

MFS Employer Sponsored §403(b) Mutual Fund Custodial Account Information Sharing Agreement ("Agreement")

This Agreement establishes the understanding between the Employer and MFS Heritage Trust Company ("MFS"), as custodian of MFS Employer Sponsored §403(b) Mutual Fund Custodial Accounts ("MFS Accounts") established by participants in the Employer's §403(b) Plan (the "Plan"), to share information necessary for compliance with the final regulations under §403(b) of the Internal Revenue Code of 1986, as amended (the "Code") (the "Regulations").

I. Employer and Plan Information

The term "Employer" means the entity identified below and, where appropriate, the entity or entities listed on Schedule A hereto as participating employers.

Name of Plan _____
Name of Employer _____ Tax Identification Number _____
Address _____ City _____ State _____ Zip _____
Contact Name _____ Email Address _____ Phone _____
Fax _____

II. Third Party Representative Authorization (Optional)

The third party representative (e.g. a third party administrator and recordkeeper) below (if any) (the "TPA") is authorized to act on behalf of Employer to provide Plan information to MFS, to authorize distributions, exchanges and transfers from MFS Accounts, and to request and receive information about employees' accounts. The Employer authorizes and directs MFS to accept any such information from or provide any such information to, respond to any such inquiries or requests from, and comply with any such instructions or directions from, the TPA with no duty of further inquiry and to rely on such information, inquiries, requests, instructions and directions until such time as the Employer notifies MFS to the contrary.

Firm Name _____ Contact Name _____
Address _____ City _____ State _____ Zip _____
Email Address _____ Phone _____ Fax _____

III. Designated Provider Status

Unless the box below is checked, the Employer certifies that MFS is a designated investment provider that is eligible to receive contributions under the Employer's Plan ("Designated Provider").

No, MFS is not a Designated Provider but Employer wishes to share information about existing MFS Accounts.

If MFS is a Designated Provider with respect to the MFS Accounts, the Employer authorizes and approves contributions, Exchanges¹ and Transfers² to an MFS Account for a Plan participant.

If MFS is NOT a Designated Provider the Employer and MFS will share information as described in section V. below about *existing* MFS Accounts, but the Employer does not authorize any new contributions, Exchanges or Transfers under the Plan to an MFS Account.

IV. Effective Date: This Agreement shall be effective on the later of January 1, 2009 or the date signed by MFS below ("Effective Date")

¹ *Exchange* means a transfer of assets, within the same employer plan, from another investment provider's 403(b) custodial account to an MFS Account under the same employer plan.

² *Transfer* means a transfer of assets from a 403(b) custodial account under a different employer's plan to an MFS Account under the Employer's plan.

V. Terms

1. Representations.

(a) The Employer hereby represents to MFS that

- (i) The Employer is an organization described in Code §403(b)(1)(A) and will notify MFS promptly in writing in the event that it ceases to be an employer eligible to maintain the Plan under Code §403(b);
- (ii) The Employer maintains (or will maintain on or before January 1, 2009, or such later compliance date as may be established) a written plan complying with Code §403(b) and the Regulations;
- (iii) If and to the extent the Employer has authorized a TPA above to provide and/or request and receive information and authorize distributions information on behalf of the Employer, such TPA has agreed to comply with confidentiality requirements which are not less restrictive than those included in this Agreement; and
- (iv) **The Employer has not altered the terms of the Agreement as originally set forth by MFS and acknowledges that any revision to the original terms of the Agreement shall be void as set forth in Paragraph 6 of this Section.**

(b) MFS hereby represents to Employer that the MFS Accounts will meet the requirements of Code §403(b) and the Regulations, including requirements for Contract Exchanges.

2. Scope of Information Sharing/Responsibilities.

(a) Employer Responsibilities.

- (i) The Employer hereby agrees that MFS shall implement one or more of the following transactions only upon direction from the Employer based on the Employer's determination that the transaction is permitted under the Employer's Plan and Code §403(b) and the Regulations: (a) **Hardship Distributions**; (b) any **other distribution** requested by a participant or beneficiary on account of the participant's severance from employment, death, disability, or the attainment of age 59 ½; (c) any **Contract Exchange from** an MFS Account to another custodial account or annuity contract; and (d) any request for a plan-to-plan **transfer** from an MFS Account to a §403(b) annuity contract and/or custodial account under another employer's plan.
- (ii) The Employer also agrees to provide to MFS such information as MFS may reasonably request to help to ensure that MFS Accounts for the Employer's Plan satisfy the Regulations and other tax requirements, including information concerning the participant's employment status.

(b) MFS Responsibilities. MFS agrees to provide to the Employer such information as the Employer may reasonably request to ensure that MFS Accounts for the Employer's Plan satisfy the Regulations and other tax requirements, provided that such information shall not include records of the participant's cumulative contributions, distributions, earnings, tax basis or loans (after-tax contributions and loans are not permitted for an MFS Account) nor differentiate between Exchanges, Transfers and rollovers.

(c) Available Records and Costs. The parties agree that each is obligated to provide only information available on its records for which retrieval is not unduly costly or burdensome.

3. Confidential Information. The Parties agree that each, and their authorized TPAs or other or agents, will maintain as confidential any information provided by the other party pursuant to this Agreement, unless required by law. Employer and MFS agree not to use the information received hereunder for any purpose other than providing services in connection with the Plan and to comply with Code §403(b) and the regulations. The Employer acknowledges and agrees that MFS will only provide such information regarding a participant that MFS is permitted to provide without participant consent under applicable laws, rules and regulations and Employer agrees that it will obtain, unless it has determined that it is not required to obtain, the participant's consent to disclosure of participant-specific information. MFS will use reasonable efforts to obtain such consent where required, and shall not be obligated to provide any information with respect to which such consent has not been granted or obtained. Notwithstanding the foregoing, MFS may disclose that it is an investment provider under the Plan and has an Information Sharing Agreement in place with the Employer without obtaining the Employer's prior consent. MFS may also disclose the identity of Registered Investment Advisors (individuals and firms) who

are working with Plan participants generally (without divulging the identity of any such participant) at the request of such Registered Investment Advisor.

4. **Limitation of Liability.** MFS shall not be responsible or liable for the use or misuse of any information that MFS makes available to the Employer or transmits to any authorized TPA or other party at the direction of the Employer. MFS shall have no obligation or duty to verify or have liability for any Employer information, employee data and/or transaction approvals provided by the Employer or any TPA, other investment provider or participant. MFS and its affiliates shall not be liable for any loss, liability or cost suffered or incurred by the Employer or the Plan in connection with the matters to which this Agreement relates or any services rendered by MFS or its affiliates, whether or not specifically included or contemplated by this Agreement, except a loss, liability or cost to the extent resulting from willful misfeasance or gross negligence on the part of MFS or its affiliates in the performance of their duties hereunder. ***In no event shall MFS or its affiliates be liable for any indirect, special, incidental, or consequential damages suffered or incurred by the Employer, the Plan, or any other party.*** This provision shall survive the termination of this Agreement.

5. **Governing Law.** The validity, construction, effect, and administration of this Agreement shall be governed by, and interpreted in accordance with, the laws of the Commonwealth of Massachusetts, except to the extent those laws are superseded under Section 514 of ERISA, if applicable.

6. **Amendment and Other Provisions.** This Agreement contains all of the terms agreed upon between the Parties with respect to the subject matter hereof. Notwithstanding the foregoing, any revision to the original terms of the Agreement by the Employer, other than by means of a separate amendment signed by both Parties shall be void and the rights and obligations of the Employer and MFS shall be determined solely by the original terms. Amendments to this Agreement are permitted, and must be executed by or on behalf of each of the parties. However, an amendment to this Agreement may be made unilaterally by MFS (and need not be signed by the Employer) if such amendment (1) is required by changes in applicable law, (2) does not materially increase the Employer's responsibilities, (3) does not change the fee, limitation of liability or termination provisions of this Agreement, (4) is prepared by MFS in the context of executed Agreements with all of its similarly situated clients, and (5) is presented to the Employer at least 30 days prior to its effective date. The stipulations in this Agreement shall inure to the benefit of, and shall bind, the successors and assigns of the respective Parties. The failure of either party at any time to require performance of any provisions hereof will in no manner affect its right at a later date to enforce such provision and will not act as a waiver thereof. If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

7. **Term, Termination.** This Agreement may be terminated by either party upon at least 30 days' prior written notice; provided that this Agreement shall remain in full force and effect as to MFS Accounts in effect on the date of such termination until the earlier of the date that MFS no longer holds MFS Accounts associated with the Plan or the Employer or MFS enter into a separate written agreement that covers the requirements of Section §403(b), unless otherwise permitted by applicable law.

8. **Execution of Agreement: Counterparts.** By executing below, the undersigned represent that they are authorized to execute this Information Sharing Agreement on behalf of the respective Parties. This Agreement may be executed in one or more counterparts each of which shall be deemed an original instrument, but all of which together shall constitute but one and the same Agreement. This Agreement may be executed by facsimile signatures.

Name of Authorized Representative of Employer

Signature of Authorized Representative of Employer

Date

Name of Authorized Representative of MFS

Signature of Authorized Representative of MFS

Date

Schedule A – Participating Employers

If applicable, list any entities below that are identified in the Employer's §403(b) Plan document as participating employers (entities related to the employer and whose employees participate in the Plan)

PARTICIPATING EMPLOYER INFORMATION

Name of Employer _____ Tax Identification Number _____
Address _____ City _____ State _____ Zip _____
Contact Name _____ Email Address _____ Phone _____
 Check box if this employer may submit contributions separately (e.g. has separate payroll)

Name of Employer _____ Tax Identification Number _____
Address _____ City _____ State _____ Zip _____
Contact Name _____ Email Address _____ Phone _____
 Check box if this employer may submit contributions separately (e.g. has separate payroll)

Name of Employer _____ Tax Identification Number _____
Address _____ City _____ State _____ Zip _____
Contact Name _____ Email Address _____ Phone _____
 Check box if this employer may submit contributions separately (e.g. has separate payroll)

Name of Employer _____ Tax Identification Number _____
Address _____ City _____ State _____ Zip _____
Contact Name _____ Email Address _____ Phone _____
 Check box if this employer may submit contributions separately (e.g. has separate payroll)

Return the signed agreement to:
For Regular Mail

MFS Service Center, Inc.
P.O. Box 219341
Kansas City, MO 64121-9341

For Overnight Mail

MFS Service Center, Inc.
Suite 219341
430 W 7th Street
Kansas City, MO 64105-1407