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**JACKSON COUNTY INTERMEDIATE SCHOOL DISTRICT  
DEPENDENT CARE ASSISTANCE PLAN**

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# JACKSON COUNTY INTERMEDIATE SCHOOL DISTRICT DEPENDENT CARE ASSISTANCE PLAN

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## ARTICLE I

### INTRODUCTION

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- 1.1 **Creation and Title.** The Employer hereby amends its welfare benefit plan under the terms and conditions set forth in this document. The Plan is to be known as Jackson County Intermediate School District Dependent Care Assistance Plan.
- 1.2 **Effective Date.** The provisions of the Plan shall be effective as of January 1, 2003.
- 1.3 **Purpose.** The purpose of the Plan is to provide reimbursement dependent care expenses of Participants not otherwise covered by insurance or by the Employer. The Employer intends that the Plan qualifies as a dependent care assistance plan under Section 129(d) of the Code, and that the benefits provided under the Plan be eligible for exclusion from Participants' income under Section 129 of the Code.

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## ARTICLE II

### DEFINITIONS

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As used in this Plan document, the following terms shall have the following meanings:

- 2.1 **"Agreement to Participate"** means the agreement evidencing an Eligible Employee's election to participate in the Plan and setting forth the amount of Dependent Care Reimbursement Benefits to be made available to the Participant for a Plan Year or portion of a Plan Year as reimbursement for Dependent Care Expenses.
- 2.2 **"Benefit Entry Date"** means for each Eligible Employee the day that the Employee becomes eligible to participate in each of the Plan's Benefits. If the Plan does not have different eligibility requirements for each benefit, the Benefit Entry Date will be the same as the Plan Entry Date.
- 2.3 **"Cafeteria Plan"** means Jackson County Intermediate School District Cafeteria Plan.
- 2.4 **"Code"** means the Internal Revenue Code of 1986, as amended from time to time.
- 2.5 **"Compensation"** means all the earned income, salary, wages and other earnings paid by the Employer to a Participant during a Plan Year, including any amounts contributed by the Employer pursuant to a salary reduction agreement which are not includable in gross income under Sections 125, 402(a)(8), 402(h), 403(b) or 457(b) of the Code.
- 2.6 **"Dependent"** means an individual who is a dependent within the meaning of Section 152(a) of the Code of a Participant in the Plan.
- 2.7 **"Dependent Care Expenses"** means expenses incurred by a Participant for the care of a Dependent or Spouse of the Participant or for related household services, which would be considered employment-related expenses under Section 21(b)(2) of the Code.
- 2.8 **"Dependent Care Reimbursement Benefits"** means, for any Plan Year, the amount available to a Participant as benefits in the form of reimbursements of Dependent Care Expenses.
- 2.9 **"Dependent Care Reimbursement Benefits Account"** means the account established by the Plan Administrator under the Plan for each Participant from which benefits in the form of reimbursements of Dependent Care Expenses shall be paid.
- 2.10 **"Effective Date"** shall be January 1, 2003.
- 2.11 **"Eligible Employee"** means an Employee, as defined in Section 2.12 below, who is eligible to participate in the Employer's health care program. However, any Employee who is covered by a collective bargaining group/unit (union) will only be eligible to participate in the Plan set forth in this document when and to the extent so provided and acknowledged through the collective bargaining process.
- 2.12 **"Employee"** means a person who is currently or hereafter employed by the Employer, or by any other employer aggregated under sections 414(b), (c), (m), (n) or (o) of the Code and the regulations there under, including a Leased Employee subject to section 414(n) of the Code. Excluding individuals who are not contemporaneously classified as Employees of the Employer for purposes of the Employer's payroll system (including, without limitation, individuals employed by temporary help firms, technical help firms, staffing firms, employee leasing firms, professional employer organizations or other staffing firms whether or not deemed to be "common law" Employees or "Leased Employees" within the

meaning of section 414(n) (o) of the Code) are not considered to be Eligible Employees of the Employer and shall not be eligible to participate in the Plan. In the event any such individuals are reclassified as Employees for any purpose, including without limitation, common law or statutory employees, by any action of any third party, including, without limitation, any government agency, or as a result of any private lawsuit, action, or administrative proceeding, such individuals shall notwithstanding such reclassification, remain ineligible for participation hereunder. Notwithstanding foregoing, the exclusive means for individuals who are not contemporaneously classified as an Employee of the Employer on the Employer's payroll system to become eligible to participate in this Plan is through an amendment to this Plan, duly executed by the Employer, which specifically renders such individuals eligible for participation hereunder.

The Plan Administrator shall have full and complete discretion to determine eligibility for participation and benefits under this Plan, including, without limitation, the determination of those individuals who are deemed Employees of the Employer (or any controlled group member). The Plan Administrator's decision shall be final, binding, and conclusive on all parties having or claiming a benefit under this Plan. This Plan is to be construed to exclude all individuals who are not considered Employees for purposes of the Employer's payroll system, and the Plan Administrator is authorized to do so, despite the fact that its decision may result in the loss of the Plan's tax qualification.

- 2.13 "Employer"** means Jackson County Intermediate School District or any of its affiliates, successors, or assignors, which adopt the Plan.
- 2.14 "Participant"** means any Employee who has met the eligibility requirements of Section 3.1 of the Plan and has elected to participate in the Plan by providing the Plan Administrator with an executed Agreement to Participate and Salary Reduction Agreement.
- 2.15 "Plan"** means the Jackson County Intermediate School District Dependent Care Assistance Plan, as described herein.
- 2.16 "Plan Administrator"** means the Employer or such other person or committee as may be appointed by the Employer to administer the Plan.
- 2.17 "Plan Entry Date"** means for each Eligible Employee, the first day of the month coincident with or next following the day that the Employee becomes eligible to participate in the Plan.
- 2.18 "Plan Year"** means the 12-consecutive month period beginning on October 1 and ending on September 30.
- 2.19 "Salary Reduction Agreement"** means the agreement by an Employee authorizing the Employer to reduce the Employee's Compensation while a Participant during the Plan Year for purposes of obtaining Dependent Care Reimbursement Benefits under the Plan.
- 2.20 "Spouse"** means an individual who is legally married to a Participant but shall not include an individual separated from a Participant under a decree of legal separation.
- 2.21 "Timely Submitted"** means, unless the Plan Administrator has specific and special cause to alter the definition of this phrase, within 30 calendar days of event that has triggered the Change in Status.

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**ARTICLE III**

**PARTICIPATION**

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- 3.1 Eligibility.** Each Eligible Employee, as defined in section 2.11 above, shall be eligible to participate in the Plan upon the first day of employment with the Employer.
- 3.2 Commencement of Participation.** An Eligible Employee shall become a Participant in the Plan after providing the Plan Administrator with an executed Benefits Enrollment Form setting forth the amount of Dependent Care Reimbursement Benefits to be made available to the Eligible Employee for the immediately following Plan Year or remaining portion of the Plan Year. The Participant must, before the end of the first Plan Year of participation and, before the end of each subsequent Plan Year, provide the Plan Administrator with a newly executed Benefits Enrollment Form. Each such new agreement shall specify the amount to be made available to the Participant for the immediately following Plan Year or remaining portion of the Plan Year covered by the agreement. For the initial Plan Year only, if a Participant fails to execute a valid Benefits Enrollment Form before the Plan's original Effective Date, the Participant shall be ineligible to participate in the Plan for the initial Plan Year. Should a Participant fail to execute a valid Benefits Enrollment Form for any Plan Year before the start of the Plan Year, the Participant shall be ineligible to participate in the Plan for that Plan Year.
- 3.3 Term of Participation.** Each Participant shall be a Participant in the Plan for the entire Plan Year or the portion of the Plan Year remaining after the Participant's Entry Date, if later than the first day of the Plan Year. A Participant shall cease to be a Participant in the Plan on the earliest of:
- (a) The date the Participant dies, resigns or terminates employment with the Employer, subject to the provisions of Section 3.4;
  - (b) The date the Participant fails to make required contributions under the Plan;
  - (c) The date the Participant ceases to be an Employee; or
  - (d) The date the Plan terminates.
- 3.4 Treatment of Rehired Employees.** A Participant whose employment terminates and who is subsequently re-employed with less than 30 days separation of service will immediately rejoin the Plan with the same Benefit elections. Should the Participant return to service during the following Plan Year, the Participant would not be allowed to elect new Benefits prior to returning to service, unless the Employee should incur an applicable Change in Status.

A Participant whose employment terminates and who is subsequently re-employed with more than 29 days separation of service may immediately rejoin the Plan and may make new benefit elections. Any unused reimbursement Benefits Accounts balance prior to the initial separation of service date will be forfeit.

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## ARTICLE IV

### BENEFITS

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- 4.1 **Provision of Benefits.** Benefits under the Plan shall take the form of reimbursement of Dependent Care Expenses incurred by a Participant, the Participant's Spouse, and the Participant's Dependents during the Plan Year. A Participant, or former Participant, shall be entitled to benefits under the Plan for Dependent Care Expenses incurred only while a Participant.
- 4.2 **Amount of Reimbursement.** A Participant shall be entitled to benefits under the Plan for a Plan Year in an amount that does not exceed the Participant's Dependent Care Reimbursement Benefits. The amount of a Participant's Dependent Care Reimbursement Benefits shall be available during the Plan Year in accordance with the provisions of Section 5.2.
- 4.3 **Change in Participant Election.** A Participant may not change the amount of Dependent Care Reimbursement Benefits to be made available for a Plan Year during that Plan Year, except in accordance with the rules for changes in elections due to a change in status in the Cafeteria Plan.
- 4.4 **Nondiscriminatory Benefits.** The Plan is intended to not discriminate in favor of highly compensated individuals as to eligibility to participate, contributions, and benefits in accordance with applicable provisions of the Code. The Plan Administrator may take such actions as excluding certain highly compensated employees from participation in the Plan if, in the Plan Administrator's judgment, such actions serve to assure that the Plan does not violate applicable nondiscrimination rules.
- 4.5 **Maximum Benefits.** Notwithstanding any other provisions of this Plan, no Participant shall receive Dependent Care Reimbursement Benefits in excess of \$5,000 (or \$2,500 in the case of a married Participant filing a separate Federal income tax return) in a calendar year.

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## ARTICLE V

### FUNDING AND PAYMENT OF BENEFITS

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- 5.1 Funding.** Contributions to the Plan for the Plan Year shall be limited to the amounts determined by the Salary Reduction Agreements entered into by Participants for the Plan Year. Contributions to the Plan shall be made to, and all Plan assets shall be held in, such accounts or funds as the Employer deems appropriate.
- 5.2 Participants' Accounts and Account Balances.** The Plan Administrator shall establish a separate Dependent Care Reimbursement Benefits Account for each Participant in the Plan. The Plan Administrator shall credit a Participant's Dependent Care Reimbursement Benefits Account with the amount of Dependent Care Reimbursement Benefits to be made available to the Participant pursuant to the Agreement to Participate as those amounts are actually contributed to the Plan. The Plan Administrator shall charge a Participant's Dependent Care Reimbursement Benefits Account in the amount of any reimbursements made to the Participant. The amount of any reimbursement of Dependent Care Expenses may not exceed the balance of the Participant's Dependent Care Reimbursement Account at the time of the reimbursement. The Plan Administrator may also establish a minimum reimbursable amount below which reimbursements shall not be made during the Plan Year, but which must be made by the end of the Plan Year (including the period set forth in Section 5.4).
- 5.3 Payment of Benefits.** Reimbursement shall only be made under the Plan on the basis of Dependent Care Expenses incurred by the Participant or the Participant's Spouse, as presented to the Plan Administrator on a written form specified by the Plan Administrator. It shall be the duty of the Plan Administrator to construe what are and what are not Dependent Care Expenses subject to reimbursement from a Participant's Dependent Care Reimbursement Benefits Account. If the Plan Administrator determines that an expense is a Dependent Care Expense subject to reimbursement, the Plan Administrator shall reimburse the Participant for the Dependent Care Expense within a reasonable time. To make the determination that a Dependent Care Expense subject to reimbursement has been incurred, the Plan Administrator may require proper evidence of any or all of the following:
- (a) The name of the person or persons for whom the expenses have been incurred;
  - (b) The nature of the expenses incurred;
  - (c) The date the expenses were incurred;
  - (d) The amount of the requested reimbursement; or
  - (e) That the expenses have not been otherwise paid through a program offered by the Employer or any other employer, or reimbursed from any other source.

The Plan Administrator shall be the sole arbiter of what constitutes a Dependent Care Expense subject to reimbursement under the Plan.

In the event of the death of the Participant prior to the payment of any claims, payment shall be made in the following priority:

- (a) Executor of the Estate of the deceased Participant;
- (b) Spouse;



- (c) Family member held responsible for payment of deceased's medical bills;
- (d) Spouse of dependent with COBRA continuation rights.

**5.4 Forfeiture of Benefits.** A Participant forfeits any amount of Dependent Care Reimbursement Benefits under the Plan for a Plan Year if a claim for reimbursement is not provided to the Plan Administrator within 90 days after the last day of the Plan Year or the last day of participation in the Plan, if earlier. Upon such forfeiture, the Participant's Dependent Care Reimbursement Benefits Account shall be reduced to zero. At the discretion of the Employer, forfeitures of benefits under the Plan may be reallocated to Participants in any reasonable manner. Forfeitures of benefits may also be applied towards the cost of administering the Plan. Forfeitures of benefits shall become the sole property of the Employer.

**5.5 Annual Report to Participants.** On or before each January 31, the Plan Administrator shall provide a written statement to each Participant (or former Participant) of the amount of reimbursements of Dependent Care Expenses paid to the Participant (or former Participant) for the immediately preceding calendar year.

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## ARTICLE VI

### PLAN ADMINISTRATION

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- 6.1 Plan Administrator.** The Plan Administrator shall be responsible for the administration of the Plan.
- 6.2 Plan Administrator's Duties.** In addition to any rights, duties or powers specified throughout the Plan, the Plan Administrator shall have the following rights, duties and powers:
- (a) To interpret the Plan, to determine the amount, manner and time for payment of any benefits under the Plan, and to construe or remedy any ambiguities, inconsistencies or omissions under the Plan;
  - (b) To adopt and apply any rules or procedures to insure the orderly and efficient administration of the Plan;
  - (c) To determine the rights of any Participant, Spouse, Dependent or beneficiary to benefits under the Plan;
  - (d) To develop appellate and review procedures for any Participant, Spouse, Dependent or beneficiary denied benefits under the Plan;
  - (e) To provide the Employer with such tax or other information it may require in connection with the Plan;
  - (f) To employ any agents, attorneys, accountants or other parties (who may also be employed by the Employer) and to allocate or delegate to them such powers or duties as is necessary to assist in the proper and efficient administration of the Plan, provided that such allocation or delegation and the acceptance thereof is in writing; and
  - (g) To report to the Employer, or any party designated by the Employer, after the end of each Plan year regarding the administration of the Plan, and to report any significant problems as to the administration of the Plan and to make recommendations for modifications as to procedures and benefits, or any other change which might insure the efficient administration of the Plan.

However, nothing in this section 6.2 is meant to confer upon the Plan Administrator any powers to amend the Plan or change any administrative procedure or adopt any other procedure involving the Plan without the express written approval of the Employer regarding any amendment or change in administrative procedure, or Benefit Provider. Notwithstanding the preceding sentence, the Plan Administrator is empowered to take any actions he sees fit to assure that the Plan complies with the nondiscrimination requirements of Section 129 of the Code.

- 6.3 Information to be Provided to Plan Administrator.** The Employer, or any of its agents, shall provide to the Plan Administrator any employment records of any employee eligible to participate under the Plan. Such records shall include, but will not be limited to, any information regarding period of employment, leaves of absence, salary history, termination of employment, or any other information the Plan Administrator may need for the proper administration of the Plan. Any Participant or Dependent or any other person entitled to benefits under the Plan shall furnish to the Plan Administrator his correct post office address, his date of birth, the names, correct addresses and dates of birth of any beneficiaries, with proper proof thereof, or any other data the Plan Administrator might reasonably request to insure the proper and efficient administration of the Plan.

**6.4 Decision of Plan Administrator Final.** Subject to applicable State or Federal law, and the provisions of Section 6.5, below, any interpretation of any provision of this Plan made in good faith by the Plan Administrator as to any Participant's rights or benefits under this Plan is final and shall be binding upon the parties. Any misstatement or other mistake of fact shall be corrected as soon as reasonably possible upon notification to the Plan Administrator and any adjustment or correction attributable to such misstatement or mistake of fact shall be made by the Plan Administrator as he considers equitable and practicable.

**6.5 Review Procedures.** In cases where the Plan Administrator denies a benefit under this Plan for any Participant, Spouse or Dependent or any other person eligible to receive benefits under the Plan, the Plan Administrator shall furnish in writing to said party the reasons for the denial of benefits. The written denial shall be provided to the party within 30 days of the date the benefit was denied by the Plan Administrator. The written denial shall refer to any Plan or section of the Code upon which the Plan Administrator relied in making such denial. The denial may include a request for any additional data or material needed to properly complete the claim and explain why such data or material is necessary, and explain the Plan's claim review procedures. If requested in writing, and within 180 days of the claim denial, the Plan Administrator shall afford any claimant whose request for claim was denied a full and fair review of the Plan Administrator's decision, and within 60 days of the request for review of the denied claim, the Plan Administrator shall notify the claimant in writing of his final decision on the reviewed claim.

With respect to the denial of any claim for benefits from an insurance company or other third-party benefit provider, paid for as a premium-type Benefit under the Plan, the review procedures of the insurance company or other third-party benefit provider shall apply.

**6.6 Extensions of Time.** In any case, where the Plan Administrator determines special circumstances apply, the Plan Administrator may extend the amount of time any Participant, Spouse, Dependent, or beneficiary may need to appeal a claim, upon proper application to the Plan Administrator.

**6.7 Rules to Apply Uniformly.** The Plan Administrator shall perform his duties in a reasonable manner and on a nondiscriminatory basis and shall apply uniform rules to all Participants similarly situated under the Plan.

**6.8 Indemnity.** The Employer does hereby agree to indemnify and hold harmless, to the extent allowed by law and over and above any liability coverage contracts or directors and officers insurance, any officer or director of the Employer, designated by the Employer or the Plan Administrator who has been employed, hired or contracted to assist in the fulfillment of the administration of this Plan. In addition, the Employer agrees to pay any costs of defense or other legal fees incurred by any of the above parties over and above those paid by any liability or insurance contract.

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## ARTICLE VII

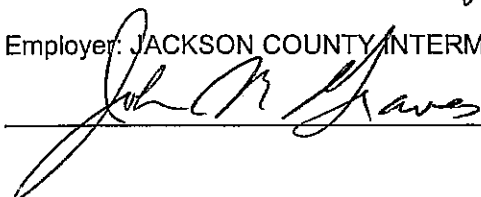
### GENERAL PROVISIONS

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- 7.1 **Amendment and Termination.** The Employer may amend or terminate this Plan at any time by legal action of the authorized agents of the Employer, subject to the limitation that no amendment shall change the terms and conditions of payment of any benefit a Participant, Spouse, Dependent or beneficiary was entitled to under the Plan at the time of the amendment or termination. The Employer may also make amendments apply retroactively to the extent necessary so that the Plan remains in compliance with Section 129 of the Code or any other provision of the Code applicable to the Plan.
- 7.2 **Nonassignability.** Any benefits to any Participants under this Plan shall be nonassignable and for the exclusive benefit of Participants, Spouses, Dependents, and beneficiaries. No benefit shall be voluntarily or involuntarily assigned, sold, or transferred.
- 7.3 **Not an Employment Contract.** By creating this Plan and providing benefits under the Plan, the Employer in no way guarantees employment for any employee or Participant under this Plan. Participation in this Plan shall in no way assure continued employment with the Employer.
- 7.4 **Participant Litigation.** In any action or proceeding against the Plan, or the administration thereof, employees or former employees of the Employer or any other person having or claiming to have an interest under the Plan shall not be necessary parties to such action or proceeding. The Employer, the Plan Administrator, or their registered representatives shall be the sole source for service of process against the Plan. Any final judgment, which is not appealed or appealable, shall be binding on the Employer and any interested party to the Plan.
- 7.5 **Addresses, Notice and Waiver of Notice.** Each Participant shall furnish the Employer with his correct post office address. Any communication, statement, or notice addressed to a Participant at his last post office address as filed with the Employer will be binding on such person. The Employer or Plan Administrator shall be under no legal obligation to search for or investigate the whereabouts of any person benefiting under this Plan. Any notice required under the Plan may be waived by such person entitled to such notice.
- 7.6 **Required Information.** Each Participant, Spouse or Dependent shall furnish to the Employer such documents, evidence or information as the Employer considers necessary or desirable to ensure the efficient operation and administration of the Plan and for the protection of the Employer.
- 7.7 **Severability.** In any case where any provision of this Plan is held to be illegal or invalid, such illegality or invalidity shall apply only to that part of the Plan and shall not apply to any remaining provisions of the Plan, and the Plan shall be construed as if such illegal or invalid provision had never existed under the Plan.
- 7.8 **Applicable Law.** The Plan shall be construed under the laws of the State of Michigan, to the extent not preempted by any Federal law.

Executed this 31st day of July, 2003.

Employer: JACKSON COUNTY INTERMEDIATE SCHOOL DISTRICT

  
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