



Plan Adoption Agreement Guide for Plan Sponsors



Thank you for using the Vestwell Platform. This Plan Adoption Agreement Guide for Plan Sponsors (the “Guide”) contains helpful explanations of the plan provisions you are selecting when executing your Plan Adoption Agreement. The Guide follows the order of the sections and primary provisions of the Plan Adoption Agreement; you may wish to review the Guide alongside the Plan Adoption Agreement section by section, or simply maintain it with your plan records as a reference for provisions you would like to better understand.

Carefully Review the Following:

- Vestwell requires an executed copy of the PAA and all related amendment(s) and policies to establish or update your plan on Vestwell’s proprietary platform (the “Vestwell Platform”).
- The Plan Adoption Agreement and its associated Basic Plan Document (collectively the “PAA”) are legally enforceable documents which we use to administer your plan.
- In the event any inconsistencies arise from interpretations between this Guide and the PAA, the PAA shall govern.
- **As an authorized representative of the Plan Sponsor, it is your responsibility to review and approve every plan feature prior to signing the PAA.**
- Due to legal and regulatory requirements, it may not be possible to make certain modifications to the PAA after it is signed until at least the first of the following plan year after you execute the PAA, and additional fees may apply.
- Vestwell uses the PAA to conduct annual compliance testing, prepare the plan's Annual Return (the Form 5500) and related filings, and administer your plan throughout the year. If your plan is required to undergo an annual audit, the PAA will be a critical part of that process.
- Certain plan features, if elected, require you to undertake additional responsibilities due to the complexity of administering such features. By signing the PAA, you agree to perform those additional responsibilities, and those obligations become a binding part of your Vestwell Plan Service Agreement.
- Therefore, given the importance of the PAA, you may wish to review it with your tax or legal advisor; please review thoroughly to ensure it is accurate and reflects your intent.

Please contact us if anything in the PAA or this Guide is unclear or if changes are necessary to the PAA prior to signing. **If you are satisfied that the PAA reflects your intended terms, please sign and date each applicable document.**



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Employer Information

Please review this section carefully, as it must accurately reflect the basic information about your company, the plan sponsor. For instance, the name of the company in the document should be the exact name and correct spelling of your legal entity (no abbreviations; include punctuation where necessary). Any changes to this section after the plan is implemented may require an amendment, which we can prepare for you at an additional charge as set forth in your fee schedule.

Please note the following:

- **Plan Sponsor Employer Identification Number (“EIN”):** If your business does not already have one, you must complete and file an IRS Form SS-4 to obtain one. The IRS will not accept a social security number as an EIN.
- **Fiscal Year End:** Please confirm this aligns with your company tax year. Note that Vestwell is unable to review deductibility of employer contributions when the fiscal year does not align with the plan year.
- **Affiliated Service Group or Controlled Group:** The IRS provides specific definitions when two or more entities must be considered as a single employer for retirement plan purposes. These definitions typically, but not always, depend on the degree of common ownership between those organizations. Vestwell does not provide a determination as to these issues; but your accountant, tax advisor, or ERISA counsel should be able to confirm if your company must be considered related to any other entity under Internal Revenue Code section(s) 414(m), 414(b), 414(c), or 414(o). As stated in your Vestwell Plan Services Agreement, you must disclose any related company(ies) considered members of a Controlled Group or Affiliated Service Group to us in writing, since there may be an impact on the design, compliance testing, or other activities for your plan.



Plan Information

Section A. General Information

Plan Name / Effective Date

This section covers the basic information about your plan. Generally, Vestwell does not support a plan year not aligned to a calendar year end, nor short plan year administration. If you require a different plan year end or a short plan year, Vestwell may require that you engage a Third Party Administrator (“TPA”)¹.

- **Effective Date:**

New plan: A new plan will indicate January 1 of the first year the plan is in effect. Special Effective Dates may be used in the Plan Features section discussed below to clarify when employee contributions and/or employer contributions are expected to start; however, the full plan year will be in effect to avoid any reduction in, or prorating of, plan limits for the year.

Conversion plan: A plan being restated due to a change in providers or to accommodate changes required by law will reflect the original date the plan was in place, as well as the Effective Date of this updated document. The restatement Effective Date typically reflects the expected first date of receipt of assets on the Vestwell Platform, the first day of a plan year, or an otherwise agreed upon date. The restatement date cannot be a date in an earlier plan year (e.g., for a 2022 conversion plan, the plan cannot use a restatement effective date in 2021 or earlier).

Spin-off / successor plan: A plan created to accept a merger or spin-off of assets from another plan may reflect an effective date of January 1 of the year in which the plan

¹ For any instance when your plan is required to work with a TPA, Vestwell’s services will be transferred to a Vestwell Unbundled Service Offering in which Vestwell provides certain recordkeeping services and will no longer serve as the Plan Administrator. Your Vestwell Plan Services Agreement will be amended accordingly.



started, or a later date, depending on the situation. Note that a later date may result in prorated limitations in considered compensation and contributions for the year. It may also require coordination of limits with the prior plan(s).

- Limitation Year: The twelve month period in which all contributions for the annual additions are calculated. If you sponsor other retirement plans, the Limitation Year must be the same for all of them. For ease of administration, it should typically follow the plan year.
- Plan Year: Vestwell's bundled services only support Plan Years ending December 31. If your company is undergoing a corporate transaction, e.g., a merger, acquisition, or spin-off, or is transitioning from a Multiple Employer Plan, Vestwell may require that you engage a TPA. Additionally, a corporate transaction such as a merger may result in your plan having a short plan year, in which case we may need to delay onboarding your plan to the Vestwell Platform or require you to work with a TPA.

Plan Features

- **Elective Deferrals**: Vestwell by default supports both pre-tax and Roth contributions from plan participants, made via payroll deduction. These will be reflected on an employee's Form W-2 in Box 12 with deduction codes D and AA, respectively. Vestwell does not offer additional "Voluntary" (after-tax) contributions at this time. More information can be found in Section C.
- **Employer Matching Contributions**: If elected as an option in the PAA, Employer Matching Contributions may be made based on a formula that the employer determines, rewarding employees that save for their retirement through pre-tax and/or Roth contributions from payroll. These matching contributions are typically discretionary each plan year, and the employer may choose to utilize and make a contribution match one year and not the next. More information can be found in Section D.



- **Non-Elective Contributions:** If elected as an option in the PAA, employer Non-elective Contributions normally may be made on a discretionary basis each year. This contribution is *not* dependent on how much an employee saves, but instead is a contribution meant to reward employees for contributing to the success of the company. No longer required to be profit-based, these contributions are still typically called profit sharing contributions; more information can be found in Section D.
- **Safe Harbor Contributions:** If elected in the PAA, a plan with Safe Harbor Contributions is intended to meet fixed contribution requirements in order to bypass certain annual non-discrimination tests. See Section C of the PAA for specific terms of the fixed contributions, including the effective date of these provisions.
- **Plan Features Effective Dates:** This section is typically used with new plans to clarify the starting dates for elective deferrals (when deductions will start in payroll), and related employer contributions. This section may also be used when a new plan feature is introduced, when a feature is removed, or for clarification in operations.

Statutory and Plan Compensation

This is one of the most important sections of the PAA. Pay special attention to the definition of compensation described in the PAA as it affects the calculation of any employer contributions and it is the definition used for testing purposes. **For all of these reasons, you must ensure that your payroll provider is set up to administer payroll using a definition of compensation for deductions, reporting, and employer contributions, as applicable, that is consistent with the defined compensation in the PAA. This is your responsibility even if your payroll provider has an integration with our platform.** As mentioned in your Plan Services Agreement, you can find more information about payroll file set up and other procedures specific to your payroll company on our [Help Center - All About Payroll](#) area.

Vestwell's supported definition of compensation is gross taxable wages as reported on an employee's Form W-2, adding back deferrals (e.g., pre-tax 401(k), Section 125 / Cafeteria plan



deductions)². Compensation generally includes the earnings a participant received from the employer for personal services for the year, including wages and salaries, fees for professional services, and other amounts received (cash or non-cash) for personal services actually rendered by an employee, including, but not limited to commissions and tips, fringe benefits, and bonuses³. Existing plans converting to Vestwell that define compensation in a manner other than gross taxable wages as reported on an employee's Form W-2, such as 3401(a), Section 415, or Section 415 safe harbor compensation will retain that definition at Vestwell.

- Pre-entry compensation (included in Vestwell's definition of compensation): compensation paid in the same plan year a participant enters the plan, but prior to the participant's entry date. **Vestwell does not exclude compensation prior to entry; true-ups may become required for certain contributions based on plan year compensation if an employee becomes eligible for the plan mid-year, including the first year a plan is implemented.** See Sections C and D for more details.
- Deemed 125 Compensation (excluded from Vestwell's definition of compensation): amounts not available to a participant as cash in lieu of group health coverage because the participant is unable to certify that he or she has other health coverage. This amount will be treated as an amount under Internal Revenue Code section 125 only if the employer does not request or collect information regarding the participant's other health coverage as part of the enrollment process for the health plan. Vestwell by default *does not include* deemed Code section 125 compensation for calculating contributions and non-discrimination testing.
- Post Severance Compensation (included in Vestwell's definition of compensation if criteria below are satisfied): amounts paid to a terminating employee by the later of (a) 2 ½ months after an Employee's severance from employment with the Employer; or (b) the end of the applicable Limitation Year/Plan Year that includes the date of severance

² Owner employees with income not reported on a Form W-2 may use the definition of Earned Income located in the Basic Plan Document; this definition requires personal services to the company which are considered a material income-producing factor.

³ <https://www.irs.gov/retirement-plans/401k-plan-fix-it-guide-you-did-not-use-the-plans-definition-of-compensation-correctly-for-all-deferrals-and-allocations>



from employment with the Employer if those amounts would have been included in the definition of compensation if they were paid while employed. However, the payment must be (a) for unused accrued bona fide sick, vacation, or other leave, but only if the participant would have been able to use the leave if the employee had continued in employment; or (b) received by a participant pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the participant at the same time if the participant had continued in employment with the employer and only to the extent that the payment is includible in the participant's gross income. This does *not* include pure severance pay, which are amounts paid solely due to the termination of employment.

For example:

Sam terminates employment on August 18. His final paycheck(s) for compensation earned during the course of employment, including unpaid leave/sick pay, are eligible for the plan through December 31.

Jordan terminates employment on October 31. His final paycheck(s) are eligible through January 15 of the following year, since 2 ½ months following his date of termination is later than the end of the limitation (plan) year.

- Post Year-End Compensation (excluded from Vestwell's definition of compensation): if elected, amounts earned during a year but paid during the first few weeks of the next year simply due to payroll timing would be included for the year during which they were earned. This election is difficult to administer since it does not align to W-2 and other payroll reporting and is therefore excluded by default.

Further modifications to compensation may require special setup with your payroll company, and may also require specialized testing at year end. If you require a specific set of exclusions, Vestwell may require that you engage a TPA (Vestwell's unbundled services).



Definitions

- Highly Compensated Employee (“HCE”): The basis for most non-discrimination tests required for 401(k) plans, the definition of HCE includes owner-employees with over 5% ownership in the current or prior plan year, and employees earnings over a specified compensation level (\$135,000 for 2022, \$130,000 if the preceding year is 2020 or 2021; adjusted annually by the IRS)⁴. Vestwell uses this standard definition of HCE; **however, if you require the definition of HCE to be determined using the Top Paid Group election due to the same definition being used for your other benefit plans (generally, health and welfare plans must align the definition of HCE with their retirement benefit plans), it is your responsibility to notify Vestwell.** Vestwell may require that you engage a TPA (Vestwell’s unbundled services).
- Disability: Certain plan waivers may be applied based on a participant becoming disabled while employed by the company and certain distributions may become available. The PAA specifies the conditions that a participant must meet to be considered disabled. Vestwell uses a standard definition of disability using Section 22(e) of the Internal Revenue Code or Delaware law and, to the extent they differ, we will use the definition that is more favorable to the participant. This is a protected benefit which cannot be made less generous to the participant.

Section B. Eligibility

Eligibility is the set of rules that determines which employees can participate in the plan, when they can enroll, and who is excluded; usually a combination of age and service with your company. The more complex you make your plan’s eligibility rules, the more effort will be required on your part to administer your plan properly. Eligibility management can be time consuming and mistakes can be costly to correct. For instance, if you fail to timely inform Vestwell of a new employee in the manner and method we require, and that employee is not provided with an opportunity to participate in the plan, you may need to make a significant additional contribution to the plan to make up for the participants’ missed deferral opportunities and compensate them for the investment earnings that they would have received had they been timely enrolled in the plan. For all of these reasons, we highly recommend that

⁴ <https://www.irs.gov/retirement-plans/plan-participant-employee/definitions>



you keep eligibility rules simple, as well as update and report all employees on payroll files each and every pay period.

Dynamic reporting is available on the Sponsor portal, which provides the eligibility status of all employees reported to Vestwell. This report tracks when your employees were hired, whether they meet age and/or service requirements, and when they become eligible to participate in the plan. Vestwell sends required notices to employees approaching their entry date based on such data points that you provide. **It is your responsibility to review the eligibility report regularly. If you do not notify us of any potential errors or updates, we will assume that the information in the report is correct and current.** You can also find more information about eligibility rules on our [Help Center](#).

Exclusions

Generally, retirement benefits must be offered to all common-law⁵ employees who meet the plan's eligibility requirements. Unlike health and welfare plans,⁶ there is no exception to providing a retirement benefit for employees working less than 30 hours per week or 130 hours per month. Therefore, you should consider age and service requirements (next section) when setting up your plan, particularly if you have part-time employees to whom you prefer not to offer retirement plan benefits. Our [Help Center](#) has more background about these exclusions.

Vestwell excludes three classifications of employees by default. We assume, unless directed otherwise, that payroll files submitted by you or your payroll company will not include the following:

- Union employees: employees included in a unit of employees covered by a collective bargaining agreement if retirement benefits were the subject of good faith bargaining, and if the collective bargaining agreement does not provide for participation in the plan. If your company has unionized employees, we recommend that you obtain advice from

⁵ <https://www.irs.gov/businesses/small-businesses-self-employed/independent-contractor-self-employed-or-employee>

⁶ <https://www.shrm.org/resourcesandtools/tools-and-samples/hr-qa/pages/partimebenefits.aspx>



your legal counsel regarding the applicability and impact of any collective bargaining agreement on your plan, and your attorney should review the PAA. You can read more about the impact of collective bargaining agreements on your retirement plan [here](#).

- **Non-Resident Aliens:** a non-U.S. citizen who receives no earned income (within the meaning of Code section 911(d)(2)) which constitutes income from services performed within the United States (within the meaning of Code section 861(a)(3)). *Note: this exclusion means that any non-resident non-U.S. citizen, or resident non-U.S. citizen, may be eligible for the plan if receiving U.S.-based income. Vestwell requires a valid SSN and U.S. address to process retirement plan distributions⁷, which may impact your ability to offer the plan to certain employees or create the need to explore different options.*
- **Leased employees:** a non-employee who, pursuant to an agreement between the employer and any other person ("leasing organization"), has performed services for the employer (or for the employer and related persons determined in accordance with Code section 414(n)(6)) on a substantially full-time basis for a period of at least one year. Note: If you typically use the service of a leasing organization for long term contracts, Vestwell may require that you engage a TPA (Vestwell's unbundled services). Vestwell also recommends that your legal counsel thoroughly review the PAA and provide advice regarding the applicability and impact of any leasing terms to your plan.

If you intend to exclude any other classifications of employees from the plan, you will be responsible for managing additional operational and testing-related complexities, and Vestwell may require that you engage a TPA (Vestwell's unbundled services). Classification exclusions may also make us unable to integrate with your payroll system for direct processing of payroll information, which means you may need to upload your payroll files to the Vestwell Platform manually. **It is your responsibility to make sure that excluded employees are not included in any of your payroll files provided to us, and you must not upload any data concerning those individuals to your portal.**

⁷ <https://www.irs.gov/retirement-plans/plan-distributions-to-foreign-persons-require-withholding>



Eligibility Service Rules

Other Employer Service

This section is intended to recognize employment history with a non-related company for eligibility purposes. This often arises when a company acquires another organization through an asset sale and the new employer wants to recognize service for a group of newly hired employees from the acquired company. Note that employment service from related or predecessor employers *must* be recognized for eligibility purposes (naming them here is not mandatory but may be helpful). If utilizing this provision, the same service credit must be applied for vesting purposes. You will need to provide an original date of hire with the recognized entity, and hours history of each employee, if your plan uses hours-based service for eligibility and/or vesting.

Break in Service

An employee experiences a Break in Service if they work 500 or fewer hours of service during a plan year (for a plan that uses hours-based service) or experiences a 12-month period of severance (for plans that use elapsed time for service). Depending on a number of factors, a Break in Service may impact contribution requirements and recognition of service upon rehire. Vestwell does not support the Rule of Parity based on the level of history required to administer this exclusion (which tends to have rare impact); nor do we support the one-year holdout (which cannot be applied for employee 401(k) contributions). In short, you should assume that all employment history must be recognized and always supply us with an original/first date of employment for all common law employees except for any service that the employee provided as an independent contractor.

Special Participation Date

If you would like employees who are active with your company to become immediately eligible to participate in the plan on a specific date, this provision defines that special timeline. This most often is used when adopting new plans where the employer wants to allow all current employees to start immediately but apply eligibility provisions on a go-forward basis.



Eligibility for Plan Participation

For eligible classes of employees, you may set certain conditions they must satisfy in order to participate in the plan; and upon meeting those conditions, the employee enters the plan on a specified entry date. The maximum statutory requirements you may apply are a minimum age of 21, and the lesser of (a) 1 Year of Service (1,000 hours in a 12-month period); or (b) 3 consecutive years with at least 500 hours of service⁸. Entry dates are typically monthly, quarterly, or semi-annually (January 1 and July 1).

When using Vestwell's bundled services, the same eligibility rules will apply to all employee classifications as well as all contribution types; meaning, employees eligible to contribute to the plan will also be eligible for matching and profit sharing contributions, if applicable. Note that annual allocation requirements may be used to further limit access to such contributions; see Section D.

If you require varying eligibility by employee classification or by contribution type(s), Vestwell may require that you engage a TPA (Vestwell's unbundled services). Note that this will also require specific monitoring of eligibility not provided by the Vestwell Platform, so we recommend careful monitoring of payroll setup and/or contributing to sources with delayed entry only after year-end review with your TPA.

Age Requirement for Plan Participation

This is the minimum age an employee must be to become eligible to join the plan. The maximum age option is (by statute) age 21; employers tend to choose between age 18 and 21, though it is not mandatory to have any age requirement for your plan. This may be one factor to consider if you're looking to exclude certain part-time employees, e.g., summer interns.

⁸ This 'long-term, part-time employee' rule became effective in 2021 as a requirement of the SECURE Act of 2019.



Service Requirement for Plan Participation

Below are standard service options supported by Vestwell's bundled offering:

- No minimum service requirement: assuming the minimum age requirement is met, if any, eligible employees enter the plan on the first entry date after their hire date.
- Elapsed time: service is recognized as the passage of time; if an employee is still employed at the end of the noted period, or if rehired within 12 months of termination, the service requirement is considered met. Options include 1, 3, 6, or 12 months of service.
- Hours-based: the service requirements described below are met once both the length of time *and* hours specified in that period are met. Service is not considered completed as soon as the hours requirement is met, but only at the end of the specified period:
 - 1 Year of Service - an employee must work 1,000 hours by the date of the employee's first anniversary of hire; if not met, the employee is eligible to join the plan after working 1,000 hours in any Plan Year thereafter (meaning service is no longer calculated based on the employee's hiring anniversary date).
 - Select Hours Required within Number of Months - the employer can specify any range of hours (up to 1,000) within a range of consecutive months (up to 12 months), e.g. 500 hours in 6 months. Any employee who does not meet such requirements can also meet the statutory maximum of 1 Year of Service (1,000 hours in their first year of employment, or any Plan Year thereafter). This is called *reverting* to the failsafe after the initial determination period.

If electing an hours-based method, you must confirm that your payroll provider tracks hours and will provide them to us as part of your payroll data submission every pay cycle.

Hours Equivalency

Note that for salaried employees for whom hours are not tracked, the Department of Labor ("DOL") allows for an equivalency method to be selected so that an employer does not need to track actual hours of work for these employees. Under the heading "Eligibility Service



Computation Rules,” Vestwell selects from one the following options if you have elected hours-based eligibility requirements:

- 45 Hours of Service for each week or partial week. We recommend you use this equivalency if your primary pay period is weekly or biweekly.
- 95 Hours of Service for each semi-monthly payroll period or partial semi-monthly payroll period.
- 190 Hours of Service for each month or partial month. Vestwell recommends you use this equivalency for monthly pay cycles.

You must work with your payroll provider to ensure the hours uploaded each pay cycle reflect actual tracked hours or the appropriate DOL-approved equivalencies. Note that in the absence of hours submitted with payroll, Vestwell may default to 190 hours per month of employment when considering eligibility and/or vesting.

Entry Dates

Once employees meet the age and service requirements, they must wait until the next entry date in order to participate in the plan. Similar to age and service requirements, the timing of entry is highly dependent on your goals for your employees - allowing employees to join quickly can engage them in saving from their paycheck sooner, while lengthening the time between entry dates is less burdensome in higher turnover environments. Standard options include:

- Monthly: the first of the month on/after meeting age and service (e.g., January 1, February 1, March 1...)
- Quarterly: the first of the calendar quarter on/after meeting age and service (January 1, April 1, July 1, October 1)
- Semi-annually: the first of January and July on/after meeting age and service

Note that each of the above are “on/after” meeting the requirements. The PAA describes these dates as “coincident with or next following the date the eligibility requirements are met.”



For example, for a plan with a one year of service requirement and January/July entry dates:

- Sam starts work on July 3, 2021; having worked over 1,000 hours from July 3, 2021 through July 2, 2022, Sam enters the plan on January 1, 2023 (the first entry date on or next following July 2).
- Van is hired a day sooner; Van also works 1,000 hours by his anniversary (July 2, 2021 through July 1, 2022), but enters the plan July 1, 2022 since this day coincides with the completion of one year with the requisite hours.

Section C. Contributions - Elective Deferrals and Safe Harbor

Elective Deferrals

Elective Deferrals are the employee's contributions to the plan. Vestwell by default supports both pre-tax and Roth contributions made via payroll deduction by employees (reflected on an employee's Form W-2 in Box 12 with deduction codes D and AA, respectively). Please review the PAA carefully if you do not intend to offer Roth contributions.

As with your plan's eligibility rules, it is best to keep elective deferrals simple. For ease of administration, we allow for deferrals up to the legal limit, including catch-up contributions for employees age 50 or older during that calendar year. As part of our recordkeeping services, we monitor incoming participant contributions to alert you to potential excess deferrals; **however, the best preventative measure to avoiding excess deferrals is to ensure your payroll is set up to limit aggregate pre-tax and Roth employee contributions in accordance with the IRS limits for the applicable year.** Vestwell is unable to fully prevent excess deferrals since they are usually already withheld from employees' pay by the time received by Vestwell. However, if we are provided with Plan Data in Good Order (as defined in your Plan Services Agreement), we can issue a refund of the excess contributions to affected participants. In the year a plan is converted to Vestwell, contributions deposited to the prior provider cannot be accounted for, and employees contributing to multiple 401(k)/403(b) plans in a calendar year must self-monitor their contributions across plans to ensure they do not exceed the IRS limits.



As stated in the PAA regarding elective deferrals, and further described in the Summary Plan Description, Vestwell provides that employees “may change, stop, or re-start [their] deferral election[s] at any time; [elections] will be updated up to once per pay period, and may take up to a few pay periods to go into effect.” Vestwell provides alerts to you, or if integrated directly to your payroll system, each pay period to indicate participants who updated deferral elections since the last pay date. Please note that the Vestwell Platform only supports deferral percentages and dollar amounts stated in integers but not dollar amounts at this time. For example, a participant may elect either 7% or \$125, but may not elect 3.5% or \$62.50.

Automatic Enrollment

These provisions, also referred to as “automatic contribution arrangements,” are proven options to increase engagement and lead your employees to greater savings habits. Upon entering the plan, an employee’s default savings rate will be pre-set for them. Employees are provided notice in advance of the default rate going into effect, so they may elect a different rate or opt out before their first eligible payroll contribution occurs.

Vestwell currently only supports default designation of elections as pre-tax deferrals, and does not include Roth contributions. The Vestwell Platform additionally only recognizes changes to the pre-tax deferral election as an opt-out of the automatic deferral rate. In other words, if a participant only changes their Roth contribution rate, the Vestwell Platform will continue to recognize them as default enrolled at the pre-tax rate (in addition to the Roth rate they elect).

There are three types of automatic enrollment features:

- **Automatic Contribution Arrangement (ACA)** - The basic option. The default savings rate can be set at any integer (e.g., 8%, 6%, 4%, 3%) and can be applied to all eligible employees (re-enrollment for existing plans) or to employees entering the plan on or after the effective date. Automatic increases may be considered.



- **Eligible Automatic Contribution Arrangement (EACA)** - Same as the ACA options noted above, with two added benefits:
 - Extended deadline to correct ADP/ACP test failures (as applicable); and
 - Permissible withdrawals that allow participants who were automatically enrolled to reverse the default contributions within 90 days.

You can add an EACA provision mid-year, but it will only be applied prospectively (i.e., the provisions will only apply to those who enter the plan on or after the feature effective date). That means that any participants who forgot to opt out of the plan before the EACA provision was added will be unable to use the permissive withdrawal option. Also, due to regulatory requirements the extended deadline to correct testing failures is unavailable until the plan is amended to apply EACA to all participants in a future full Plan Year. EACA cannot be removed mid-year.

- **Qualified Automatic Contribution Arrangement (QACA)** - This option can combine EACA automatic enrollment features with safe harbor features (see Section D). Vestwell by default pairs a 6% automatic enrollment rate with QACA safe harbor arrangements; these provisions may only be added at the start of a plan year.

Safe Harbor Contributions

The purpose of safe harbor provisions is to avoid certain ERISA-required nondiscrimination testing when certain conditions are met. If utilized, your plan will be deemed to pass the ADP test (employee contributions), may additionally be deemed to pass the ACP test (matching contributions), and may meet top heavy requirements. Removing the risk of testing failures allows owners and highly compensated employees to contribute at desired rates without the risk of refunds, and helps to avoid unexpected employer contributions. The trade-off is a fixed rate of employer contributions of at least 3% of compensation to all eligible employees, or a fixed employer matching contribution meeting minimum formula requirements. Note that with the exception of QACA safe harbor arrangements, which must be paired with automatic enrollment, safe harbor contributions are immediately vested at 100%.



Please review this section carefully, including the safe harbor election, the type/formula, and the effective date to ensure it matches your intent. These fixed contributions become legally-required and generally cannot be changed until the following year. Also, required participant notices are generated and delivered based on these provisions in the PAA.

Vestwell supports the following safe harbor options:

- Match (Enhanced Match or Single Rate) - minimum of 100% of the first 4% saved, match is capped at 4%; employees who contribute will receive a match and those who do not will not receive a safe harbor contribution. The match is 100% immediately vested.
- Match (Basic Match or Two Rates) - minimum of 100% of the first 3% saved, plus 50% of the next 2% saved, match is capped at 4%; match is 100% immediately vested. Note that some payroll systems may not support two or more tiers of match.
- Non-elective - minimum of 3% of plan compensation to all employees eligible to contribute; this contribution is *not* based on how much each employee decides to save⁹. Contributions are 100% immediately vested.
- QACA Non-elective - minimum of 3% of plan compensation to all employees eligible to contribute; this contribution type must be paired with automatic enrollment, and a maximum 2-year vesting schedule may be applied.
- QACA Match - minimum of 100% of the first 1% saved, plus 50% of the next 5% saved, match is capped at 3.5%; this match must be paired with automatic enrollment, and a maximum 2-year vesting schedule may be applied.

⁹ Beginning in 2020, safe harbor non-elective contributions may now be added mid-year. Note that an addition of a safe harbor provision after the PAA is executed will require a plan amendment, and we may charge an additional fee for preparation of the amendment as set forth in your Vestwell Plan Services Agreement. Safe harbor non-elective provisions added before December 1 of a given plan year must be retroactive to the first day of the plan year and must be set at a rate of at least 3% of eligible compensation. The same provisions added after December 1 and before December 31 of the following year must be set at a rate of at least 4% of eligible compensation.



Determination Period for Safe Harbor Matching Contributions

This section describes the timing of when the safe harbor matching contributions, if applicable, must be determined or calculated.

- End of Plan Year: matching contributions are calculated based on full plan year compensation and employee contributions for the year.
 - You may opt to fund these contributions every pay period, or fund in full after year-end.
 - A year end calculation is required.
 - If contributions are funded every pay period or other period throughout the year, a final deposit may be due to 'true-up' the difference between the pre-funded pay period deposits and the year-end calculation.
 - Funding in full must be made by your company's tax deadline, including extension if applicable, to be deducted for the same year; however, full funding is required by 12 months after the close of the year, regardless of your tax schedule.
- Each pay period: matching contributions are calculated based on compensation and employee contributions for each pay period within the plan year.
 - You may opt to fund these contributions every pay period.
 - A calculation is required for every pay cycle; a year-end calculation may be performed solely as a reference point.
 - At minimum, these contributions must be deposited by the quarter end following the quarter of the relevant payroll.
 - No 'true-up' is due based on a year-end analysis. Any shortfalls or excess funding must be reviewed for each relevant pay period.
 - **The Plan Sponsor is responsible for ensuring these contributions are calculated correctly. If the Plan Sponsor requests that Vestwell calculate or review the contributions on a pay period basis, a special services charge may apply.**



Important Note About Electing “No” to a Safe Harbor Provision

Electing not to utilize safe harbor provisions means that your plan must conduct and pass non-discrimination tests each year, including the ADP test, the ACP test, and top heavy test.

The impact of these tests may include:

- ADP and/or ACP test failure(s) may result in refunds to owners and/or highly compensated employees, or additional contributions due by the employer
- If a plan is considered top heavy, a minimum contribution of up to 3% of gross compensation may be required to all non-key employees

The risk and surprise most often arises in the first plan year in which owners and/or officers contribute at significantly greater rates than other employees; this may result in a combination of refunds and/or mandatory employer contributions. If safe harbor or other employer contributions are not viable options for your company, it is important to consider limiting or monitoring contributions of owners and/or officers and utilizing automatic enrollment to better balance participation rates across the company.

Testing Elections

Actual deferral and contribution ratios of non-HCEs are determined using the current year compensation and contribution rates. If your plan previously used prior year testing methodology, it will be changed to the current year methodology upon joining the Vestwell Platform. If you prefer to maintain a prior year testing model, Vestwell may require that you engage a TPA (Vestwell's unbundled services).



Section D. Contributions - Employer Matching, Non-Elective and Other Contributions

The below provisions apply to optional employer contributions, if elected. Initial eligibility for the plan is described in Section B. Once eligible to enroll in the plan, participants may be subject to additional allocation requirements to be eligible for employer matching and profit sharing contributions each year (if made).

Employer Matching Contributions

Matching contributions mean that an employee must defer money into the plan in order to receive the employer contribution. This is in contrast to non-elective contributions where all employees receive an employer contribution, regardless of whether or not they choose to contribute to the plan.

Employer Matching Allocation Service

If you elect to utilize the matching contribution provision, by default, Vestwell does not require a minimum number of hours or employment on the last day of the year in order to be eligible for the matching contribution. This allows employers to calculate and/or fund matching contributions each pay period. If you wish to impose an allocation condition, Vestwell will not calculate the employer match until after year-end, since allocation requirements would only be verified as part of the year-end annual review process. Additionally, Vestwell may limit the ability to make matching contributions during the year to avoid overfunding participant accounts in the event of termination of employment.

Employer Matching Contribution Inclusions

By default, Vestwell includes employee catch-up contributions (for employees over age 50) and Roth deferrals when calculating matching contributions. If setting up your matching calculations with your payroll provider, it is important that these contributions are included in the matching calculation, and any limits / formulas are applied to the aggregate deferrals.



Employer Matching Contribution Formula

Vestwell supports uniform discretionary match formulas by default; this means that you have the final decision about whether or not to make a match contribution each year, and the maximum flexibility to determine the amount of a match contribution if you choose to make one.

Vestwell can also support a “fixed” match, where you must contribute a set percentage based on the formula chosen each year; you can only use one set formula applicable to all employees, so this is a less flexible option than a discretionary match. If you want to permit an employer match to differ among tiers of employees, it is your responsibility to draft a company resolution and a plan amendment, if required. If your plan is a Safe Harbor plan, the match cannot be made on employee deferrals above 6% and the total amount cannot exceed 4% of the participant’s compensation.

Employer Matching Contribution(s) Limitations

You may opt to use this section to set a cap on the matching formula; however, the discretionary formula also permits setting this cap at the time the contribution formula is determined by the employer. If you choose this feature, it is your obligation to monitor the employer match limitation throughout the year. Please note that if any participant receives more than the maximum limit and takes a distribution from the plan (for instance, if the participant separates from employment), the plan will need to recover that excess amount from the participant. Vestwell will not be responsible for any corrective action needed, but may assist with the excess calculation and account adjustment(s).

Employer Matching - Determination Period

This section describes the timing of when the matching contributions must be determined, or calculated.



Supported match determination period options include:

- Each pay period: this is the default determination period for Vestwell plans. Matching contributions are calculated based on compensation and employee contributions for each pay period within the plan year.
 - You may opt to fund these contributions every pay period.
 - A calculation is required for every pay cycle; a year-end calculation may be performed solely as a reference point.
 - At minimum, these contributions must be deposited by the quarter end following the quarter of the relevant payroll.
 - No 'true-up' is due based on a year-end analysis; however, a "Year End Comparison Report" will be provided and an employer may choose to make an additional contribution similar to a "true-up". Any shortfalls or excess funding must be reviewed for each discrete pay period.
 - The Plan Sponsor is responsible for ensuring these contributions are calculated correctly. If the Plan Sponsor requests that Vestwell calculate or review the contributions on a pay period basis, a special services charge may apply.
- End of Plan Year: matching contributions are calculated based on the full plan year compensation and employee contributions for the year.
 - You may opt to fund these contributions every pay period or fund in full after year-end.
 - A year end calculation is required.
 - If contributions are funded every pay period or other period throughout the year, a final deposit may be due to 'true-up' the difference between the pre-funded pay period deposits and the year-end calculation.

Funding in full must be made by your company's tax deadline, including extension if applicable, to be deductible in the same year; however, full funding is required by 12 months after the close of the year, regardless of your tax schedule. A Year End Report will be provided so that if you wish to make an additional contribution, you may do so. Alternatively, if an annual determination period is used, at Year End a 'true up' is required, which can lead to unexpected expense. For more information, [visit our Help Center](#).



Non-Elective Contributions

Non-elective contributions are given to all eligible employees, regardless of whether or not they choose to contribute to the plan. This is in contrast to matching contributions which require that an employee defer money into the plan in order to receive the employer contribution.

By default, Vestwell plans include a discretionary non-elective contribution (aka profit sharing contribution) feature which provides employers the option to make employer contributions to eligible employees at year end. The contributions are called 'non-elective' because they are not contingent on the employee electing to defer into the plan (unlike match contributions). Employers have the discretion to choose not only if they want to make a non-elective contribution each year, but also the total amount they want to contribute each year. The employees eligible to receive the non-elective contributions, including the individual amount that they receive, are dependent on the eligibility requirements discussed earlier in this guide, allocation requirements, contribution formula and compliance testing results.

Non-Elective - Allocation Requirements

Vestwell supports the following allocation requirements for non-elective contributions:

- Last day requirement - in order to receive a non-elective allocation, an employee must be employed on the last day of the plan year
- Last day and hours requirement - in order to receive a profit sharing contribution, an employee must be employed on the last day of the plan year AND work a certain number of hours in the plan year (cannot exceed 1,000 hours)

Allocation requirements must pass annual non-discrimination / coverage testing. If that testing fails, in some cases employees not meeting allocation requirements will become eligible to receive an allocation to satisfy such testing.

Non-Elective - Amount and Formula

As mentioned previously, for non-elective contributions you determine year after year whether or not to make an employer contribution to the plan and the amount. This amount is divided



between employees using one of the following allocation styles (formulas) as set forth in the PAA. Each option has benefits relevant to certain business types, ownership structures and employee needs, so it may be prudent to consult a financial professional to review these options and find the best fit for your plan.

Generally, the allocation formula may be amended during the plan year only if there is a last day allocation requirement because once any participant earns the right to an allocation during the year, the formula may not be changed for that year. If you require more complex non-elective contribution formulas than the options listed below, including coordinating union benefits or Davis Bacon Act prevailing wage contributions, Vestwell may require that you engage a TPA (Vestwell's unbundled services).

- Pro-rata - each employee receives the same percentage of their annual compensation (e.g., 3%). This is the most evenly distributed way to allocate an employer contribution.
- Integrated - plans generally cannot favor highly compensated employees by giving them a larger contribution; however, such disparity is permitted if “integrated” with Social Security. As such, all participating employees whose compensation exceeds the Social Security Taxable Wage Base in effect for that year (\$147,000 in 2022 and \$142,800 in 2021) are allocated an additional percentage of the employer's contribution within certain limitations.¹⁰
- New Comparability - Vestwell defaults to the use of each participant in their own group to preserve the most flexibility for how you choose to distribute the employer contribution among your employees. New comparability works well for businesses that want to maximize employer contributions to older, higher-paid owners and key employees while still rewarding their younger employees. This option is subject to nondiscrimination testing.

¹⁰ An integrated employer contribution cannot exceed 5.7% of the difference between the Social Security Taxable Wage Base and their eligible compensation.



Other Contributions

Rollovers

By default, Vestwell permits employees in eligible classifications to make rollover contributions to the plan, even if not yet eligible to participate otherwise. As noted in the Summary Plan Description, Vestwell can only accept direct rollovers of pre-tax and designated Roth accounts from other qualified plans and Traditional IRAs.

Death or Disability During Qualified Military Service

By default, a participant who dies or becomes disabled while performing qualified military service will be treated as if he had been employed by the employer on the day preceding death or disability. Contact Vestwell if this situation arises, so employee service records can be updated accordingly.

Section E. Vesting

Vesting is the process by which a participant's benefits become non-forfeitable. A vested balance represents the benefits a participant has earned the right to keep should they leave employment. Vesting is one way to use your plan as an employee retention tool, since you can create a vesting schedule that rewards longevity with your company.

Employee contributions, safe harbor contributions, and rollovers into the plan are always fully vested, but employer contributions like matching, profit sharing, and QACA safe harbor contributions may be subject to a vesting schedule.

Vesting Service Rules

Similar to eligibility, the PAA defines how service is recognized for the purposes of crediting a year of vesting service. Vesting schedules are based on the number of years of vesting service an employee is credited. Note that as with eligibility, service with *all* related companies including dates of hire and hours of service, as applicable, must be reported to Vestwell to ensure vesting is accurately calculated on an ongoing basis.



Vesting Service Computation Method

Below are standard vesting recognition options supported by Vestwell's bundled offering:

- Elapsed time: Service is recognized as the passage of time. An employee is credited with a year of vesting service on each anniversary of hire during employment, and credit is generally recognized as if employed continuously if an employee terminates service and is subsequently rehired within 12 months.
- Hours-Based: Service is based on hours worked each plan year. An employee does not have to be employed on the last day of the year for service to be counted; a year of vesting service is credited as soon as an employee is recognized as having served 1,000 hours in a given year.

If electing an hours-based vesting service computation method, you must confirm that your payroll provider tracks hours and is able to provide them as part of your payroll data every pay cycle.

Hours Equivalency

For salaried employees for whom hours are not tracked, the DOL allows for an hours equivalency method to be used to track service crediting. Under the heading "Eligibility Service Computation Rules", Vestwell selects from the following options if you have elected hours-based eligibility requirements:

- 45 Hours of Service for each week or partial week. We recommend you use this equivalency if your primary pay period is weekly or biweekly.
- 95 Hours of Service for each semi-monthly payroll period or partial semi-monthly payroll period.
- 190 Hours of Service for each month or partial month. Vestwell recommends you use this equivalency for monthly pay cycles.

You must work with your payroll provider to ensure the hours uploaded each pay cycle reflect actual tracked hours or the appropriate DOL-approved equivalencies. Note that in the absence



of hours submitted with payroll, Vestwell may default to 190 hours per month of employment when considering eligibility and/or vesting.

Other Employer Service

This section allows you to recognize employment history with a non-related company for vesting purposes. This may arise with an asset acquisition when the new employer wants to recognize service from the company from which they acquired business assets for a group of new employees. If you choose to use this provision, the same service must be recognized for all contribution sources for vesting purposes and you will need to provide an original date of hire with the recognized entity, as well as the hours history of each employee if your plan uses hours-based service for eligibility and/or vesting.

Vesting Exceptions

Accelerated vesting can optionally be applied when an employee terminates employment due to death or disability. In other words, if an actively employed individual passes away or becomes disabled, their employer benefits become immediately vested. By default, Vestwell applies these provisions. Note that by statute, employees must be made 100% vested upon attainment of the plan's Normal Retirement Age (see Section F).

Vesting Exclusions

Recognition of vesting service may be restricted to only service after an employee turns age 18, and/or after the original effective date of the plan. By default, Vestwell does not apply these provisions. If applied, limiting service prior to the start of the plan may reduce administrative burden of providing historic service since only service from the start of the plan and forward would need to be submitted; however, the downside is that for long-term employees they start earning vesting credit beginning on the inception date of the plan, and do not earn credit for their service before the plan started.



Vesting Schedules

At this time, a single vesting schedule must be selected and applied across employer contribution types, with the exception of QACA contributions. The schedules offered include:

- 100% immediate vesting - all contributions are 100% vested and nonforfeitable once allocated, regardless of length of service
- 2-Year Cliff - 0% of employer contributions subject to vesting are considered vested until the employee is credited with 2 years of service (100% vested at 2 years). This or a more generous vesting schedule must be elected if utilizing QACA safe harbor
- 4-Year Graded - 25% of employer contributions subject to vesting are considered vested each year starting with 1 year of credited service (100% at 4 years)
- 6-Year Graded - 20% of employer contributions subject to vesting are considered vested each year starting with 2 years of credited service (100% at 6 years)
- 3-Year Cliff - 0% of employer contributions subject to vesting are considered vested until 3 years of credited service (100% vested)
- As needed, a schedule that aligns to a prior plan document (carry forward from a converted plan only)

Forfeitures

Forfeitures are the unvested assets previously allocated from employer contributions to an employee's account that are no longer allocated to that employee due to a separation of service; forfeitures are recognized as of the earlier of the employee taking a full distribution of their account, or 5 "Breaks In Service"(5 years with under 500 hours of service) since termination of service. You can use the balance in the forfeiture account for any legally permissible method, such as to offset employer contributions, reallocate as employer contributions, and/or pay plan expenses. Forfeitures cannot be used for employee contributions. Your Vestwell invoice will show a running balance of your plan's forfeiture account. **It is your responsibility to ensure timely use of your forfeiture balance (no later than the end of the plan year following the year in which the forfeiture occurred) and only for purposes consistent with those set forth in the plan document.**



Section F. Distributions

Normal and Early Retirement

By default, Vestwell defines the Normal Retirement Age as the date a participant reaches the age of 65. Vestwell does not support Early Retirement Age provisions, which optionally accelerate vesting or provide for certain distribution and contribution waivers. If your prior plan document includes an Early Retirement provision, Vestwell may continue administering the provision as a protected benefit, but will remove the service requirement if previously applicable (i.e. if Early Retirement Age in a prior document was attainment of age 60 and 5 Years of Service, during restatement Vestwell will amend this provision to age 60 and remove the 5 Years of Service requirement).

Time and Form of Payment

The Vestwell platform supports distributions immediately upon termination of employment. If your prior plan document delayed distributions (e.g., until the end of the year), Vestwell will update the provision to match our standard immediate distribution provision. Distributions may be made in the form of cash only; Vestwell does not provide for in-kind distributions at this time.

The following forms of payment may be elected:

- Lump sum - a full distribution of the vested account balance; the participant may elect to take the full amount as a rollover to another qualified plan or IRA, take the full amount as a cash distribution (subject to ordinary income taxes and early withdrawal penalties, if applicable), or a mix of the two to meet cash flow and planning needs.
- Partial - if elected, this provision allows participants to take a portion of their vested account and leave the remainder in the plan to distribute at a later date; the upside of this option is flexibility for former employees while the downsides may include multiple distribution fees and ongoing administrative overhead for maintaining a former employee's account.



Vestwell does not currently support installment or Qualified Joint and Survivor Annuity options. If needed or desired, Vestwell may require that you engage a TPA (Vestwell's unbundled services).

Payments on Death

It is important to encourage employees to add and update beneficiary elections. The options for employees to update their elections include: the employee accessing and updating the Vestwell Portal, you as the employer can keep employees' elections (e.g., paper forms) on file, or a combination of these methods may be used. In order for Vestwell to consider a participant's Beneficiary Designation Form to be valid, it must be fully and properly completed. Absent a valid beneficiary election, the PAA defines who will be considered the designated beneficiary(ies) in the event of a participant's death as follows:

“Unless otherwise provided in the Adoption Agreement, in the event that the Participant fails to designate a Beneficiary, or in the event that the Participant is predeceased by all designated primary and secondary Beneficiaries, the death benefit shall be payable to the Participant's spouse or, if there is no spouse, to the Participant's children in equal shares or, if there are no children to the Participant's estate.”

We recommend that you remind your employees to review and update beneficiary elections regularly to account for significant life changes. The PAA may also include a provision indicating that a beneficiary designation to a spouse shall be automatically revoked upon the legal divorce of the participant and the spouse.



Force Out Provisions

In recognition of the administrative and financial burden associated with small accounts, the IRS provides that plans may force out small balances associated with former employees. Use of these provisions help to:

- Reduce the likelihood of missing participants / abandoned accounts;
- Reduce the administrative and financial burden of regular disclosures to former employees; and
- Reduce the likelihood of unnecessarily requiring a plan audit solely for a growing number of small accounts left behind by former employees.

As elected in the PAA, Vestwell may force out former employees with vested account balances of \$5,000 or less by rolling over the accounts to default IRAs after providing required notice and satisfying a wait period. This wait period allows former employees to make an election to direct payment as a cash distribution or rollover to an IRA or qualified plan of their choosing.

Required Beginning Date

Required minimum distributions ("RMDs") generally must be taken once an individual reaches age 70 ½ to age 72 (depending on date of birth); however, there is an exception that may be applied for non-owner employees actively employed. As elected in the PAA, employees not considered over 5% owners are required to begin distributions as of the later of the designated RMD age or severance of employment. Note that those considered over 5% owners must begin distributions upon attainment of the RMD age, regardless of employment status.



Section G. In-Service Withdrawals

While retirement plan savings are primarily intended to support living expenses during retirement, the plan may allow for access to these savings in specific situations while still employed which are called in-service withdrawals. Vestwell supports the following in-service withdrawal options by default to allow flexibility while maintaining statutory restrictions:

- Upon attainment of age 59-½*
- Rollover contribution sources (amounts rolled into the plan), allowed at any time
- Upon being declared Disabled (as defined under plan terms)*
- Military - Qualified Reservist and Deemed Severance distributions*
- Hardship distributions, if elected (see below)

*Access is typically restricted to contribution sources which are 100% vested; contribution sources not yet fully vested are not accessible by those actively employed.

The IRS allows certain distributions before age 59-½ for immediate and heavy financial needs, known as hardship withdrawals.¹¹ Vestwell uses the IRS-provided list of 'safe harbor' reasons to take a hardship distribution, expanded to consider the hardship needs of designated beneficiaries, and allows participants to self-certify as to the amount and need. Participants are required to furnish proof of such hardship upon request. An approved hardship can be expected to be processed within 10 business days.

Optional elections for hardship in-service withdrawals include:

- Not permitting hardship distributions;
- Permitting hardships solely from amounts employees have contributed; or
- Permitting hardship withdrawals from all fully vested sources.

¹¹ <https://www.irs.gov/retirement-plans/plan-participant-employee/retirement-topics-hardship-distributions>



Updates to hardship rules have been made in recent years. Vestwell utilizes the following defaults, and assumes the following provisions were elected effective the later of January 1, 2020 or as of the plan's original effective date:

- Hardship safe harbor reasons include federally declared disasters;
- Available sources include QNEC/QMAC/Safe Harbor sources;
- Available amounts include earnings from employee deferral sources;
- The participant may represent (in writing or by an electronic medium) that they have insufficient cash or other liquid assets to satisfy the financial need;
- The six month suspension of deferrals shall no longer apply; and
- Participants are no longer required to take all available nontaxable loans before requesting a hardship distribution.

Other in-service distribution options, including In-Plan Roth Rollovers or Transfers, are not permitted at this time.

Section H. Plan Operations and Top-Heavy Plan Operations

Investments and Self-Direction

Plans on the Vestwell Platform allow participants to self-direct their investments, and their investment elections apply to all funding sources in their account, including employer contributions. As such, Participants are always solely responsible for making their own investment decisions.

In order to allow participant investment control, however, the plan sponsor must provide an investment menu and regularly assess the quality of investment options in the plan. The plan sponsor may engage a 3(21) investment advisor or a 3(38) investment manager to assist with this requirement. A 3(21) investment advisor does not have investment discretion but rather must obtain plan sponsor approval before making any changes to the plan's investment lineup, while a 3(38) investment manager does have discretion to make and implement the plan's investment lineup without plan sponsor approval.



Vestwell Advisors may be engaged as a 3(38) investment manager, as may other investment advisors which contractually agree to perform those fiduciary investment duties for you. It should be noted that Vestwell Advisors also does not provide any investment, tax, or financial advice to plan participants.

Regardless of whether you engage any third party to perform fiduciary investment services as an investment manager or investment advisor, you always remain a fiduciary to the plan and should regularly review your plan's investment options to be sure that the investments are suitable for your employees, and the fees are reasonable.

On the Vestwell Platform, the following options or limitations may be reflected in the PAA:

- Investment menus may include but are not limited to: mutual funds, ETFs, stable value funds, money market funds, and/or collective investment trusts;
- Investment menus may not currently include employer securities, individual stocks, real estate holdings, property or life insurance;
- Individual annuity contracts are not currently supported;
- Self Directed Brokerage Accounts are not currently supported; and
- Plan assets are valued at the end of each business day following the New York Stock Exchange calendar. Participant accounts are updated in a transaction log available on the participant portal.

Plan Administration

The Plan Sponsor may designate a Plan Administrator, and may outsource certain Plan Administration functions as described by your Vestwell Plan Services Agreement. If you have engaged a TPA, your TPA may undertake some of those activities, which are also memorialized in an appendix to your Plan Services Agreement. By default, the Plan Sponsor is generally the investment fiduciary, and, as noted in the prior section, may contractually engage Vestwell Advisors or a third party for that service.



Top-Heavy

A plan is considered top heavy if the portion of plan assets held by certain owners and officers of an employer (“Key Employees”) is in excess of 60% of total value of plan assets (with required adjustments).¹² A Key Employee is an employee, who *at any time* during the plan year, meets at least one of the criteria below:

- An individual who owns (directly or indirectly) more than 5% of the company business or a related employer
- An individual who owns (directly or indirectly) more than 1% of the company or a related employer AND has gross annual compensation in excess of \$150,000 (not adjusted annually for inflation)
- An officer of the company or a related employer with annual compensation exceeding \$200,000 in 2022 (adjusted annually for inflation)

Each year the top heavy status is determined based on the Key Employee status and asset balances as of the determination date, typically the last day of the prior plan year. If your plan is top heavy, a minimum contribution to each non-Key Employee of up to 3% of compensation may be required.

Per the PAA, Vestwell allows only non-Key Employees to receive the top heavy minimum contribution, if applicable. This removes the requirement to contribute to Key Employees, but most non-elective and matching formulas provide the flexibility to contribute to such employees if desired.

If the Plan Sponsor also sponsors a defined benefit plan, the top heavy test may require the plans to be aggregated to determine if a top heavy minimum contribution is due and how much the minimum required contribution would be. Note that other aggregation with a defined benefit plan may be required for contribution requirements and plan testing; Vestwell may require that you engage a TPA (Vestwell’s unbundled services) for such combined testing.

¹² <https://www.irs.gov/retirement-plans/is-my-401k-top-heavy>



Additional Included Documents (As Applicable)

SECURE/CARES/CAA Amendment

This “good faith” interim amendment is a required amendment based on recent law changes and contains both standard and optional provisions. Vestwell’s default elections may be modified upon request.

Below are Vestwell’s default elections of optional provisions:

- Qualified Birth and Adoption Distributions: allows for in-service distribution of up to \$5,000 during the 1-year period beginning on the date on which the employee’s child is born or on which a legal adoption is finalized; as a default, Vestwell assumes this is effective the later of January 1, 2020, or the original effective date of the plan. Contact Vestwell if this date requires adjustment based on plan provisions in effect prior to engagement with Vestwell.
- RMD Waiver (2020): as a default, Vestwell assumes that the plan waived required minimum distributions for 2020 if the plan was in effect; additionally, Vestwell does not provide for rollover treatment of amounts taken before the waiver was announced.
- Portability: Vestwell does not currently support annuity products, so portability of such products is not elected.
- Reduction of Transfer Account (pension asset) in-service age: as a default, Vestwell decreases the minimum age for in-service distribution of pension related assets, if merged into this plan, from 62 to 59-½ to align with other in-service provisions.

Following are legally-required provisions contained in the interim amendment which may not be altered:

- QACA Auto Increase (SECURE Act): permits the auto-increase cap to be set as high as 15% (from 10%) and still meet QACA requirements.



- RMD beginning age (SECURE Act): effective January 1, 2020, any references to age 70-1/2 are replaced with: age 70-1/2 (for Participants born before July 1, 1949) or age 72 (for Participants born after June 30, 1949).
- CARES Act: distribution and expanded loan options related to coronavirus-related relief are adopted.
- Long-Term Part-Time employees (SECURE Act): exclusion based solely based on never having worked 1,000 hours in a 12-month eligibility period is no longer permitted. Service beginning in 2021 must be recognized for employees working at least 500 hours in a plan year. If not already eligible, an employee will become eligible upon the completion of three (3) consecutive years of service during which at least 500 hours are worked, and such years shall also count toward vesting service.

Consent Resolution

This resolution is provided as part of the standard plan document package as a way to document a company's action to approve the decision to adopt the plan, and should be reviewed to ensure the language conforms to your company by-laws. If changes are required to align with the manner in which your company handles its corporate affairs, you may edit this resolution accordingly before signing. If you need assistance to upload your revised resolution for digital signature, please contact us.

Trust Agreement

Vestwell Trust Company, a subsidiary of Vestwell Holdings Inc., will serve as the Trustee for your plan and will perform the services set forth in Appendix G to your Plan Services Agreement.

Joinder Agreement(s) - If Applicable

If a member of a controlled group of employers or an affiliated service group wants to participate in the plan, it must formally elect to join the plan. Vestwell typically provides a



Joinder Agreement to document the sponsoring employer's consent and participating employers' adoption of the plan under the same terms as the sponsoring employer. If related entities sponsor separate plans or choose not to participate in this plan, Vestwell may require that you engage a TPA (Vestwell's unbundled services).

QDRO Procedures

These procedures outline the necessary steps in the case you are notified of a Qualified Domestic Relations Order (QDRO) which may result in the dividing of an employee's plan assets due to circumstances such as divorce. Vestwell, or your TPA if you have engaged one, may assist with the QDRO qualification review, and processing of the court-ordered document.

Loan Procedures - If Elected

If you intend to offer participant loans in which a participant borrowing against their own vested account balance, the loan procedures outline the terms of such loans, including:

- Maximum amount: statutory limit of the amount that may be borrowed is the lesser of 50% of participant's vested balance or \$50,000, reduced by the highest outstanding loan balance in the last 12 months.
- Repayment period:
 - General Purpose Loan: maximum period is 5 years (statutory limitation)
 - Residential Loan: if elected, the maximum repayment for purchase of a principal residence may be extended to 10 years
- Repayment frequency and method: Vestwell provides for repayment of an outstanding loan via payroll deduction; payments typically align to a company payroll schedule, and must be at least quarterly. Pre-payments are only permitted in full via the participant's online account through electronic funds transfer (EFT).
- Interest rate: Interest must align to other commercially available rates; Vestwell defaults to the prime rate as reflected in the *Wall Street Journal* as of the first day of the month in which the loan is requested, plus 1%. Note that the participant is paying the interest to their own account, not to Vestwell or another entity.



- Limitations: Loans may not be refinanced. Vestwell permits only one loan at a time per participant.
- Due in full upon termination of employment: Upon severance of employment, a loan becomes due in full; if a participant is unable or unwilling to pay off the loan at that time, the loan is considered in default and offset. The outstanding balance is reported as a taxable distribution, subject to ordinary income taxes and early withdrawal penalties, as applicable.

In order to request a loan, a participant must complete an online application via the Vestwell Portal. Upon submission of an eligible request, the participant can expect the loan to be processed for payment within 10 business days. Loans are subject to a \$175 processing fee and \$50 annual maintenance fee, which are deducted from the participant's account; these fees are reflected in the online application process. Once a loan is approved, you will be notified of the required loan repayment amounts. These repayments must be set up in payroll as 401(k) loan payments and are not pre-tax / deductible amounts.

IRS Pre-Approval Letter

This letter demonstrates that the Internal Revenue Service granted pre-approval status to the plan document, i.e., the Basic Plan Document and associated Plan Adoption Agreement. The letter confirms that the document incorporates the most recent required language for the IRS to consider the plan qualified for tax benefits to both participants and you as the employer; the plan will maintain that qualified status as long as no (significant) adjustments are made to the document as it was provided to the IRS for its review, and the options as outlined by the adoption agreement are implemented and administered accordingly. It is addressed to the document provider, Vestwell Holdings, Inc.; indicating that the plan document has been reviewed and approved for use by our clients.



Participant Disclosures

The below are typically produced in full once the plan document is executed, and published to the portal for employee access.

Plan Highlights

This two-page document can be a helpful quick-reference guide for the basic terms of your plan, but is not a replacement for the PAA or the Summary Plan Description. If there is a discrepancy between the PAA and the Plan Highlights, the PAA will control.

Summary Plan Description

The Summary Plan Description (SPD) is a required disclosure to plan participants, provided before (or as soon as) they become eligible to participate in the plan, and at least once every five years thereafter. This document is intended to describe in common language an employee's rights and benefits under the plan, including how to become eligible for the plan, which types of contributions they can make or receive, and how they can access their benefits (e.g., distributions, loans, and in-service withdrawals).

Annual Notice

If your plan utilizes safe harbor contribution provisions and/or automatically enrolls participants at a specified employee deferral rate, an annual notice is generally required to inform participants of how these provisions impact them. If the plan uses automatic contribution arrangements, the document describes the default savings rate at which they will be enrolled, how to take action if they don't intend to contribute, and whether they have access to unwind contributions made via this default.



Qualified Default Investment Alternatives (“QDIA”) Notice

This notice explains the investment(s) into which the participant will be enrolled if they do not make an allocation election, the associated expenses, and how they may change their investment elections. It is the responsibility of the plan’s investment fiduciary to confirm that any default set of investment options satisfies regulatory requirements. Note that the QDIA Notice references an Investment Comparison Chart which is available via the Vestwell Platform and contains investment performance, expense, and benchmark comparisons for each investment available to participants.