

NEW JERSEY EDC OR 457 GOVERNMENTAL PLAN SERVICE AGREEMENT SAMPLE ONLY

This Agreement is made and entered into by and between _____
 (“Employer”) and _____ (“Provider”
 Stock life insurance company [authorized by the Commissioner of Insurance to do business in the
 State of New Jersey] (“*insert provider name*”). _____ (“Provider) is
 a wholly owned subsidiary of _____.

The intent of this Agreement is for (insert provider name) to provide services with respect to the
 Employer’s Plan, as hereinafter defined. The Plan shall be administered in accordance with the
 provisions of Section 457 of the Internal Revenue Code of 1986, as amended (“Code”).

Section 1. Definitions

Unless this Agreement expressly provides otherwise, the following definitions shall apply herein.

- A. “Participant” means an employee of the Employer electing to participate in the Plan.
- B. “Plan “ means the employer’s Deferred Compensation Plan.
- C. All other words and phrases used in the Agreement shall, except where otherwise noted,
 have the same meanings as such words and phrases have wherever they appear in
 N.J.A.C. 5:37-1 et. Seq., *Municipal County and Authority Employees Deferred
 Compensation Plans Rule*, promulgated by the Division of Local Government Services of
 the State of New Jersey (referred to as “Deferred Compensation Rules”), the Employer’s
 Plan (copy attached hereto), and applicable provisions of the Code and regulations
 promulgated thereunder.

Section 2. Scope of Service

(“*insert Provider name*”) shall perform the services described below in connection with the
 contract certificates issued to the Employer with respect to Participants.

Section 3. Term

This Agreement shall become effective immediately upon execution by both parties and shall
 remain in force until terminated by either party as provided herein.

Section 4. Relationship to the Parties

(“*Insert Provider name*”) shall perform its obligations hereunder as an Agent for the Employer.
 The Employer may administer this Agreement and monitor (“*insert provider’s name*”)
 compliance with its obligations hereunder. The Employer shall not supervise or direct (“*insert
 provider name*”) other than as expressly provided in this Agreement.

Section 5. Services to be Performed

“Insert Provider name” shall:

- i. provide advice concerning categories of investments available to Participants under the “insert Provider name” contract.
- ii. explain investment guidelines and any restrictions under the Plan;
- iii. provide individual consultation on Plan matters to Participants;
- iv. maintain records of any written correspondence in connection with (a through c) above for six years, and furnish on request, copies of such records to the Employer; and
- v. credit contributions if received on a business day as of the date received up to 4:00 PM, at its Processing Office, or the next business day, if later. (The Employer shall send all contributions, which are subject to this agreement, received by it to “insert provider name” within 72 hours of receipt.)

“Insert Provider name”

- a. a(n) “insert Provider name” contract certificate for each Participant setting forth the contract features and guarantees;
- b. a confirmation for each payment or transaction plus annual and semi-annual notices as required under the Securities Exchange Act of 1934 and applicable insurance laws and quarterly reports;
- c. a monthly premium notice in order to make the administration of the Plan as simple as possible;
- d. a current prospectus or prospectus supplement for each Participant, which describes the “insert Provider name” contract certificate being offered under the Plan.

“Insert Provider name” shall do all such acts as are required to be performed by a private contractor as set forth in N.J.A.C. 5:37-10.3 of the Deferred Compensation Rules relating to the review of the Plan.

Section 6. Records Maintenance

- A. “Insert Provider name” will be responsible for the administration and maintenance of individual account records.
- B. Upon prior request and during normal business hours, “insert Provider name” shall allow the Employer full and complete access to all records retained by “insert Provider name” pursuant to paragraph A above. The Employer shall have the right upon reasonable notice, exercised directly or through its attorneys or independent auditors, to examine and audit such records and accounts to determine “insert Provider’s name” compliance with

the terms and conditions hereof. The provisions of this subsection B are not intended to limit the provisions of Section 5 of this agreement.

Section 7. Hold Harmless

“Insert Provider name” hereby agrees and hold harmless the Employer (the “Indemnitee”) with regard to all losses, damages, penalties, claims and expenses as a result of any cause of action brought against it as a result of negligent acts or omissions of “insert Provider name” arising out of our in connection with the administration of the contracts. “Insert Provider name) at its own expense and risk, and by its own counsel shall defend any legal proceeding which may be brought against the Indemnitee with respect to any such failure and shall satisfy any judgment which may be rendered against the Indemnitee as a result of any such proceeding, provided that the Indemnitee notifies it in writing within a reasonable period of the commencement of such proceeding or any threat of such proceeding in order that appropriate and timely action may be take by “insert Provider name.”

Notice shall be addressed to “insert Provider’s address”. Failure to do notify “insert provider name” to cooperate with “insert provider name” in the defense of such proceeding shall relieve “insert provider name” of any and all liability assumed under this agreement with respect to such proceeding or any other proceeding in which a claim is based in whole or in part on the proceeding with respect to which the failure of notice occurred.

Section 8. Non-discrimination

“Insert Provider name” represents that it does not discriminate in its employment or investment policies and practices.

Section 9. Non-waiver

The failure of the Employer of “insert Provider name” at any time to enforce a provision of this Agreement shall in no way constitute a waiver of the provision, or in any way affect the validity of this Agreement or any part hereof, or the right of the Employer or “insert Provider name” to enforce each and every provision hereof.

Section 10. Assignments

Any assignment or attempted assignment of this Agreement or any part hereof without the written consent of (1) “insert Provider name”, in the case of the Employer, or (2) the Division of Local Government Services, in the case of “insert Provider name” shall be void, except that any assignment or attempted assignment by “insert Provider name” to a subsidiary or affiliate does not require the written consent of the Division of Local Government Services.

Section 11. Amendment

This Agreement may not be modified or altered except by a written instrument duly executed by both parties.

Section 12. Notices

Any Notice provided for herein (other than the Notice described in Section 7) shall be in writing and shall be deemed to have been given when received by personal delivery or United States mail addressed as follows:

If to Employer: Insert Employer Address

If to "Insert Provider name": Insert Provider Address

or to such other persons or addresses which the Employer or "insert Provider name" may from time to time designate in writing.

Section 13. Jurisdiction/Choice of Law

The laws of the State of New Jersey shall govern the rights and obligations of the parties under this Agreement.

This Agreement is subject to the Deferred Compensation Rules which are hereby made a part of this Agreement.

Section 14. Integration

This instrument and any written appendices and amendments hereto and the contract and certificates embody the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein and this Agreement shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto with respect to this Agreement.

Section 15. Expenses

The services rendered by "insert Provider name" under Section 5 and Section 6(A) hereof shall be performed at no cost to the Employer. The cost of any audit shall be borne by the Employer.

Section 16. Termination

- A. This Agreement may be terminated without any further liability of either party for any obligation maturing subsequent to the date of such termination.
 - 1. By either party, sixty (60) days following the giving of written notice to the other party of the intent to terminate.
 - 2. By the Employer, thirty (30) days following the giving of written notice to "insert Provider name" if the Employer learns of "insert Provider name" violation of an Federal, State or local law, ordinance or regulation that governs activities related to "insert Provider's name" performance of this Agreement.
- B. Upon termination, "insert Provider name" shall:
 - 1. Deliver to the Employer copies of all records and things required by law or reasonably required for administrative ease.

2. Deliver within thirty (30) days after the date of termination of this Agreement, all investment, financial, performance and any other reports required to comply with applicable law.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed as of the date shown below:

By: _____

Name of Employer

Date: _____

The Provider:

By: _____

Date: _____