



Attachment 1 - NC 401(k) Plan – Hardship Withdrawals

7.02 Hardship Withdrawal

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(c) As a condition for Hardship there must exist with respect to the Member an immediate and heavy need to draw upon his Accounts. The Primary Administrator shall presume the existence of such immediate and heavy need if the requested withdrawal is on account of any of the following:

- (i) expenses for (or necessary to obtain) medical care that would be deductible under~~described in~~ Section 213(d) of the Code, determined without regard to the limitations in Section 213(a) of the Code (relating to the applicable percentage of adjusted gross income and the recipients of the medical care), provided that, if the recipient of the medical care is not listed in Section 213(a) of the Code, the recipient is a primary Beneficiary under the Plan~~previously incurred by the Member, his spouse or any of his dependents (as defined in Section 152 of the Code) or necessary for these persons to obtain such medical care;~~
- (ii) costs directly related to the purchase of a principal residence ~~for~~ the Member (excluding mortgage payments);
- (iii) payment of tuition, related educational fees, and expenses for room and board for the next 12 months of post-secondary education of the Member, his spouse or dependents (as defined in Section 152 of the Code without regard to Section 152(b)(1),(b)(2), and d(1)(B) of the Code), or for a primary Beneficiary under the Plan;
- (iv) payment of amounts necessary to prevent eviction of the Member from his principal residence or to avoid foreclosure on the mortgage of his principal residence; or
- (v) payments for burial or funeral expenses for the Member's deceased parent, spouse, children or dependents (as defined in Section 152 of the Code and



- without regard to Section 152(d)(1)(B) of the Code), or for a deceased primary Beneficiary under the Plan;
- (vi) expenses for the repair of damages to the Member's principal residence that would qualify for the casualty deduction under Section 165 of the Code (determined without regard to Section 165(h) of the Code and whether the loss exceeds 10 percent of the Member's adjusted gross income); ~~or~~
 - (vii) expenses and losses (including loss of income) incurred by a Member on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100-707, provided that the Member's principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster; or
 - (viii) the inability of the Member to meet such other expenses, debts or other obligations recognized by the Internal Revenue Service as giving rise to immediate and heavy financial need for purposes of Section 401(k) of the Code.

For the purposes of this Section 7.02(c), "primary Beneficiary under the Plan" is an individual who is named as a Beneficiary under the Plan and has an unconditional right, upon the death of the Member, to all or a portion of the Member's account balance under the Plan.

The amount of the withdrawal may not be in excess of the amount of the immediate and heavy financial need of the employee including any amounts necessary to pay any federal, state, or local income taxes and any amounts necessary to pay any penalties reasonably anticipated to result from the distribution.

In evaluating the relevant facts and circumstances, the Primary Administrator shall act in a nondiscriminatory fashion and shall treat uniformly those Members who are similarly situated. The Member shall furnish to the Primary Administrator such



supporting documents as the Primary Administrator may request in accordance with uniform and nondiscriminatory rules prescribed by the Primary Administrator.

- (d) As a condition for a Hardship withdrawal, the Member must demonstrate that the requested withdrawal is necessary to satisfy the financial need described in paragraph (c). To demonstrate such necessity, the Member who requests a hardship withdrawal to satisfy a financial need described in (c) above must comply with either (i) or (ii) as follows:

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- (ii) The Member must request, on such form as the Primary Administrator may prescribe, that the Primary Administrator makes its determination of the necessity for the withdrawal solely on the basis of his application. In that event, the Primary Administrator shall make such determination, provided the Member has obtained all distributions, other than distributions available only on account of Hardship, under all other plans of the Employer. ~~Effective for hardship withdrawals received in 2001, the Member is prohibited from making contributions (other than Rollover or Transfer Contributions) to the Plan and all other plans of the Employer under the terms of such plans or by means of an otherwise legally enforceable agreement until the later of January 1, 2002 or the date that is six months after receipt of the distribution.~~ For purposes of this subparagraph (ii), "all other plans of the Employer" shall include qualified and non-qualified deferred compensation plans and such other plans as may be designated under regulations issued under Section 401(k) of the Code, but shall not include health and welfare benefit plans or the mandatory employee contribution portion of a defined benefit plan.