

# ADOPTION AGREEMENT FOR ELIGIBLE TAX-EXEMPT 457 PLAN

The undersigned Employer, by executing this Adoption Agreement, establishes an Eligible 457 Plan ("Plan"). The Employer, subject to the Employer's Adoption Agreement elections, adopts fully the Plan provisions. This Adoption Agreement, the basic plan document and any attached appendices, amendments, or agreements permitted or referenced therein, constitute the Employer's entire plan document. *All "Election" references within this Adoption Agreement or the basic plan document are Adoption Agreement Elections. All "Article" or "Section" references are basic plan document references. Numbers in parentheses which follow election numbers are basic plan document references.* Where an Adoption Agreement election calls for the Employer to supply text, the Employer may lengthen any space or line, or create additional tiers. When Employer-supplied text uses terms substantially similar to existing printed options, all clarifications and caveats applicable to the printed options apply to the Employer-supplied text unless the context requires otherwise. The Employer makes the following elections granted under the corresponding provisions of the basic plan document.

## 1. EMPLOYER (1.10).

Name: The Research Foundation of the City University of New York

Address: 230 W. 41st St.

Street

New York

City

New York

State

10036

Zip

Telephone: (212) 417-8300

Taxpayer Identification Number (TIN): 13-1988190

## 2. PLAN NAME.

Name: Research Foundation of CUNY 457(b) Deferred Compensation Plan

3. **PLAN YEAR (1.26).** Plan Year means the 12 consecutive month period (except for a short Plan Year) ending every (Choose one of a. or b. and choose c. if applicable): [Note: Complete any applicable blanks under Election b. and c. with a specific date, e.g., "June 30" OR "the last day of February" OR "the first Tuesday in January." In the case of a Short Plan Year or a Short Limitation Year, include the year, e.g., "May 1, 2013."]

a. ☒ **December 31.**

b. ☐ **Plan Year:** ending: \_\_\_\_\_.

c. ☐ **Short Plan Year:** commencing: \_\_\_\_\_ and ending: \_\_\_\_\_.

4. **EFFECTIVE DATE (1.08).** The Employer's adoption of the Plan is a (Choose one of a. or b. Complete c. if new plan OR complete c. and d. if an amendment and restatement. Choose e. if applicable):

a. ☐ **New Plan.**

b. ☒ **Restated Plan.** The Plan is a substitution and amendment of an existing 457 plan.

### Initial Effective Date of Plan

c. ☒ 1/1/2008 (enter month day, year; hereinafter called the "Effective Date" unless 4d is entered below)

### Restatement Effective Date (If this is an amendment and restatement, enter effective date of the restatement.)

d. ☒ 1/1/2023 (enter month day, year)

### Special Effective Dates: (optional)

e. ☐ **Describe:** \_\_\_\_\_

5. **CONTRIBUTION TYPES.** (If this is a frozen Plan (i.e., all contributions have ceased), choose c. only):

**Contributions.** The Employer and/or Participants, in accordance with the Plan terms, make the following Contribution Types to the Plan (Choose one or more of a. through c. if applicable):

a. ☒ **Salary Reduction Contributions.** The dollar or percentage amount by which each Participant has elected to reduce his/her Compensation, as provided in the Participant's Salary Reduction Agreement (Choose one or more as applicable.):

And will Matching Contributions be made with respect to Salary Reduction Contributions?

1. ☐ **Yes.** See Question 15.

2. ☒ **No.** (By selecting this option, there will be No Matching Contributions)

- b. ☐ **Nonelective Contributions.** See Question 16.

**Frozen Plan**

- c. ☐ **Contributions cease.** All Contributions have ceased or will cease (Plan is frozen).

1. **Effective date of freeze:** \_\_\_\_\_ [Note: Effective date is optional unless this is the amendment or restatement to freeze the Plan.]

6. **ELIGIBLE EMPLOYEES (1.09).** The following Employees are eligible to participate in the Plan and are not Excluded Employees:

**Top-hat group:**

- a. ☒ **Top-Hat Group.** All Employees who the Employer determines are in a select group of management or highly compensated employees as would constitute a "top-hat" group within the meaning of Title I of ERISA.

1. ☒ **Specify top-hat group participants:** (1) RF Central Office Employees with the following titles: President, Chief, Deputy Chief, and Director; and (2) Field employees who earn more than \$105,000 per year

7. **INDEPENDENT CONTRACTOR (1.15).** The Plan (Choose one of a., b. or c.):

- a. ☐ **Participate.** Permits Independent Contractors to participate in the Plan.  
 b. ☒ **Not Participate.** Does not permit Independent Contractors to participate in the Plan.  
 c. ☐ **Specified Independent Contractors.** Permits the following specified Independent Contractors to participate:

[Note: If the Employer elects to permit any or all Independent Contractors to participate in the Plan, the term Employee as used in the Plan includes such participating Independent Contractors.]

8. **COMPENSATION (1.05).** Subject to the following elections, Compensation for purposes of allocation of Deferral Contributions means:

**Base Definition (Choose one of a., b. or c.):**

- a. ☒ Wages, tips and other compensation on Form W-2.  
 b. ☐ Code §3401(a) wages (wages for withholding purposes).  
 c. ☐ 415 safe harbor compensation.

[Note: The Plan provides that the base definition of Compensation includes amounts that are not included in income due to Code §§401(k), 125, 132(f)(4), 403(b), SEP, 414(h)(2), & 457. Compensation for an Independent Contractor means the amounts the Employer pays to the Independent Contractor for services, except as the Employer otherwise specifies below.]

**Modifications to Compensation definition.** The Employer elects to modify the Compensation definition as follows (Choose one of d. or e.):

- d. ☐ **No modifications.** The Plan makes no modifications to the definition.  
 e. ☒ **Modifications (Choose one or more of 1. through 5.):**  
 1. ☒ **Fringe benefits.** The Plan excludes all reimbursements or other expense allowances, fringe benefits (cash and noncash), moving expenses, deferred compensation and welfare benefits.  
 2. ☐ **Elective Contributions. (1.05(E))** The Plan excludes a Participant's Elective Contributions.  
 3. ☐ **Bonuses.** The Plan excludes bonuses.  
 4. ☐ **Overtime.** The Plan excludes overtime.  
 5. ☒ **Specify:** Includes elective deferrals under Code Sections 125, 401(k), 403(b), and 457(b). Excludes backpay awards, differential wage payments, and health plan opt-out payments

**Compensation taken into account.** For the Plan Year in which an Employee first becomes a Participant, the Plan Administrator will determine the allocation of matching and nonelective contributions by taking into account (Choose one of f. or g.):

- f. ☐ **Plan Year.** The Employee's Compensation for the entire Plan Year. (N/A if no matching or nonelective contributions)  
 g. ☐ **Compensation while a Participant.** The Employee's Compensation only for the portion of the Plan Year in which the Employee actually is a Participant. (N/A if no matching or nonelective contributions)

9. **POST-SEVERANCE COMPENSATION (1.05(F)).** Compensation includes the following types of Post-Severance Compensation paid within any applicable time period as may be required (Choose one of a. or b.):

- a. ☐ **None.** The Plan does not take into account Post-Severance Compensation as to any Contribution Type except as required under the basic plan document.

b. ☒ **Adjustments.** The following Compensation adjustments apply (*Choose one or more*):

1. ☒ **Regular Pay.** Post-Severance Compensation will include regular pay and it will apply to all Contribution Types.
2. ☐ **Leave-Cashouts.** Post-Severance Compensation will include leave cashouts and it will apply to all Contribution Types.
3. ☐ **Nonqualified Deferred Compensation.** Post-Severance Compensation will include deferred compensation and it will apply to all Contribution Types.
4. ☐ **Salary Continuation for Disabled Participants.** Post-Severance Compensation will include salary continuation for disabled participants and it will apply to all Contribution Types.
5. ☐ **Differential Wage Payments.** Post-Severance Compensation will include Differential Wage Payments (military continuation payments) and it will apply to all Contribution Types.
6. ☐ **Describe alternative Post-Severance Compensation definition, limit by Contribution Type, or limit by Participant group:** \_\_\_\_\_

10. **NORMAL RETIREMENT AGE (1.21).** A Participant attains Normal Retirement Age under the Plan (*Choose one of a. or b.*):

- a. ☒ **Plan designation.** (Plan Section 3.05(B)) When the Participant attains age 65. [Note: The age may not exceed age 70 1/2. The age may not be less than age 65, or, if earlier, the age at which a Participant may retire and receive benefits under the Employer's pension plan, if any.]
- b. ☐ **Participant designation.** (Plan Section 3.05(B) and (B)(1)) When the Participant attains the age the Participant designates, which may not be earlier than age \_\_\_\_\_ and may not be later than age \_\_\_\_\_. [Note: The age may not exceed age 70 1/2.]

11. **ELIGIBILITY CONDITIONS (2.01).** (*Choose one of a. or b.*):

- a. ☐ **No eligibility conditions.** The Employee is eligible to participate in the Plan as of his/her first day of employment with the employer.
- b. ☒ **Eligibility conditions.** To become a Participant in the Plan, an Eligible Employee must satisfy the following eligibility conditions (*Choose one or more of 1., 2. or 3.*):
  1. ☐ **Age.** Attainment of age \_\_\_\_\_.
  2. ☐ **Service.** Service requirement (*Choose one of a. or b.*):
    - a. ☐ **Year of Service.** One year of Continuous Service.
    - b. ☐ **Months of Service.** \_\_\_\_\_ month(s) of Continuous Service.
  3. ☒ **Specify:** Following notification by employer of plan eligibility

12. **PLAN ENTRY DATE (1.25).** "Plan Entry Date" means the Effective Date and (*Choose one of a. through d.*):

- a. ☒ **Monthly.** The first day of the month coinciding with or next following the Employee's satisfaction of the Plan's eligibility conditions, if any.
- b. ☐ **Annual.** The first day of the Plan Year coinciding with or next following the Employee's satisfaction of the Plan's eligibility conditions, if any.
- c. ☐ **Date of hire.** The Employee's employment commencement date with the Employer.
- d. ☐ **Specify:** \_\_\_\_\_

13. **SALARY REDUCTION CONTRIBUTIONS (1.28).** A Participant's Salary Reduction Contributions under Election 5.a. are subject to the following limitation(s) in addition to those imposed by the Code (*Choose one of a. or b.*):

- a. ☒ **No limitations.**
- b. ☐ **Limitations.** (*Choose one or more of 1., 2. or 3.*):
  1. ☐ **Maximum deferral amount.** A Participant's Salary Reductions may not exceed: \_\_\_\_\_ (specify dollar amount or percentage of Compensation).
  2. ☐ **Minimum deferral amount.** A Participant's Salary Reductions may not be less than: \_\_\_\_\_ (specify dollar amount or percentage of Compensation).
  3. ☐ **Specify:** \_\_\_\_\_

[Note: Any limitation the Employer elects in b.1. through b.3. will apply on a payroll basis unless the Employer otherwise specifies in b.3.]

**Special Normal Retirement Age Catch-Up Contributions (3.05).** The Plan (Choose one of c. or d.):

- c. ☒ **Permits.** Participants may make Normal Retirement Age catch-up contributions.  
**AND, Special Normal Retirement Age Catch-Up Contributions (Choose one of 1. or 2.): (N/A if no matching contributions)**
1. ☐ will be taken into account in applying any matching contribution under the Plan.
  2. ☐ will not be taken into account in applying any matching contribution under the Plan.
- d. ☐ **Does not permit.** Participants may not make Normal Retirement Age catch-up contributions.

14. **SICK VACATION AND BACK PAY (6.03(C)).** The Plan (Choose one of a. or b.):

- a. ☐ **Permits.** Participants may make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay. Notwithstanding anything to the contrary, for purposes of Salary Reduction Contributions, Compensation will include leave cash-outs (as defined in Section 1.05(F)) and accumulated sick pay, accumulated vacation pay and back pay.
- b. ☒ **Does Not Permit.** Participants may not make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay.

15. **MATCHING CONTRIBUTIONS (3.03).** The Employer Matching Contributions under Election 5.a. are made as follows (Choose one or more of a. through d.):

- a. ☐ **Fixed formula.** An amount equal to \_\_\_\_\_ of each Participant's Salary Reduction Contributions.
- b. ☐ **Discretionary formula.** An amount (or additional amount) equal to a matching percentage the Employer from time to time may deem advisable of each Participant's Salary Reduction Contributions.
- c. ☐ **Tiered formula.** The Employer will make matching contributions equal to a uniform percentage of each tier of each Participant's Salary Reduction Contributions, determined as follows:

**NOTE:** Fill in only percentages or dollar amounts, but not both. If percentages are used, each tier represents the amount of the Participant's applicable contributions that equals the specified percentage of the Participant's Compensation (add additional tiers if necessary):

Tiers of Contributions (indicate \$ or %)	Matching Percentage
First _____	_____ %
Next _____	_____ %
Next _____	_____ %
Next _____	_____ %

- d. ☐ **Specify:** \_\_\_\_\_

**Time Period for Matching Contributions.** The Employer will determine its Matching Contribution based on Salary Reduction Contributions made during each (Choose one of e. through h.):

- e. ☐ **Plan Year.**
- f. ☐ **Plan Year quarter.**
- g. ☐ **Payroll period.**
- h. ☐ **Specify:** \_\_\_\_\_

**Salary Reduction Contributions Taken into Account.** In determining a Participant's Salary Reduction Contributions taken into account for the above-specified time period under the Matching Contribution formula, the following limitations apply (Choose one of i. through l.):

- i. ☐ **All Salary Reduction Contributions.** The Plan Administrator will take into account all Salary Reduction Contributions.
- j. ☐ **Specific limitation.** The Plan Administrator will disregard Salary Reduction Contributions exceeding \_\_\_\_\_ % of the Participant's Compensation.
- k. ☐ **Discretionary.** The Plan Administrator will take into account the Salary Reduction Contributions as a percentage of the Participant's Compensation as the Employer determines.
- l. ☐ **Specify:** \_\_\_\_\_

**Allocation Conditions.** To receive an allocation of Matching Contributions, a Participant must satisfy the following allocation condition(s) (Choose one of m. or n.):

- m. ☐ **No allocation conditions.**

- n. ☐ **Conditions.** The following allocation conditions apply to Matching Contributions *(Choose one or more of 1. through 4.)*:
1. ☐ **Service condition.** The Participant must complete the following number of months of Continuous Service during the Plan Year: \_\_\_\_\_.
  2. ☐ **Employment condition.** The Participant must be employed by the Employer on the last day of the Plan Year.
  3. ☐ **Limited Severance Exception.** Any condition specified in 1. or 2. does not apply if the Participant incurs a Severance from Employment during the Plan Year on account of death, disability or attainment of Normal Retirement Age in the current Plan Year or in a prior Plan Year.
  4. ☐ **Specify:** \_\_\_\_\_.

16. **NONELECTIVE CONTRIBUTIONS (1.20, 3.06).** The Nonelective Contributions under Election 5.b. are made as follows: *(Choose one):*

- a. ☐ **Discretionary.** An amount the Employer in its sole discretion may determine.
- b. ☐ **Fixed.** \_\_\_\_\_ % of Compensation.
- c. ☐ **Other.** A Nonelective Contribution may be made as follows: \_\_\_\_\_.

**Allocation Conditions. (3.07).** To receive an allocation of Nonelective Contributions, a Participant must satisfy the following allocation condition(s) *(Choose one of d. or e.)*:

- d. ☐ **No allocation conditions.**
- e. ☐ **Conditions.** The following allocation conditions apply to Nonelective Contributions *(Choose one or more of 1. through 4.)*:
  1. ☐ **Service condition.** The Participant must complete the following number of months of Continuous Service during the Plan Year: \_\_\_\_\_.
  2. ☐ **Employment condition.** The Participant must be employed by the Employer on the last day of the Plan Year.
  3. ☐ **Limited Severance Exception.** Any condition specified in 1. or 2. does not apply if the Participant incurs a Severance from Employment during the Plan Year on account of death, disability or attainment of Normal Retirement Age in the current Plan Year or in a prior Plan Year.
  4. ☐ **Specify:** \_\_\_\_\_.

17. **TIME AND OPTIONAL FORMS OF PAYMENT OF ACCOUNT (4.02).** The Plan will distribute to a Participant who incurs a Severance from Employment his/her Vested Account as follows:

**Default Time and Form of Payment.** The Plan, in the absence of a permissible Participant or Beneficiary election to commence payment later, will pay the Account in the form of a lump sum *(Choose one of a. through c. If the default form of payment is not a lump sum, select c and indicate the default form.)*:

- a. ☒ **Specified Date.** 90 days after the Participant's Severance from Employment or death. [Note: In a Tax-Exempt Organization 457 Plan, the Employer may wish to designate a specific payment date. This date will be the date upon which a Participant's Deferred Compensation is "made available" and therefore becomes taxable to the Participant, absent a proper Participant election to defer payment.]
- b. ☐ **Immediate.** As soon as administratively practicable following the Participant's Severance from Employment or death.
- c. ☐ **Specify:** \_\_\_\_\_.

**Optional Forms of Payment.** A Participant and Beneficiary may elect one of the following form(s) of distribution. *(Choose one or more of d. through h. as applicable. If the Beneficiary has additional limitations on the form of payment, indicate under specify (h).)*:

- d. ☒ **Lump sum.** A single payment.
- e. ☒ **Fixed Period Payments over a set number of years:** Multiple payments made over the following period of years: 2-30
- f. ☒ **Installments for required minimum distributions only.** Payments as necessary under Plan Section 4.03.
- g. ☒ **Lifetime Annuity (single life or joint life).**
- h. ☐ **Specify:** \_\_\_\_\_.

**Participant Election.** (Plan Sections 4.02(A) and (B)) The Plan *(Choose one of i. or j. If only the initial election is permitted, select Specify (k))*:

- i. ☒ **Permits.** Permits a Participant to elect to postpone distribution beyond the time the Employer has elected in a. through c. Participants may make one additional election to defer after the initial deferral election as described in 4.02(B).
- j. ☐ **Does not permit.** Does not permit a Participant to elect the timing of Account distribution.
- k. ☐ **Specify:** \_\_\_\_\_.

18. **BENEFICIARY ELECTION.** The Plan (Choose one of a. through c.; select d if applicable):

- a. ☒ **Does not permit.** Beneficiaries cannot elect to defer payment (default timing of payment will apply).
- b. ☐ **Permits initial election.** Beneficiary may elect to postpone distribution beyond the default timing during the initial election period only.
- c. ☐ **Permits initial election and one additional election to defer.** Beneficiary may elect to postpone distribution beyond the default timing and may make one additional election to defer consistent with Section 4.03.
- d. ☐ **Describe:** \_\_\_\_\_

[Note: The Employer under Election 18d. may describe an alternative distribution timing or afford the Beneficiary an election which is narrower than that permitted under Election 18c., or include special provisions related to certain beneficiaries, (e.g., a surviving spouse). However, any election under Election 18d. must require distribution to commence no later than the Section 4.03 required date.]

19. **DISTRIBUTIONS PRIOR TO SEVERANCE FROM EMPLOYMENT (4.05).** A Participant prior to Severance from Employment may elect to receive a distribution of his/her Vested Account under the following distribution options (Choose one of a. or b.):

- a. ☐ **None.** A Participant may not receive a distribution prior to Severance from Employment.
- b. ☒ **Distributions.** Prior to Severance from Employment are permitted as follows (Choose one or more of 1. through 4.):
  - 1. ☒ **Unforeseeable emergency.** A Participant may elect a distribution from his/her Account in accordance with Plan Section 4.05(A) (for the Participant, spouse, dependents or beneficiaries)
  - 2. ☐ **One-time De minimis exception.** (Plan Section 4.05(B)) If the Participant: (i) has an Account that does not exceed \$5,000; (ii) has not made or received an allocation of any Deferral Contributions under the Plan during the two-year period ending on the date of distribution; and (iii) has not received a prior Plan distribution under this One-time de minimis exception, then (Choose one of a. or b.):
    - a. ☐ **Participant election/optional distribution.** The Participant may elect to receive all of his/her Account.
    - b. ☐ **Mandatory distribution.** The Plan Administrator will distribute the Participant's entire Account.
  - 3. ☐ **Age 70 1/2.** A Participant who attains age 70 1/2 prior to Severance from Employment may elect distribution of any or all of his/her Account.
  - 4. ☐ **Specify:** \_\_\_\_\_

[Note: An Employer need not permit any in-service distributions. Any election must comply with the distribution restrictions of Code Section 457(d).]

20. **QDRO (4.06).** The QDRO provisions (Choose one of a., b. or c.):

- a. ☐ **Apply.**
- b. ☒ **Do not apply.**
- c. ☐ **Specify:** \_\_\_\_\_

21. **HEART ACT PROVISIONS (1.29(C)(3)/3.09).** The Employer elects to (Choose one of a. or b. and c. or d.):

**Continued Benefit Accruals.**

- a. ☒ **Not apply the benefit accrual provisions of Section 3.09.**
- b. ☐ **Apply the benefit accrual provisions of Section 3.09.**

**Distributions for deemed severance of employment (1.29(C)(3))**

- c. ☒ **The Plan does NOT permit distributions for deemed severance of employment.**
- d. ☐ **The Plan permits distributions for deemed severance of employment.**

22. **TRUST PROVISIONS.** (Section 5.09; Leave blank if not applicable):

- a. ☐ **Rabbi Trust.** The Plan will use an unfunded rabbi (grantor) trust.

23. **Plan-to-Plan Transfers to the Plan (Section 8.03):** Plan-to-Plan Transfers to this Plan are prohibited by Section 8.03 unless elected below:

- a. ☐ **Direct transfers may be made to the Plan from another Tax-Exempt Organization Eligible 457(b) Plan to the extent permitted by law.**
- b. ☐ **Direct transfers may be made to the Plan from another Tax-Exempt Organization Eligible 457(b) Plan, subject to the following limitations:** \_\_\_\_\_
- c. ☒ **Direct plan-to-plan transfers to this Plan are not allowed (Plan default under Section 8.03)**

24. **Plan-to-Plan Transfers from the Plan (Section 8.03):** Plan-to-Plan Transfer from the Plan are prohibited by Section 8.03 unless elected below:

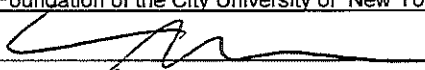
- a. ☒ Direct transfers from the Plan may be made to another Tax-Exempt Organization Eligible 457(b) Plan to the extent permitted by law.
- b. ☐ Direct transfers from the Plan may be made to another Tax-Exempt Organization Eligible 457(b) Plan, subject to the following limitations: \_\_\_\_\_
- c. ☐ Direct plan-to-plan transfers from this Plan are **not** allowed (Plan default under Section 8.03)

This Plan is executed on the date(s) specified below:

**Use of Adoption Agreement.** Failure to complete properly the elections in this Adoption Agreement may result in disqualification of the Employer's Plan. The Employer only may use this Adoption Agreement only in conjunction with the corresponding basic plan document.

EMPLOYER: The Research Foundation of the City University of New York

By: [signed electronically]



[signed electronically]

DATE SIGNED

7 Nov 2023

*Elizabeth Venostek, COO*