NEW YORK STATE SECURE CHOICE SAVINGS PROGRAM

Policies and Procedures

1. Introduction

The New York State Secure Choice Savings Program was established by Article 43 of the NYS General Business Law to provide a retirement savings program in the form of an automatic enrollment payroll deduction Individual Retirement Account. Pursuant to the Act, the New York Secure Choice Savings Program Board is responsible for establishing or authorizing processes under which the Program will operate. These Policies and Procedures establish the framework and procedures for the Program.

The Board and its delegates shall have the discretionary authority to design, operate and administer the Program in accordance with the Act, the Code and other applicable law.

2. Definitions

As used in these Policies and Procedures, the following terms are defined as follows:

(1) "Account" means an Individual Retirement Account of an Enrollee established under the Program.

(2) "Act" means Article 43 of the NYS General Business Law.

(3) "Beneficiary" means the individual(s), person(s), or entity(ies) entitled to receive the proceeds of an Enrollee's Account upon the death of the Enrollee.

(4) "Board" means the New York Secure Choice Savings Program Board.

(5) "Client Employer" means a person or entity that procures the services of a Professional Employer Organization pursuant to a professional employer agreement as defined in Article 31 of the NYS Labor Law.

(6) "Code" means the Internal Revenue Code of 1986, as amended, and any regulations, rulings, announcements, or other guidance issued thereunder.

(7) "Contribution" means any monies contributed to an Account.

(8) "Contribution Rate" means the percentage of an Employee's Wages to be withheld and contributed to their Account via payroll deduction under the Program.

(9) "Employee" means any individual who is eighteen years of age or older, who is employed by an Employer, and who earned Wages working for an Employer in New York State during a calendar year. An Employee may include a person who is employed full-time, part-time or per diem.

(10) "Employer" means a person or entity engaged in a business, industry, profession, trade, or other enterprise in New York State, whether for profit or not for profit, that (i) has at all times during the previous calendar year employed at least 10 employees in New York State, (ii) has been in business at least two years, and (iii) has not offered a Qualified Retirement Plan, including, but not limited to, a plan qualified under sections 401(a), 401(k), 403(a), 403(b), 408(k), 408(p) or 457(b) of the Internal Revenue Code of 1986 in the preceding two years.

(11) "Enrollee" means any Employee or individual who is enrolled in the Program and has an Account.

(12) "Individual Participant" means an individual who meets the qualifications to open an IRA but does not meet the definition of Employee herein and who is willing and able to provide onboarding information to the Program Administrator.

(13) "Informational Materials" means the informational materials provided by the Program Administrator after onboarding to Employees and Individual Participants, which outlines the Program features including, but not limited to, the items described in section 1309 of Article 43 of the General Business Law. Enrollees are deemed to have read and understood all Program Informational Materials that they received prior to opening an Account.

(14) "IRA" means a Roth individual retirement account, as defined in Section 408A of the Code.

(15) "Non-Payroll Contribution" means a Contribution that an Enrollee remits outside of a Payroll Deduction Contribution.

(16) "Opt-Out Period" means the 30-day period following the provision of Informational Materials to an Employee during which an Employee may opt-out of automatic enrollment into the Program.

(17) "Participating Employer" means an Employer that facilitates access to the Program for its Employees.

(18) "Payroll Deduction Contribution" means a Contribution made by an Enrollee via a payroll deduction through a Participating Employer.

(19) "Professional Employer Organization" means a person or entity that provides services to a Client Employer pursuant to a professional employer agreement as defined in Article 31 of the NYS Labor Law.

(20) "Program" means the New York State Secure Choice Savings Program.

(21) "Program Administrator" means the third-party administrator selected by the Board to provide services for the Program in carrying out the requirements of the Act.

(22) "Qualified Retirement Plan" means a retirement plan qualified under sections 401(a), 401(k), 403(a), 403(b), 408(k), 408(p) or 457(b) of the Code.

(23) "Wages" means any compensation within the meaning of section 219(f)(1) of the Internal Revenue Code that is received by an Enrollee from a Participating Employer during the calendar year.

(24) "Worksite Employee" means an individual having an employment relationship with both the Professional Employer Organization and the Client Employer.

3. Eligibility

(a) <u>Eligible Employers</u>. Employers are required to facilitate the Program if they:

    (1) have employed at least 10 Employees in New York State at all times during the prior calendar year,

    (2) have been in business for at least two years, and

    (3) have not offered a Qualified Retirement Plan in the past two years.

(b) <u>Eligible Employees</u>. Employees are eligible to participate in the Program provided they meet the requirements to open an IRA under the Code, and if they:

    (1) are 18 years of age or older,

    (2) are employed by an Employer, and

    (3) have earned Wages working for an Employer in New York State during a calendar year.

(c) <u>Employee Count</u>. The number of Employees for purposes of determining Employer eligibility in the Program is based on employer-reported data submitted to New York State, including on Form NYS-45, Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return. Employers required to facilitate the Program must have had at least ten New York Employees in every quarter of the previous calendar year.

(d) <u>Professional Employer Organization</u>. For a Professional Employer Organization, for purposes of determining eligibility in the Program, Worksite Employees shall be treated as employed by the Client Employer and not the Professional Employer Organization. Any Wages paid to the Worksite Employee by the Professional Employer Organization shall be treated as Wages from the Client Employer. If the Professional Employer Organization offers a Qualified Retirement Plan to the Worksite Employee, the Client Employer is considered as offering a Qualified Retirement Plan and will not be considered an eligible Employer. Client Employers that are eligible Employers must comply with all requirements applicable to eligible Employers and are responsible for either certifying its exempt status or facilitating the Program for Worksite Employees. Nothing in these Policies and Procedures prohibits a Professional Employer Organization and its Client Employer from entering into an agreement under which the Professional Employer Organization agrees to assist the Client Employer with the performance of some or all of the Client Employer's responsibilities under this Program.

4. Employer Participation

(a) <u>Registration Deadlines</u>. Employers shall register with the Program and facilitate enrollment of their Employees into the Program by the deadline established by the Board.

(b) <u>Notice of Registration</u>. Employers required to facilitate the Program will be notified by the Program Administrator how and when to register with the Program and shall provide all necessary registration information to the Program Administrator, including but not limited to,

    (1) Employer name and assumed business name, if any.

    (2) Federal Employer Identification Number.

    (3) Employer mailing address.

    (4) Name, telephone number and email address of an individual designated by the Employer to serve as the point of contact.

    (5) Any additional information identified by the Program Administrator that is necessary to complete registration.

(c) <u>Employer Exemption Certification Process</u>. If an employer notified by the Program Administrator to register with the Program believes it is not an eligible Employer, an authorized representative of the employer may certify the employer's exempt status by submitting an exemption certification with the Program Administrator in an accepted method established by the Program. Such exemption certification shall remain in effect so long as the criteria for exemption continue to be met.

(d) <u>Newly Eligible Employers</u>. An Employer who becomes eligible after the implementation timeline in section 4(a) herein will be notified by the Program Administrator of their eligibility and how and when they shall register with the Program and facilitate enrollment of their Employees.

(e) <u>Onboarding of Employees by Participating Employer</u>. Employers shall facilitate enrollment of their Employees into the Program by providing all necessary onboarding information for each Employee to the Program Administrator, including but not limited to,

    (1) Full legal name.

    (2) Social security number or individual taxpayer identification number.

    (3) Date of birth.

    (4) Physical address and mailing address, if different.

    (5) Email address, if available.

    (6) Phone number, if available.

    (7) Any additional information identified by the Program Administrator that is necessary to complete the onboarding.

Upon receiving the Employee's onboarding information from the Employer, the Program Administrator shall send the Informational Materials to each Employee as soon as administratively practicable.

Participating Employers shall promptly provide the Program Administrator with new or updated information for each Employee. For new Employees hired after an Employer's registration with the Program, the necessary onboarding information for the new Employees shall be provided to the Program Administrator as of the new Employee's hire date, but no later than 30 days after the date of employment.

(f) <u>Employer Restrictions</u>. Participating Employers shall not:

    (1) Require, endorse, encourage, prohibit, restrict, or discourage Employee participation in the Program.

    (2) Provide Enrollees or Beneficiaries of deceased Enrollees advice or direction regarding investment choices, Contribution Rates, participation in automatic escalation, or any other decision about the Program.

    (3) Remit any Contributions for any Employee who opted out of the Program.

    (4) Exercise any authority, control, or responsibility regarding the Program, other than those duties specifically described in the Act and these Policies and Procedures.

    (5) Contribute to an Enrollee's Account.

(g) <u>Withholding and Remitting Payroll Deduction Contributions by Participating Employer</u>. Participating Employers shall be responsible for withholding and remitting Payroll Deduction Contributions for enrolled Employees. Participating Employers shall not begin payroll deduction of Employee Payroll Deduction Contributions from an Employee's Wages until after the thirtieth day after the Employee's enrollment. Participating Employers shall remit each enrolled Employee's Payroll Deduction Contributions withheld from Wages to the Program Administrator as soon as administratively practicable, but no later than the last day of the month following the month in which the compensation otherwise would have been payable to the Employee in cash. Amounts withheld by the Participating Employer for an Employee's Payroll Deduction Contributions shall not exceed the amount of the Employee's Wages remaining after any payroll deductions required by law or other deductions that have higher precedence, including a court or administrative order.

(h) <u>Exemption of Participating Employer</u>. A Participating Employer that begins offering a Qualified Retirement Plan is exempt from participating in the Program. The Participating Employer shall certify such exemption with the Program Administrator in an accepted method established by the Program. After notifying the Program Administrator, Participating Employers must notify enrolled Employees of the Employer's termination of participation in the Program at least 60 days before Payroll Deduction Contributions cease and provide the enrolled Employees with information describing how to contact the Program Administrator. Upon a Participating Employer terminating its participation in the Program, withholding and remittance of Payroll Deduction Contributions on behalf of Enrollees is prohibited.

Unless Enrollees elect otherwise, Accounts will remain in the Program after the Participating Employer certifies its exemption. Enrollees may continue to make Non-Payroll Contributions.

5. Employee Enrollment and Individual Participant

(a) <u>Employee Enrollment and Right to Opt-Out</u>. An Employee onboarded into the Program by their Employer has the right to opt-out of automatic enrollment during the Opt-Out Period. No Account will be established if the Employee opts out during the Opt-Out Period. If the Employee does not opt-out during the Opt-Out Period, the Program Administrator shall subsequently notify the Employee that they have been automatically enrolled in the Program, and that a Roth IRA Account has been established for that Employee under the Program.

An Employee who is enrolled in the Program may opt out at any time by giving notice to the Program Administrator in an accepted method established by the Program. An Employee who opts out of the Program may subsequently elect to participate at any time by following the Program's enrollment procedures.

(b) <u>Individual Participant</u>. An individual who is at least eighteen years of age, and who is not an Employee of a Participating Employer may elect to participate in the Program independent of an employment relationship with an Employer as long as they meet the requirements to open an IRA. The Individual Participant shall provide all necessary information to the Program Administrator that allows those individuals to open Accounts and make Contributions separate from an Employer payroll system, including but not

limited to, the information required in section 4(e) of these Policies and Procedures. After the individual provides the necessary onboarding information, the Program Administrator shall send the individual the Informational Materials as soon as administratively practicable.

6. Accounts

(a) <u>In General</u>. Each Enrollee shall have not more than one Account in the Program, regardless of whether it makes Contributions as an Individual Participant, from a single Participating Employer or multiple Participating Employers (simultaneously or separate throughout the Enrollee's lifetime).

(b) <u>Contributions</u>. It shall be the responsibility of the Enrollee to determine whether they are eligible to make Contributions to an IRA and whether the amount of their Contributions to an IRA complies with the contribution limits established under the Code.

(c) <u>Default Contribution Rate and Custom Contribution Rate</u>. The default Contribution Rate shall be three percent of an enrolled Employee's Wages. Enrollees may change their Contribution Rate at any time by giving notice to the Program Administrator in an accepted method established by the Program. Contribution Rates elected may be any whole-number percentage of Wages.

(d) <u>Discontinuance or Suspension of Contributions</u>. Enrollees may discontinue or temporarily suspend their Contributions at any time by giving notice to the Program Administrator in an accepted method established by the Program.

(e) <u>Automatic Escalation</u>. Enrollees may elect to opt-in for automatic escalation in their Contributions, whereby their Contribution Rate shall increase by not less than one percent of Wages at the beginning of each subsequent calendar year following the Employee's election up to a maximum rate selected by the Employee, not to exceed ten percent of Wages. On at least an annual basis, the Program Administrator shall notify Enrollees in advance of any pending automatic escalation increase to allow Enrollees to change or cancel their automatic escalation selection or make changes to their Contribution Rate. Enrollees may change their automatic escalation selection at any time by giving notice to the Program Administrator in an accepted method established by the Program.

(f) <u>Non-Payroll Contributions</u>. Enrollees may elect to make recurring or non-recurring Non-Payroll Contributions to their Account. Non-Payroll Contributions may be made electronically or by personal check in a minimum deposit amount established by the Program. Such Non-Payroll Contributions must not exceed, in combination with Payroll Deduction Contributions, the annual IRA contribution limit as determined by the Code and related rules promulgated by the IRS.

(g) <u>Default Investment and Custom Investment Options</u>. Enrollees may direct their Contributions to any single investment option or combination of investment options offered by the Program and may change their investment option selection for their existing balance or future Contributions at any time by giving notice to the Program Administrator in an accepted method established by the Program.

If an enrolled Employee does not elect an investment option, initial Payroll Deduction Contributions will be directed into a capital preservation investment for 30 days. After 30

days, unless an enrolled Employee has made an alternate investment election, the Program Administrator shall direct the existing balance in the Account and subsequent Payroll Deduction Contributions to be invested in the default investment option selected by the Board.

(h) <u>Rollovers and Transfers</u>. An Enrollee may rollover or transfer funds into an Account from other retirement savings vehicles in accordance with the Code. An Enrollee or Beneficiary may rollover or transfer funds from an Account to a different retirement savings vehicle in accordance with the Code by following the procedures established by the Program.

(i) <u>Withdrawals</u>. An Enrollee may make a withdrawal of funds from their Account at any time by submitting a request to the Program Administrator in an accepted method established by the Program.