Employer's Plan Document for
Salary Reduction Only 403(b) Arrangement

School Administrators of Montana (the "Employer") has established this Salary Reduction Only 403(b) plan (the "Plan") under section 403(b) of the Internal Revenue Code of 1986, as amended (the "Code") to allow its employees to make voluntary salary reduction contributions to annuity contracts or custodial accounts ("TSAs") that satisfy the applicable requirements of section 403(b) of the Code and that the Employer has approved for maintenance under the Plan. The Employer shall exercise no discretionary authority in the administration of the Plan, except as specifically provided herein and as otherwise permitted to preserve the status of the Plan as exempt from Title I of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") under guidelines approved by the Department of Labor.

Article I – Definitions

1. **Eligible Employees**. Eligible Employee means, for any calendar year, any common-law employee of the Employer who is entitled to receive compensation during the calendar year for employment services performed for the Employer, other than nonresident aliens who receive no income from the Employer that constitutes earned income from sources within the U.S. during the calendar year. Eligible Employees shall not include (check all that apply):

   ☐ Employees who are eligible to participate in a section 457(b) plan of the Employer during the calendar year.

   ☐ Employees who are eligible to participate in a section 401(k) plan of the Employer during the calendar year.

   ☐ Employees who are eligible to make salary reduction contributions to another section 403(b) plan of the Employer during the calendar year.

   ☐ Employees who are students and regularly attending classes at the Employer institution during the calendar year (limited to Employers that are educational institutions).

   ☒ Employees who normally work fewer than 20 hours per week (must be 20 or less) during the calendar year. (An employee will be considered to normally work less than 20 hours per week only if, for the first 12 months of employment, the Employer reasonably expects the employee to have fewer than 1,000 hours of service. For calendar years ending after the first 12 months of employment, the employee must have worked fewer than 1,000 hours of service in the previous calendar year, as determined in accordance with the regulations under section 403(b); if an exclusion based on fewer than 20 hours per week is chosen, the 1,000 hours of service threshold is reduced proportionately.

   Employees of other 501(c)(3) Organizations. Eligible Employees include (subject to any exceptions designated above) the common-law employees of the following section 501(c)(3) organizations (that are under common control or regularly coordinate their activities with the Employer, as determined under Treasury Regulation section 1.414(c)-5):

   ______________________________.

   ______________________________.

2. **Participants.** Participant means an Eligible Employee or former Eligible Employee for whom a TSA is maintained under the Plan.

3. **Providers.** Provider means, in the case of an approved TSA that is an annuity contract, the insurance company that issues the annuity contract, or, in the case of an approved TSA that is a custodial account to hold shares in regulated investment companies, the custodian of the account.

Article II –Approved TSAs

1. **Approved TSAs**. No contributions will be remitted to the TSA of any Provider unless the Provider has provided written certification to the Employer under Section 2 of this Article II, and the Employer has accepted that certification and approved the availability of the Provider's TSAs under the Plan. The Employer may limit its approval to specific TSAs offered by a Provider, and the Employer may approve certain TSAs only for exchanges without agreeing to remit salary reduction contributions to that Provider's TSAs. A TSA may impose limitations on rights or alternatives otherwise described in the Plan provided that such limitations are consistent with the applicable requirements of the Code and the regulations thereunder.

2. **Provider Certification.** The Provider's certification will include its agreement to comply with all applicable requirements under Code section 403(b), including the limits on salary reduction contribution (to the extent determinable by the Provider) and the requirements of Article IV relating to distributions (whether or not that Provider's TSAs are approved or continue to be approved to receive salary reduction contributions under the Plan).

3. **List of Approved TSAs.** Attached hereto as Schedule A is a list of approved TSAs currently available or otherwise maintained under the Plan. Subject to the requirements set forth above, the Employer may update this list from time to time, and the list shall reflect restrictions (*e.g.*, non-approved for salary reduction contributions) on the availability of any TSAs. The Employer will periodically notify Eligible Employees of the Providers and TSAs that have been approved under the Plan.

Article III - Contributions

1. **Salary Reduction Contributions.** Subject to the contribution limits described below, an Eligible Employee's salary reduction contributions will be remitted by the Employer to the Provider of the TSA chosen by the Eligible Employee within a period after the dates on which the amounts would have been paid to the Eligible Employee that is not longer than reasonable for the proper administration of the Plan. An Eligible Employee may allocate the contributions made to any Provider among the investment options available under that Provider's TSA. An Eligible Employee will at all times have a fully vested and nonforfeitable interest in any TSA acquired on his or her behalf under the Plan.

   ☒ Roth 403(b)s. (Optional). An Eligible Employee may elect to have part or all of his or her salary reduction reductions made on an after-tax basis to any approved TSA that accepts and separately accounts for Roth 403(b) contributions.

2. **Salary Reduction Elections.** Eligible Employees may make or modify salary reduction elections in accordance with procedures established by Employer and will be permitted to do so at least once per calendar year. No salary reduction election may apply to compensation otherwise payable on or before the date of the salary reduction election.

   ☒ Minimum Contributions. (Optional) No salary reduction election will be accepted if made at a rate that would result in total contributions of less than $200 for the calendar year.

3. **Contribution Limits.** The salary reduction contributions on behalf of an Eligible Employee for any calendar year may not exceed the applicable dollar limit under Code section 402(g), increased by the additional catch-up limit under Code section 414(v) for any Eligible Employee who will have attained age 50 by the end of the calendar year, and may not exceed the Eligible Employee's limit on contributions under Code section 415(c). The Employer will terminate or reduce an Eligible Employee's salary reduction election to the extent necessary to assure that the Participant's contributions to one or more Providers during a calendar year do not exceed these limits.

4. **Exchanges, Transfers, and Rollover Contributions to TSAs Maintained under the Plan.** If and to the extent permitted under the terms of any TSA maintained under the Plan, an Eligible Employee may transfer or contribute amounts to that TSA by means of:

   (a) an exchange from another TSA maintained under the Plan;

   (b) a direct transfer from another section 403(b) plan; or

   (c) a rollover contribution of any eligible rollover distribution described in Code section 402(c).

Article IV – Distributions

1. **General.** All distributions from a TSA maintained under the Plan shall be made by the Provider, subject to applicable distribution restrictions and requirements, including the minimum distribution requirements of Code section 401(a)(9), and subject to such further conditions or restrictions imposed by the Provider that are not inconsistent with the applicable provisions of section 403(b). Each Provider will be responsible for all information reporting and tax withholding required by applicable federal and state law in connection with distributions and loans.

2. **Withdrawal restrictions.** Except in the case of hardship, disability, and distributions from a separate account maintained under a TSA for rollover contributions made under Section 4(c) of Article III, no distribution will be made to a Participant under any TSA maintained under the Plan until the Participant has attained age 59½ or had a severance of employment with the Employer (and other organizations described in Section 2 of Article I), whichever is earlier. As part of its certification, each Provider must agree that no distribution will be available from a TSA by reason of a Participant's severance from employment before age 59½, unless the Employer has notified the Vendor that such severance from employment has occurred.

3. **Hardship Withdrawals.** As part of its certification, each Provider must agree that it will not approve any hardship withdrawal unless the Participant has provided the Provider with specific information to (i) support the existence of an immediate and heavy financial need that qualifies for a hardship withdrawal, and (ii) determine the amount necessary to meet the financial need. Effective as of August 17, 2006, to the extent permitted under the TSA, a Participant's hardship event may include an immediate and heavy financial need of the Participant's primary beneficiary under the Plan, that would constitute a hardship event if it occurred with respect to the Participant's spouse or dependent as defined under Code section 152 (such hardship events being limited to educational expenses, funeral expenses and certain medical expenses). A Participant's "primary beneficiary under the Plan" is an individual who is named as a beneficiary under the Plan and who has an unconditional right to all or a portion of the Participant's account balance under the Plan upon the Participant's death.

   In the absence of information to the contrary, the Provider may rely on a Participant's representation that the immediate and heavy financial need may not be reasonably satisfied from other sources. However, the Provider must promptly notify the Employer (or its designated representative) of any hardship withdrawal by a Participant. The Employer will notify the Provider if the Employer has information inconsistent with the Participant's hardship request, and the Provider must agree to undertake corrective action if so notified.

   ☐ (Optional) A Participant will not be permitted to make salary reduction contributions during a 6-month period commencing no later than 30 days after the date such Participant receives a hardship withdrawal under a TSA.

4. **Disability.** As part of its certification, each Provider must agree that it will not make any distribution to a Participant by reason of disability unless the Provider has received satisfactory evidence that the Participant has become disabled within the meaning of Code section 72(m)(7).

5. **Exchanges and Transfers from TSAs Maintained under the Plan.** If and to the extent permitted under the terms of any TSA maintained under the Plan, and subject to the continuing applicability of the withdrawal restrictions under Section 2 of Article IV that are then applicable to the amounts held under the TSA, a Participant may:

   (a) exchange part or all his or her interest in that TSA for another TSA that the Employer has approved for exchanges under the Plan, or

   (b) transfer part or all his or her interest in the TSA to a TSA maintained under the Code section 403(b) plan of another employer, provided that a Provider may not approve such a transfer unless it confirms that the Participant is a participant or eligible to participate in that other plan.

6. **Direct Rollovers.** An Eligible Employee or Beneficiary may direct a rollover of an eligible Rollover distribution in accordance with Code section 402(c). In addition:

   (a) for distributions after December 31, 2006, a non-spouse beneficiary who is a "designated beneficiary" under Code section 401(a)(9)(E) and the regulations thereunder, may direct a rollover of all or any portion of his or her distribution to an individual retirement account the beneficiary establishes for purposes of receiving the distribution. However, any such distribution made prior to January 1, 2010 is not subject to the direct rollover requirements of Code section 401(a)(31) (including Code section 401(a)(31)(B), the notice requirements of Code section 402(f) or the mandatory withholding requirements of Code section 3405(c)). If a non-spouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a "60-day" rollover. A non-spouse beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury regulations and other Revenue Service guidance. If the Participant dies before his or her required beginning date and the non-spouse beneficiary rolls over to an IRA the maximum amount eligible for rollover, the beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treas. Reg. section 1.401(a)(9)-3, A-4(c), in determining the required minimum distributions from the IRA that receives the non-spouse beneficiary's distribution.

   (b) If the Participant's named beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Code section 401(a)(9)(E).

   (c) For distributions on or after December 31, 2007, a Participant may elect to roll over directly an eligible rollover distribution to a Roth IRA described in Code section 408A(b).

7. **Loans.** Loans will be available to a Participant from a TSA maintained under the Plan only if and to the extent permitted under that TSA. As part of its certification, each Provider must agree that, upon request, it will promptly provide any other approved Provider (or the Employer, if the Employer so determines) with such information relating to loans to a Participant as may be needed for such other Provider to determine that a loan to that Participant does not need to be reported as a taxable distribution by reason of the limit on nontaxable loans under section 72(p) of the Code. The Employer will provide all Providers with the names of all other Providers that offer loans to Participants under their TSAs.

8. **Qualified Reservist Distributions**. Subject to the terms of the TSA, a Qualified Reservist Distribution is any distribution on or after September 12, 2001, to an individual who is ordered or called to active duty after September 11, 2001, if: (i) the distribution is from amounts attributable to elective deferrals in a 403(b) plan; (ii) the individual was (by reason of being a member of a reserve component, as defined in section 101 of title 37, United States Code) ordered or called to active duty for a period in excess of 179 days or for an indefinite period; and (iii) the Plan makes the distribution during the period beginning on the date of such order or call, and ending at the close of the active duty period.

9. **HEART Act:**

   (a) In the case of a death occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Code section 414(u)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed and then terminated employment on account of death.

   (b) For years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined by Code section 3401(h)(2), is treated as an employee of the employer making the payment, (ii) the differential wage payment is treated as includible compensation under Code section 403(b)(3), and (iii) the Plan is not treated as failing to meet the requirements of any provision described in Code section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.

   (c) Subject to the terms of the TSA, Participants shall ☒ shall not ☐ be allowed to make elective deferrals from differential wage payments as defined by Code section 3401(h)(2). If no election is made in this subsection (c), then Participants shall be allowed to make elective deferrals from differential wage payments.

   (d) Notwithstanding item (b)(i) above of this subsection 9, for purposes of Code section 403(b)(7)(A)(ii) and 403(b)(11), an individual is treated as having been severed from employment during any period the individual is performing service in the uniformed services described in Code section 3401(h)(2)(A).

      (1) Subject to the terms of the TSA, Participants shall ☒ shall not ☐ not be allowed to elect to receive a distribution by reason of deemed severance from employment. If no election is made in this subsection (d)(1), then Participants shall not be allowed to elect to receive a distribution by reason of deemed severance from employment.

      (2) If a Participant received a distribution by reason of deemed severance from employment under subsection (d)(1), such Participant may not make an elective deferral or employee contribution during the 6-month period beginning on the date of the distribution.

      (3) Item (b) (iii) above of this subsection 9 applies only if all employees of the Employer performing service in the uniformed services described in Code section 3401(h)(2)(A) are entitled to receive differential wage payments (as defined in Code section 3401(h)(2)) on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, to make contributions based on the payments on reasonably equivalent terms (taking into account Code section 410(b)(3), (4), and (5), as is those Code sections applied to a section 403(b) plan).

Article V – Plan Status and Effective Date

1. ☐ This is a new Plan

   or

   ☒ This is an amendment and restatement of an existing Plan

   Identify the Plan being restated: **45576 School Administrators of Montana**.

2. This Plan (or this restatement of the Plan) is effective *(enter month, day and year)*: ____________________.

* * * * *

School Administrators of Montana
Name of Employer
E.I.N

900 N Montana, Suite A-4, Helena, MT 59601-4597
Address of Employer

____
By: Signature   Date

____
Name and title (Print)

SCHEDULE A
AUTHORIZED 403(b) PROVIDER LIST

This list identifies the Providers available under the designated 403(b) Plan maintained by the Employer, on or after the effective date of this Schedule A ("Effective Date"). Providers on this Schedule A shall be subject to requirements and restrictions under the written plan, if any, provided however that such requirements and restrictions are not intended to enlarge the rights and benefits otherwise set forth in the Individual TSA(s). Transfers/exchanges are permitted to and from, and loans and hardships are permitted from, all Providers listed below that have agreed to share necessary compliance information (note: If the field is left blank, the answer is assumed to be "no"), subject to any additional restrictions under the Plan or the individual TSA(s).

Employer: **School Administrators of Montana**　　Plan Name: **School Adminstrators of Montana**

Effective Date: ______________　　This Schedule A was prepared/revised on: ______________

A. Providers authorized to receive contributions and, subject to the terms of the Plan, exchanges, and/or transfers as well as hardship distributions and loans (if available under the Individual Arrangements).

Name of Provider	Name of TSA(s) (Products)	Contact Name	Contact Phone	Agreed to Information Sharing Yes	Agreed to Information Sharing No
VALIC	**Portfolio Director**	**Brian ~~Olseen~~** Olsen	**406-781-8446**	**Yes**	

B. Providers included in the Plan (in accordance with applicable law) but which are not authorized to receive new contributions under the Plan:

Name of Provider	Name of TSA(s) (Products)	Contact Name	Contact Phone	Agreed to Information Sharing Yes	Agreed to Information Sharing No

Subject to the provisions of the Plan, exchanges from these Providers are permitted to a Provider authorized to receive contributions.

C. Providers that may receive exchanges/transfers under the Plan pursuant to an information sharing agreement, (never approved to receive contributions under the Plan):

Name of Provider	Name of TSA(s) (Products)	Contact Name	Contact Phone

(Providers identified in Section C prior to January 1, 2009 are presumed to reflect a commitment by the Vendor and the Employer to enter into an information sharing agreement not later than January 1, 2009).

Important Notes:

1. **As provided under the Plan, any authorized Provider named in Schedule A agrees to share information necessary for compliance purposes with Employer, an Administrator and/or with any other 403(b) provider as may be required or desirable to facilitate compliance with the Plan and all applicable laws and regulations.**
2. **Each Provider named above is required to maintain records of the TSA(s) offered under the Plan to comply with the information sharing requirements of the Plan and applicable information sharing agreements.**

(Use an additional page for additional listings in any category above.)

December 1, 2010

Dear Plan Sponsor:

The attached sample plan document is an example of a document that might be used by a private tax-exempt employer for a voluntary 403(b) program intended to be exempt from the requirements of Title I of ERISA. It is only a sample document, and neither the sample document nor letter is intended or authorized for reliance by an individual or organization as tax or legal advice. Employers should consult with counsel as appropriate with regard to any significant employee benefit plan matters.

A private tax-exempt employer might have a voluntary non-ERISA 403(b) plan in one or more of several circumstances, including:

- The employer may have frozen a voluntary non-ERISA program and established an ERISA 403(b) or 401(k) plan for future contributions;
- The employer may have maintained the voluntary 403(b) arrangement to accept all employee deferrals which were not matched by the employer under the plan or under a separate plan.

Many employers with these non-ERISA 403(b) programs have not maintained a written plan document governing the program because of concerns that such a document could be viewed as maintaining a plan, for purposes of Title I of ERISA, and thus forfeit the ERISA exemption.

The issuance on July 24, 2007, by the United States Treasury Department and the Internal Revenue Service (IRS) of final 403(b) regulations, which now include a requirement that 403(b) programs be maintained pursuant to a written plan, was followed quickly by guidance from the United States Department of Labor (DOL) in the form of Field Assistance Bulletin (FAB) No. 2007-02. **A copy of that guidance is on the VALIC website for your reference and may also be accessed at the DOL website at www.dol.gov.** In general, that guidance expressed the DOL's view that an employer could satisfy the requirements of the final 403(b) regulations while still preserving the plan's exemption from Title I of ERISA, provided that care was taken to avoid the creation of employer discretionary authority, such as making decisions about withdrawals or loans, or otherwise exercising or limiting the exercise of a participant's rights under the investment product(s) they had selected. The attached sample document would require, among other things, that providers under the plan coordinate with each other with respect to certain transactions, including loans and financial hardship withdrawals, for those participants maintaining accounts with more than one provider under the plan.

The IRS released additional guidance in November 2007 in the form of IRS Rev. Proc. 2007-71 which provided clarification regarding which contracts and accounts must be included in an employer's 403(b) plan. **A copy of that guidance is on the VALIC website for your reference and may also be accessed at the IRS website at www.irs.gov.** It provides generally that any provider that has received contributions after 2004, generally must be incorporated into the plan's compliance coordination procedures, except that:

- Accounts of former employees and beneficiaries with providers that were deselected between 2005 and 2008 generally can be excluded.

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- Accounts of current employees with that same group of previously deselected providers generally may be disregarded if (a) the employer has made a reasonable good faith effort to include them in the plan's compliance coordination procedures, and (b) the provider refuses to agree to such compliance procedures.

The sample document references a list of approved providers under the plan. Such a list would need to be added by the plan sponsor.

Rev. Proc 2007-71 also provided sample plan language for public schools. The attached sample document does not incorporate that sample plan language.

As a general matter employers are required to comply with the requirements of the regulations as of January 1, 2009. However, in December of 2008, the IRS issued Notice 2009-3 which extended the deadline for sponsors of 403(b) plans to implement a written plan document. Accordingly, sponsors must adopt a written plan for their non-ERISA 403(b) programs not later than December 31, 2009. **Also, the DOL recently issued additional guidance which addressed what constitutes a voluntary-only non-ERISA plan in FAB 2009-2 and FAB 2010-01 both of which can be accessed at the DOL website at www.dol.gov.**

Sincerely,

VALIC

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