. However, the change must be made **on account of, and correspond with**, a change in status that affects the eligibility for coverage of the Employee, the spouse or the dependent of the Employee. Assuming that these general consistency requirements are satisfied, if the change in status event affects eligibility for a particular coverage, a corresponding change can be made to the same type of coverage.

The following events constitute valid Changes in Status:

- a. Legal Marital Status: A change in legal marital status, including marriage, death of spouse or divorce
- b. Number of Dependents: A change in the number of dependents, including birth, adoption, placement for adoption or death of a dependent.
- c. Change in Employment Status: Any change in employment status of the employee, the spouse or the dependent of the employee, including: termination or commencement of employment; a strike or lockout; commencement of or return from an unpaid leave of absence; change in work schedule, including an increase or decrease in the number of hours of employment; a switch between full-time and part-time status, or a change in worksite or any other similar change which results in a change in benefits eligibility
- d. Dependent Eligibility Requirement: An event that causes a dependent to satisfy or cease to satisfy the eligibility requirements for coverage as provided under the component plan under which the employee receives coverage, and
- e. Change in Residence: A change in the place of residence of the employee, spouse or dependent.

Existing dependents can also be added whenever a dependent gains eligibility as a result of a valid Change in Status event. The IRS further clarifies that the Change in Status must result in the employee, spouse or dependent gaining or losing eligibility for coverage or for a particular coverage option such as managed care or indemnity.

2. Coverage Costs and Changes

- a. Cost Changes with Automatic Increase/Decrease in Elective Contributions (including employer motivated changes and changes in employee contribution rates)
- b. Significant Cost Changes
- c. Significant Coverage Curtailment (Without Loss of Coverage)
- d. Addition or Significant Improvement of Benefit Package Option
- e. Change in Coverage Options
- f. Change under Other Employer's Cafeteria Plan or Qualified Benefits Plan. In order for election changes to be permitted under this exception, the election change must be on account of and correspond with the change in coverage under the other employer's cafeteria plan or qualified benefits plan. In addition, the plan of the other employer must permit elections specified under the Regulations and an election must actually be made under such plan.

- g. Annual Enrollment under Other Employer's Plan. For a change in coverage of the Employee's Spouse or Dependent under their employer's plan the Employee is permitted an election change when a family member makes an Annual Enrollment change under his or her employer's plan if that plan has a different plan year from the cafeteria plan of the Employee's employer.

AMENDMENT TO THE DEPENDENT CARE
FLEXIBLE SPENDING ACCOUNT PLAN DOCUMENT

This Amendment to the Plan is adopted by the Employer, effective for the Plan Year commencing on July 1, 2019 and ending June 30, 2020.

Notwithstanding anything to the contrary herein, the Plan is hereby amended as follows:

- A. A grace period (as described in IRS Notice 2020-29) is hereby adopted by the plan for the 2020 Plan year for the Dependent Care Flexible Spending Account.
- B. Notwithstanding anything to the contrary herein, unused Dependent Care Flexible Spending Account balances may be used to reimburse expenses in the following plan year (plan year 2021) consistent with Internal Revenue Service Notice 2020-29 and this modified Summary Plan Description.
- C. This amendment only applies to the 7/1/19-6/30/20 plan year and is not applicable to subsequent years.

This document amends section 5.02 of the Dependent Care Flexible Spending Account Plan Document.

Virginia Department of Human Resource Management

By: _____

Title: _____

COMMONWEALTH OF VIRGINIA

Flexible Benefits Plan

Dependent Care Flexible Spending Account III

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- 2.07 Educational Organization means any organization the primary function of which is the presentation of formal instruction and which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance at the place where educational activities are regularly carried on.
- 2.08 Effective Date means January 1, 2004, or such later date as of which an Employer shall adopt the Dependent Care Flexible Spending Account III for its Employees.
- 2.09 Election Form means the form on, or Employee Self-Service system process in which the Participant specifies, his election for the Plan Year.
- 2.10 Election Period means a period of at least 14 calendar days ending no less than 15 days prior to the beginning of the next Coverage Period (except for any Employee who first becomes eligible to be a Participant during a Coverage Period, in which case Section 3.01 shall apply).
- 2.11 Elective Employer Contribution means contributions made under the Plan pursuant to the salary reduction agreement between Employees and the Employer.

- 2.12 Eligible Employment Related Expenses means all Employment Related Expenses incurred by a participant which would be considered to be employment related expenses under Section 21 (b)(2) of the code and which are paid to a person who is not:
- (i) a Dependent of the Participant;
 - (ii) the Participant's Spouse; or
 - (iii) a child of the Participant under the age of 19.
- 2.13 Employee means an employee as defined in paragraph 2.08 of the Commonwealth of Virginia Flexible Benefit Plan.
- 2.14 Employer means the Commonwealth of Virginia.
- 2.15 Employment Related Expenses means expenses incurred for Qualifying Services or for the cost of sending a child of the Participant to a Qualifying Day Care Center.
- 2.16 Family Medical Leave – means any leave, paid or unpaid, that has been approved under the Family Medical Leave Act (FMLA) of 1993, as amended.
- 2.17.1 Highly Compensated Employee means an Employee described in Internal Revenue Code Section 414(q) and regulations thereunder Key Employees means an Employee described in Internal Revenue Code Section 416(i)(I) and regulations thereunder.
- 2.18 Participant means any Employee who becomes a Participant pursuant to Article II.
- 2.19 Plan means the Commonwealth of Virginia Dependent Care Flexible Spending Account III.
- 2.20 Plan Administrator means the Department of Human Resource Management or its successor or successors which shall have the authority to administer the Dependent Care Flexible Spending Account III as provided in Article VII
- 2.21 Plan Year means the period beginning January 1, and ending on June 30, 2004 and each twelve (12) month period thereafter commencing on July 1, and ending on June 30.
- 2.22 Qualifying Midyear Event – any event described in schedule A, as well as any other events included under subsequent changes to Code § 125 or regulations issued thereunder, which the Employer or designee, in its discretion as Plan Administrator and on a uniform and consistent basis, determines are permitted under IRS regulations and under this Plan
- 2.23 Qualifying Day Care Center means (a) a day care center which complies with all applicable laws and regulations of a State or unit of local government, (b) provides care for more than six (6) individuals (other than individuals who reside at the day care center), and (c) receives a fee, payment or grant for services for any of the individuals to whom it provides services (regardless of whether such facility is operated for a profit).
- 2.24 Qualifying Individual means:
- (i) a Dependent of a Participant who is under the age of thirteen (13) and with respect to whom the Participant is entitled to a deduction under Code Section 151 (c);
 - (ii) a Dependent of a Participant who is physically or mentally incapable of care for himself; or

- (iii) the Spouse of a Participant, if physically or mentally incapable of taking care of himself.

2.25 Qualifying Services means Services performed:

- (i) in the home of the Participant; or
- (ii) outside the home of the Participant for (a) the custodial care of a Dependent of the Participant under the age of thirteen (13) or (b) the care of any other Qualifying Individual who spends at least eight (8) hours a day in the Participant's home.

2.26 Services means the services performed to enable a Participant or his Spouse to remain gainfully employed and which are related to the care of a Qualifying Individual or Individuals.

2.27 Spouse means the legally married spouse of a Participant. The marriage must be recognized as legal in the Commonwealth of Virginia.

2.28 Student means an individual who during each of five (5) calendar months during a Plan Year is a full-time student at an Education Organization.

ARTICLE III

Participation

- 3.01 Eligibility. Each Employee who is eligible to participate under the terms of the Commonwealth of Virginia Flexible Benefits Program shall be eligible to participate in this plan. Any new Employee may elect to participate effective as of the first day of the month following his date of hire. Employees hired on the first day of the month may participate in that month.
- 3.02 Enrollment. Each Participant in this Dependent Care Flexible Spending Account III shall, during the applicable Election Period, complete a form or enrollment process through the Employee Self-Service system provided by the Plan Administrator evidencing the Participant's election. Such election shall be irrevocable until the end of the applicable Coverage Period unless the Participant is entitled to change his election pursuant to Section 3.03 hereto.
- 3.03 Enrollment Periods:
- (a.) Annual Elections Each Participant shall have a Regular Election Period during which to make elections for the next Plan Year. The Regular Election Period for such Plan Year shall be determined by the Plan Administrator, but in no event shall be less than a 14 day period, and shall terminate no later than 15 days prior to the commencement of the next Plan Year. During the Election Period, each eligible Employee shall be given the opportunity to elect, on a form or Employee Self-Service system process provided by the Plan Administrator, the benefit as set forth in Section 5.01.
 - (b.) Elections by Newly Eligible Employees A newly eligible Employee's initial Election Period shall begin on the first day the Employee has met the requirements for participation herein and shall terminate 30 calendar days thereafter. If the newly eligible Employee does not elect to participate during his initial Election Period, he may make an election at any subsequent Election Period.
 - (c.) Change of Elections A participant will not be permitted to change any elections made pursuant to the Dependent Care Flexible Spending Account III for a Plan Year after the deadline established by the Plan Administrator for the timely filing of such elections, except as provided in the next sentence. A Participant may change his benefit election, in accordance with rules promulgated by the Plan Administrator, for the remainder of such Plan Year solely to accommodate a qualifying mid-year event as set forth in Exhibit A of this plan. A participant who incurs a qualifying mid-year event shall have a special Enrollment period which shall begin on the date of his or her qualifying event and shall terminate 60 calendar days thereafter or such other reasonable period of time as may be determined by the Plan Administrator
- 3.04 Termination of Participation. A Participant shall continue to participate in this Dependent Care Flexible Spending Account III until the earliest of the following dates: (a) the end of the month in which the Participant terminates employment by death, disability, retirement or other separation from service; (b) the end of the month in which the Participant ceases to work for the Employer as an eligible Employee; (c) the end of the month in which the Participant elects to terminate participation in the plan because of and consistent with a qualifying mid-year event as set forth in Exhibit "A" of this plan, or (d) the Participant fails to make an election during an Election Period, in which case his participation will cease at the end of the Coverage Period for which a prior election was made, if any.
- 3.05 Reinstatement of Former Participants. A former Participant who is rehired within 30 calendar days or less of a termination of employment will be reinstated with the same elections that such individual had before

termination. If a former Participant is rehired more than 30 calendar days following termination of employment, such individual shall be allowed to make a new election for the remaining portion of the Plan Year under the same provisions as a new hire for the Commonwealth.

- 3.06 Special Rules for Family Medical Leave. A Participant taking Family Medical Leave may revoke an existing election; and upon return from Family Medical Leave, may make such other election for the remaining election period as may be provided for under the Family Medical Leave. If the Family Medical Leave is paid, pre-tax contributions may continue to be made under the Plan as elected under Article III, Participation 3.02. However, an Employee shall be required to resume participation following a Family Medical Leave if the Employer requires Employees who return from non-family medical leaves to resume participation in the Plan.

ARTICLE IV

Benefits

- 4.01 Reimbursable Benefits. Every Participant in the Dependent Care Flexible Spending Account III shall be eligible to receive a Benefit, only to the extent that funds are available in his account, for all Eligible Employment Related Expenses incurred by such Participant or his Spouse subject to the limitations of Article V.

A participant shall be entitled to Benefits under this Dependent Care Flexible Spending Account III only for Eligible Employment Related Expenses (a) incurred after he became a Participant in the Dependent Care Flexible Spending Account III, (b) incurred during the Coverage Period, and (c) supported by the submission, on or before the end of the third month following the applicable Plan Year, of the written statements required by this Article.

- 4.02 Information to be submitted. Each Participant who desires to receive a Benefit under the Dependent Care Flexible Spending Account III for Eligible Employment Related Expenses incurred by the Employee for Qualifying Services shall submit to the Plan Administrator a statement containing the following information:

- (i) the Dependent or Dependents for whom the Services are to be performed;
- (ii) the name and social security number, or employer identification number, of the person performing the services;
- (iii) the nature of the Services performed for the Participant, the cost for which he wishes to be reimbursed;
- (iv) the relationship, if any, of the person performing the Services to the participant;
- (v) if the Services are being performed by a child of the Employee, the age of the child;
- (vi) a statement as to where the Services will be performed;
- (vii) if any of the Services are to be performed outside the house, a statement as to whether the Dependent for whom such services are being performed spends at least eight (8) hours a day in the Participant's household;
- (viii) if the services are being performed in a daycare center, a statement that (a) the day care center complies with all applicable laws and regulations of the Commonwealth of Virginia; (b) the day care center provides care for more than six (6) individuals (other than individuals residing at the center) and (c) the amount of fee paid to the center;
- (ix) if the Participant is married, a statement of (a) Spouse's salary or wages if he is employed, or (b) if the participant's Spouse is not employed, a statement that (1) he is incapacitated or (2) he is a full-time student attending an Educational Organization and the months during the year which he will attend such Organization.

4.03 Payments of Benefits. If the Participant is eligible to receive benefits under the Dependent Care Flexible Spending Account III, he may submit a statement to the Plan Administrator stating the amount of Eligible Employment Related Expenses incurred by the Participant or his Spouse for the period covered by the claim. In order to be reimbursed, the Participant must submit a written statement from an independent third party stating that the expenses have been incurred, the dates services have been rendered and the amount of such expenses. He shall also submit a statement stating whether any information submitted pursuant to Section 4.02 has changed. The Plan Administrator shall pay the Participant the benefit the Participant is entitled to receive under the Dependent Care Flexible Spending Account III in accordance with Section 5.02.

If a Participant ceases to be an employee, benefits may be paid up to the amount of his account balance for Eligible Employment Related Expenses incurred by such inactive Participant until the end of the plan year.

ARTICLE V

Limitations on Benefits

5.01 Amount of Benefits. The maximum election to a Dependent Care Account shall be made in whole dollar increments, on a per pay period basis, not to exceed twenty-five hundred dollars (\$2500) for the plan year commencing January 1 and ending on June 30, 2004. Thereafter, the maximum election to a Dependent Care Account shall be made in whole dollar increments, not to exceed five thousand dollars (\$5,000), or twenty-five hundred dollars (\$2,500) in the case of a separate tax return filed by a married individual, but in no event shall the election exceed:

- (i) in the case of an Employee who is not married at the close of the Employee's taxable year, the earned income of such Employee for such taxable year; or
- (ii) in the case of an Employee who is married at the close of such taxable year, the lesser of:
 - (a) the Earned Income of such Employee for such taxable year; or
 - (b) the Earned Income of the Spouse of such Employee for such taxable year.

The minimum contribution which may be made is ten dollars (\$10.00) per pay period (\$10.00).

For purposes of this Section 5.01, a Spouse of a Participant who is not employed during any month in which the Participant incurs Eligible Employment Related Expenses and which Spouse is either incapacitated or a Student shall be deemed to have Earned Income for such month of:

- (i) two hundred dollars (\$250.00), if there is one (1) Qualifying Individual for whom the Participant incurs Eligible Employment Related Expenses; or
- (ii) four hundred dollars (\$500.00), if there is more than one (1) Qualifying Individual for whom the Participant incurs Eligible Employment Related Expenses.

5.02 Payment of Benefits. Amount contributed to the participant's Dependent Care Account shall be subject to the following requirements:

- (i) no interest shall be credited to such accounts;
- (ii) Flexible Spending shall be paid to the participant at least monthly following the submission of eligible dependent care expenses;
- (iii) funds may not be transferred between this and any other accounts;
 - (iv) a Participant may submit eligible expenses incurred during the Coverage Period until the last day of the third month following the end of the prior Plan Year, or the end of the prior coverage period if the account ends before the end of the plan year; and (v)
 - (v) any balance in the Participant's account as of the last day of the third month following the prior the end of the prior Plan Year, or the end of the prior Coverage Period if the account ends before the end of the plan year, which was not used to provide benefits incurred during the Coverage Period shall be forfeited by the Participant and retained by the Plan.

ARTICLE VI

Funding

6.01 Contributions. The contributions required for an entitlement to Benefits under this Dependent Care Flexible Spending Account III shall be made pursuant to the terms of the Commonwealth of Virginia Flexible Benefits Plan of which this Dependent Care Flexible Spending Account III shall be deemed to be a Component Plan.

6.02 Dependent Care Account III. The Plan Administrator shall maintain a separate Dependent Care Account III for each Participant. Contributions shall be credited to the Participant's account and all payments of Benefits amounts under this Dependent Care Flexible Spending Account III shall be debited against the account.

Any balance remaining in the account as of the last day of the third month following a prior Plan Year or prior Coverage Period which is not used to provide benefits incurred during the Plan Year shall be forfeited by the Participant and at the direction of the Plan Administrator shall be:

- (i) used by the Employer to defray losses, if any;
- (ii) used by the Employer to pay administrative costs; or
- (iii) distributed equally to Participants on a per capita basis.

6.03 Nature of Participant's Interest. The use of participant accounts pursuant to this Plan is intended as an accounting mechanism to measure the maximum benefit available to each Participant for each Plan Year and is not intended to create or imply any ownership or other legal or equitable interest by the Participant in the Participant account. Notwithstanding anything to the contrary in any Plan document including, without limitation, the Virginia Flexible Benefits Plan and any salary reduction agreement or other agreement with any participant in connection with the Plan, upon reduction of each Participant's covered compensation pursuant to the Plan, (a) the Participant shall have no further right to or interest in the pay thus withheld; and (b) any right or interest of the Participant is limited to the right to receive those Plan benefits and distributions which in fact become payable to, or for the benefit of, the Participant under the terms and conditions of the Plan.

ARTICLE VII

Administration

- 7.01 Allocation of Responsibility. The Employer and Plan Administrator shall have only those powers, duties, responsibilities and obligations as are specifically given or delegated to them under this Dependent Care Flexible Spending Account III.
- (i) The Employer shall have the sole responsibility for making the Employer Contributions under the Dependent Care Flexible Spending Account III as specified in Article VI.
 - (ii) The Employer shall have sole authority to appoint and remove the Plan Administrator, and to amend or terminate this Dependent Care Flexible Spending Account III in whole or in part.
 - (iii) In accordance with the provisions hereof, the Plan Administrator has been delegated certain administrative functions relating to the Plan with the duty and discretionary authority necessary to enable it to carry out properly such duties.
- 7.02 Administration. The Dependent Care Flexible Spending Account III shall be administered by the Plan Administrator which, subject to and in accordance with any applicable laws, , may appoint or employ persons to assist in the administration of the Dependent Care Flexible Spending Account III and any other agents it deems advisable, including legal counsel, actuaries, auditors, bookkeepers and recordkeepers to serve at the Plan Administrator's direction. All usual and reasonable expenses of the Dependent Care Flexible Spending Account III and the employer may be paid by the Participants. An administrative fee may be charged to each Participant. The administrative fee shall be considered a Coverage Expense as defined in Section 2.03 of the Commonwealth of Virginia Flexible Benefits Plan.
- In accordance with Sections 125 and 129 of the code, the Plan is intended not to discriminate in favor of "Highly Compensated Employees", as defined in the Internal Revenue Code. If, in the operation of the Dependent Care Flexible Spending Account III, it is discovered that the Dependent Care Flexible Spending Account III discriminates in favor of such Highly Compensated Employees (or in the opinion of the Plan Administrator, is in danger of discrimination), then notwithstanding the maximum amounts stated in Section 5.01, the Plan Administrator is empowered to change the maximum applicable for any Plan Year subject to limits required by law, and the total reduction in salary for any Participant in a Plan Year shall not exceed the amount of his compensation reported by the Employer to the Federal government on Form W-2.
- If the Plan Administrator is required to reduce the Elective Employer Contributions under the Plan for Highly Compensated Employees (to comply with Section 129(d)(8) of the code, or to report such contributions, if already made, as W-2 income) the adjustment or reporting of such contributions shall be applied to all Highly Compensated Employees participating in the Plan, pro-rata to the Elective Employee Contributions elected by each Highly Compensated Employee for the Plan Year in which such contributions were elected.
- 7.03 Rules and Decisions. The Plan Administrator may adopt such rules and procedures as it deems necessary, desirable or appropriate for the administration of this Dependent Care Flexible Spending Account III. All rules, procedures and decisions of the Plan Administrator shall be uniformly and consistently applied to all Participants in similar circumstances. When making a determination or calculation, the Plan Administrator shall be entitled to rely upon information furnished by a Participant, a Dependent, the duly authorized representative of a Participant or Dependent, or the legal counsel of the Plan Administrator.

- 7.04 Forms and Requests for Information. The Plan Administrator may require a Participant to complete and file such forms or provide information through the Employee Self-Service system process, as are provided for herein and all other forms prescribed by the Plan Administrator. The Plan Administrator may rely upon all such information, including the Participant's current mailing address.
- 7.05 Responsibility for Plan. The complete authority to control and manage the operation and administration of the Dependent Care Flexible Spending Account III shall be placed in the Plan Administrator, who shall be solely responsible for the operation of the Dependent Care Flexible Spending Account III in accordance with its terms.
- 7.06 Statements. The Dependent Care Flexible Spending Account III shall provide to Participants statement showing the amounts paid or expenses incurred in providing dependent care assistance to such Participant during the previous Plan Year.
- 7.07 Examination of Records. The Plan Administrator shall make available to each Participant such records as pertain to the Participant for examination at reasonable times during normal business hours.

ARTICLE VIII

Amendment or Termination of Plan

8.01 Amendment. The Employer by action of the Director of the Department of Human Resource Management shall have the right at any time to amend any or all of the provisions of the Dependent Care Flexible Spending Account III without the consent of any Employee or Participant. No amendment shall have the effect for any Participant of reducing any benefit election in effect at the time of such amendment, unless such amendment is made to comply with federal or local law, statute or regulations.

8.02 Termination. The Employer expects to continue the Dependent Care Flexible Spending Account III, but has the right by action of the Director of the Department of Human Resource Management, to terminate the Dependent Care Flexible Spending Account III, in whole or in part, at any time.

ARTICLE IX

Miscellaneous

- 9.01 Plan Interpretation. This Plan document sets forth the provisions of this Plan. This Plan shall be read in its entirety and not severed except as provided in Section 9.04. The Plan Administrator shall have complete and absolute discretion regarding the interpretation of this plan document.
- 9.02 Limitation on Participant Rights. Nothing appearing in or done pursuant to the Dependent Care Flexible Spending Account III shall be held or construed:
- (i) to give any person any legal or equitable right against the Employer, except as expressly provided herein or provided by law; or
 - (ii) to create a contract of employment with any Participant, to obligate the Employer to continue the service of any Participant or to affect or modify his or her terms of employment in any way.
- 9.03 Governing Law. This Dependent Care Flexible Spending Account III is governed by the Internal Revenue Code and the regulations issued thereunder. In no event shall the Employer guarantee the favorable tax treatment sought by this Dependent Care Flexible Spending Account III. To the extent not preempted by federal law, the provisions of this Dependent Care Flexible Spending Account III shall be construed, enforced and administered according to the laws of the Commonwealth of Virginia.
- 9.04 Severability. If any provision of the Dependent Care Flexible Spending Account III is held invalid or unenforceable, its invalidity or unenforceability shall not affect any other provisions of the Dependent Care Flexible Spending Account III, and the Dependent Care Flexible Spending Account III shall be construed and enforced as if such provision had not been included herein.
- 9.05 Captions. The captions contained herein are inserted only as a matter of convenience and for reference, and in no way define, limit, enlarge or describe the scope or intent of the Dependent Care Flexible Spending Account III nor in any way shall affect the Dependent Care Flexible Spending Account III or the construction of any provision thereof.
- 9.06 Construction. Whenever used in this Dependent Care Flexible Spending Account III the masculine pronoun shall be deemed to include the masculine and feminine gender; a singular word shall be deemed to include the singular and plural and a plural word shall be deemed to include the plural and singular in all cases where the context requires; and, the term form with respect to enrollment processes shall refer to a paper document or Employee Self-Service transaction, whichever is applicable.

ARTICLE X

Adoption of the Plan

IN WITNESS WHEREOF, the Commonwealth of Virginia has restated this plan document
this _____ day of _____, 2015.

ATTEST: (SEAL)

COMMONWEALTH OF VIRGINIA

By _____

By _____
Director,
Office of Health Benefits Programs
Department of Human Resource Management

Schedule A - Qualifying Mid-Year Events

1. Change In Status

An Employee may change a benefit election when a valid change in status event occurs. However, the change must be made **on account of, and correspond with**, a change in status that affects the eligibility for coverage of the Employee, the spouse or the dependent of the Employee. Assuming that these general consistency requirements are satisfied, if the change in status event affects eligibility for a particular coverage, a corresponding change can be made to the same type of coverage.

The following events constitute valid Changes in Status:

- a. Legal Marital Status: A change in legal marital status, including marriage, death of spouse or divorce
- b. Number of Dependents: A change in the number of dependents, including birth, adoption, placement for adoption or death of a dependent.
- c. Change in Employment Status: Any change in employment status of the employee, the spouse or the dependent of the employee, including: termination or commencement of employment; a strike or lockout; commencement of or return from an unpaid leave of absence; change in work schedule, including an increase or decrease in the number of hours of employment; a switch between full-time and part-time status, or a change in worksite or any other similar change which results in a change in benefits eligibility
- d. Dependent Eligibility Requirement: An event that causes a dependent to satisfy or cease to satisfy the eligibility requirements for coverage as provided under the component plan under which the employee receives coverage, and
- e. Change in Residence: A change in the place of residence of the employee, spouse or dependent.

Existing dependents can also be added whenever a dependent gains eligibility as a result of a valid Change in Status event. The IRS further clarifies that the Change in Status must result in the employee, spouse or dependent gaining or losing eligibility for coverage or for a particular coverage option such as managed care or indemnity.

2. Coverage Costs and Changes

- a. Cost Changes with Automatic Increase/Decrease in Elective Contributions (including employer motivated changes and changes in employee contribution rates)
- b. Significant Cost Changes
- c. Significant Coverage Curtailment (Without Loss of Coverage)
- d. Addition or Significant Improvement of Benefit Package Option
- e. Change in Coverage Options
- f. Change under Other Employer's Cafeteria Plan or Qualified Benefits Plan. In order for election changes to be permitted under this exception, the election change must be on account of and correspond with the change in coverage under the other employer's cafeteria plan or qualified benefits plan. In addition, the plan of the other employer must permit elections specified under the Regulations and an election must actually be made under such plan.

- g. Annual Enrollment under Other Employer's Plan. For a change in coverage of the Employee's Spouse or Dependent under their employer's plan the Employee is permitted an election change when a family member makes an Annual Enrollment change under his or her employer's plan if that plan has a different plan year from the cafeteria plan of the Employee's employer.

AMENDMENT TO THE DEPENDENT CARE
FLEXIBLE SPENDING ACCOUNT PLAN DOCUMENT

This Amendment to the Plan is adopted by the Employer, effective for the Plan Year commencing on July 1, 2019 and ending June 30, 2020.

Notwithstanding anything to the contrary herein, the Plan is hereby amended as follows:

- A. A grace period (as described in IRS Notice 2020-29) is hereby adopted by the plan for the 2020 Plan year for the Dependent Care Flexible Spending Account.
- B. Notwithstanding anything to the contrary herein, unused Dependent Care Flexible Spending Account balances may be used to reimburse expenses in the following plan year (plan year 2021) consistent with Internal Revenue Service Notice 2020-29 and this modified Summary Plan Description.
- C. This amendment only applies to the 7/1/19-6/30/20 plan year and is not applicable to subsequent years.

This document amends section 5.02 of the Dependent Care Flexible Spending Account Plan Document.

Virginia Department of Human Resource Management

By: _____

Title: _____

AMENDMENT TO THE DEPENDENT CARE
FLEXIBLE SPENDING ACCOUNT PLAN DOCUMENT

This Amendment to the Plan is adopted by the Employer, effective as of the date set forth herein. NOW, THEREFORE, effective for the Plan Year commencing on July 1, 2021 and ending June 30, 2022, the Plan is amended as follows:

Notwithstanding anything to the contrary herein, the Plan is hereby amended as follows:

A. A grace period (as described in IRS Notice 2020-29) is hereby adopted by the plan for the 2021 Plan year for the Dependent Care Flexible Spending Account.

B. Notwithstanding anything to the contrary herein, unused Dependent Care Flexible Spending Account balances may be used to reimburse expenses in the following plan year (plan year 2022) consistent with Internal Revenue Service Notice 2020-29 and this modified Summary Plan Description.

This document amends section 5.02 of the Dependent Care Flexible Spending Account Plan Document.

Virginia Department of Human Resource Management

By: _____

Title: _____

[Handwritten Signature]
Director, Office of Health Benefits

SUMMARY OF MATERIAL MODIFICATIONS TO THE CAFETERIA PLAN

This document summarizes important changes to your Flexible Benefits Plan (the “Plan”) and the Dependent Care Flexible spending Account (“Dependent Care FSA”). If you have any questions regarding the changes summarized in this Summary of Material Modifications (“SMM”), you should contact The Virginia Department of Human Resource Management, Office of Health Benefits.

You should keep a copy of this SMM with your Summary Plan Description for future reference. This SMM is effective with the plan year beginning on or after July 1, 2021 and ending June 30, 2022.

Notwithstanding anything to the contrary in the Summary Plan Description, the “grace period” is adopted for the Dependent Care FSA. If you are enrolled in a Dependent Care FSA on June 30, 2021, Dependent Care balances that are unused for Plan Year 2021 may be used for reimbursement of eligible Dependent Care FSA expenses incurred at any time during the period July 1, 2022 through September 15, 2022.

The unused amount for plan year 2022 will be used first in the subsequent plan year. For example, if you have \$200 remaining in your DCFSA at the end of plan year 2021, and you have elected \$2000 for the 2023 plan year, the remaining \$200 will be used first to reimburse any expenses incurred during the grace period.

If you are otherwise eligible for the Dependent Care FSA for a Plan Year but you do not make an election to participate, you may still use the grace period from the prior Plan Year for Current Year Expenses and Prior Year Expenses (in accordance with terms of the Plan and the ordering rules described above).

You must be a participant in the Dependent Care FSA as of the last day of the Plan Year to benefit from the grace period.