

**APPENDIX C-PART I
MODEL VCP SUBMISSION COMPLIANCE STATEMENT**

Plan Name: _____ **EIN:** _____ **Plan #:** _____

(Include the plan name, Applicant's EIN, and plan number on each page of the compliance statement, including attachments.)

SECTION I. PLAN INFORMATION

1. APPLICANT'S NAME: _____

2. APPLICANT'S EIN: _____ 3. PLAN NO.: _____
(do not use Social Security Number)

4. PLAN NAME: _____

SECTION II. APPLICANT'S DESCRIPTION OF FAILURES

Attach additional pages, as needed. Label attachment "SECTION II. APPLICANT'S DESCRIPTION OF FAILURES." List and number each failure separately. If using the Appendix C, Part II Schedules, simply specify the Schedule(s) that are to be part of this compliance statement and attach them to this compliance statement.

SECTION III. APPLICANT'S DESCRIPTION OF THE PROPOSED METHOD OF CORRECTION

Attach additional pages, as needed. Label attachment "SECTION III. APPLICANT'S DESCRIPTION OF THE PROPOSED METHOD OF CORRECTION." Describe the correction method applicable to each failure listed in Section II. If using the Appendix C, Part II Schedules, simply specify the Schedule(s) that are to be part of this compliance statement and attach them to this compliance statement.

SECTION IV. APPLICANT'S PROPOSED PROCEDURES TO LOCATE AND NOTIFY FORMER EMPLOYEES OR BENEFICIARIES

Attach additional pages, as needed. Label attachment "SECTION IV. APPLICANT'S PROPOSED PROCEDURES TO LOCATE AND NOTIFY FORMER EMPLOYEES OR BENEFICIARIES." Describe the method(s) that will be used to locate and notify former employees and beneficiaries, or provide an affirmative statement that no former employees or beneficiaries were affected by each failure listed in Part II or will be affected by the correction methods described in Section III. See section 6.02(5) (d) of Rev. Proc. 2013-12.

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SECTION V. APPLICANT'S PROPOSED REVISION TO ADMINISTRATIVE PROCEDURES

Attach additional pages, as needed. Label attachment "SECTION V. APPLICANT'S PROPOSED REVISION TO ADMINISTRATIVE PROCEDURES." Please include an explanation of how and why the failures arose and a description of the measures that will be implemented to ensure that the same failures do not occur in the future. If using the Appendix C, Part II Schedules, simply specify the Schedule(s) that are to be part of this compliance statement and attach them to this compliance statement.

SECTION VI. REQUESTS RELATED TO EXCISE TAXES, ADDITIONAL TAX, AND TAX REPORTING

☐ The Applicant requests that the Internal Revenue Service ("Service") not pursue the following taxes under the Internal Revenue Code ("Code") (attach supporting rationale as required by section 6.09 of Rev. Proc. 2013-12):

- ☐ Excise tax under Code section 4972 with respect to failure(s) #_____.
- ☐ Excise tax under Code section 4973 with respect to failure(s) #_____.
- ☐ Excise tax under Code section 4974 with respect to failure(s) #_____.
- ☐ Excise tax under Code section 4979 with respect to failure(s) #_____.
- ☐ Imposition of additional tax under Code section 72(t) with respect to failure(s) #_____.

☐ The Applicant requests that the Service grant the following with respect to plan loan failures as described in section 6.07 of Rev. Proc. 2013-12:

- ☐ With respect to loan(s) described in failure(s) #_____, that a deemed distribution corrected pursuant to this VCP submission not be required to be reported on Form 1099-R and that repayments made by such correction not result in the affected participant having additional basis in the plan for purposes of determining the tax treatment of subsequent distributions from the plan.
- ☐ With respect to loan(s) described in failure(s) #_____, that a deemed distribution be reported on Form 1099-R with respect to affected participant(s) for the year of correction instead of the year of the failure.

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SECTION VII. ENFORCEMENT RESOLUTION (to be completed by IRS only)

The Applicant will neither attempt to nor otherwise amortize, deduct, or recover from the Service any portion of the compliance fee nor receive any Federal tax benefit on account of payment of such compliance fee.

The Service will not pursue the sanction of revoking the tax-favored status of the plan under § 401(a), 403(b), 408(k), or 408(p) of the Internal Revenue Code ("Code") on account of the failure(s) described in this submission. This compliance statement considers only the acceptability of the correction method(s) and the revision(s) of administrative procedures described in the submission and does not express an opinion as to the accuracy or acceptability of any calculations or other materials submitted with the submission. The reliance provided by this compliance statement is limited to the specific failures and years specified and does not provide reliance for any other failure or year. In no event may this compliance statement be relied on for the purpose of concluding that the plan or Plan Sponsor was not a party to an abusive tax avoidance transaction. The compliance statement should not be construed as affecting the rights of any party under any other law, including Title I of the Employee Retirement Income Security Act of 1974.

This compliance statement is conditioned on (1) there being no misstatement or omission of material facts in connection with the submission and (2) the completion of all corrections described in this compliance statement within one hundred fifty (150) days of the date of the compliance statement.

- ☐ The Service will treat the failure to adopt interim amendments or amendments for optional law changes, as described in section 6.05(3)(a) of Rev. Proc. 2013-12 as if they had been adopted timely for the purpose of making available the extended remedial amendment period currently set forth in Revenue Procedure 2007-44, 2007-2 C.B. 54, or its successors. However, this compliance statement does not constitute a determination as to whether any such plan amendments, as drafted, comply with the applicable changes in qualification requirements.
- ☐ With regard to failure # _____ relating to the 403(b) Plan failure to timely adopt a written plan, as required under the final § 403(b) regulations and Notice 2009-3, the Service will treat the written plan as if it had been adopted timely for the purposes of making available the extended remedial amendment period set forth in Announcement 2009-89. However, this compliance statement does not constitute a determination as to whether the written plan, as drafted, complies with the applicable requirements associated with § 403(b) and the final § 403(b) regulations.
- ☐ With regard to failure # _____ (provided that no modification has been made to either the plan document or adoption agreement of the plan that would otherwise cause the employer to lose reliance on the plan's opinion or advisory letter), the corrective amendment will not cause the plan to lose its status as a Master or Prototype plan or Volume Submitter plan and (provided that no modification has been made that would otherwise affect the employer's eligibility for the six-year remedial amendment cycle) the employer will be allowed to remain within the six-year remedial amendment cycle described in Revenue Procedure 2007-44, 2007-2, on a continuing basis until the expiration of the next six-year remedial amendment cycle as provided in section 18.01 of Rev. Proc. 2007-44, or, if different, the deadline announced by the Service, as provided

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in section 18.03 of that revenue procedure. In addition, the issuance of this compliance statement constitutes a determination of the effect of the corrective plan amendment on the qualification of the plan, and a subsequent filing of a determination letter request on such amendment will not be required until the expiration of the next six-year remedial amendment cycle.

☐ The Service will not pursue the following on account of the qualification failure(s) described in this submission:

- ☐ Excise tax under Code section 4972.
- ☐ Excise tax under Code section 4973.
- ☐ Excise tax under Code section 4974.
- ☐ Excise tax under Code section 4979.
- ☐ With respect to the Overpayment failures described in this submission that were corrected by removing improper distributions from the IRA(s) of the affected participant(s) and returning those distributions to the plan, the Service will not pursue _____ % of the 10% additional income tax under Code § 72(t).

☐ With respect to the loan failure(s) described in this submission:

- ☐ Loan(s) that are corrected in accordance with one of the methods described in section 6.07(2) or 6.07(3) of Rev. Proc. 2013-12: The Service will not require deemed distributions under Code § 72(p) to be reported on Form 1099-R with respect to the participant(s) affected by the failure(s), and repayments made pursuant to the correction of such loan(s) will not result in an affected participant having additional basis in the plan for the purpose of determining the tax treatment of subsequent distributions from the plan to such participant(s).
- ☐ Loan(s) that are not being corrected in accordance with one of the methods described in section 6.07(2) or 6.07(3) of Rev. Proc. 2013-12: The Service will require deemed distributions under Code § 72(p) to be reported on Form 1099-R with respect to the participant(s) affected by the failure(s). However, the plan will be permitted to report deemed distributions on Form 1099-R in the year of correction, instead of the year of the failure.

Approved: _____
Manager, Employee Plans Voluntary Compliance
Tax Exempt and Government Entities Division

Date: _____