

UNIVERSITY OF ARKANSAS COMMUNITY COLLEGES 403(B) RETIREMENT PLAN

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UNIVERSITY OF ARKANSAS COMMUNITY COLLEGES 403(B) RETIREMENT PLAN

The University of Arkansas System, pursuant to its Board policies and A.C.A. section 24-7-1003, hereby adopts this written document effective January 1, 2009. The Plan is designed to be a 403(b) plan and is designed to comply with the final regulations under section 403(b) of the Internal Revenue Code.

SECTION 1: DEFINITION OF TERMS USED

The following words and terms, when used in the Plan, have the meaning set forth below.

1.1. "Account": The account or accumulation maintained for the benefit of any Participant or Beneficiary under an Annuity Contract or a Custodial Account. Such account shall include amounts in a Participant's Required Employee Contribution Account, Employee After-tax Account, Elective Before-Tax Account, Roth 403(b) Account, and Employer Account. Each source account shall be credited separately with earnings, gains and losses thereon. The Account shall include amounts in the TIAA CREF Supplemental Retirement Annuity (SRA), Retirement Annuity (RA) and Group Retirement Annuity (GRA) and any mutual funds held in a Custodial Account at TIAA CREF. The Account shall include all amounts held in any Annuity Contract at or Custodial Account at another Vendor to which Required Employee Contributions, Elective Deferrals, After-Tax Contributions or Employer contributions which are a part of this Plan are made. If a Participant has more than one Beneficiary at the time of the Participant's death, then a separate Account Balance shall be maintained for each Beneficiary. A separate account may also be established for an alternate payee under a Qualified Domestic Relations Order.

1.2. "After-Tax Contributions": Contributions deducted from a Participant's compensation which are subject to income tax at such time (but not including any Roth 403(b) Deferrals).

1.3. "Annuity Contract": A nontransferable contract as defined in section 403 (b)(1) of the Code, established for each Participant, that is issued by a company licensed as an insurance company and qualified to issue annuities in Arkansas and that includes payment in the form of an annuity.

1.4. "Beneficiary": The designated person who is entitled to receive benefits under the Plan after the death of a Participant, subject to such additional rules as may be set forth below.

1.5. "Board Policy": Board Policy 425.5 of the University of Arkansas System, as amended from time to time, which governs retirement plans for Employees.

1.6. "Code": The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

1.7. "Custodial Account": The group or individual custodial account or accounts, as defined in section 403(b)(7) of the Code, established for each Participant, to hold assets of the Plan.

1.8. "Disability": Becoming eligible for benefits under the Employer's basic group long term disability plan, or determination of disability by the Social Security Administration.

1.9. "Elective Deferral": The Employer contributions made to the Plan at the election of the Participant in lieu of receiving cash compensation. Elective Deferrals may be before-tax deferrals or Roth 403(b) deferrals, if elected by the Plan Administrator.

1.10. "Employee": Any person on the payroll of the Employer whose wages from the Employer are subject to withholding for the purposes of Federal income taxes and for the purposes of the Federal Insurance Contributions Act.

An individual who is not classified for the relevant period as an employee on the Employer's (or Affiliated Employer's) payroll records, whether because the individual is treated as an independent contractor or an employee of another person, shall not be an Employee, even if such classification is determined to be erroneous, or is retroactively revised pursuant to an audit by a governmental agency, civil litigation or otherwise, and even though such individual's pay shall be later determined to be subject to withholding as an employee for previous periods.

1.11. "Employer": The following institutions which are part of the University of Arkansas System:

University of Arkansas Community College at Batesville
University of Arkansas Community College at Morrilton
University of Arkansas Community College at Hope
Cossatot Community College of the University of Arkansas
Phillips Community College of the University of Arkansas

1.12. "Forfeiture": Any portion of the Participant's Account in which the Participant is not vested upon termination of employment. A forfeiture shall occur upon Severance from Employment. Forfeitures will be returned to the Employer.

1.13. "Funding Vehicles": The Annuity Contracts or Custodial Accounts issued for funding amounts held under the Plan and specifically approved by the Plan Administrator for use under the Plan. Only Funding Vehicles at the Vendors may be used. All Custodial Agreements and Annuity Contracts governing the Funding Vehicles shall be a part of this Plan and are attached hereto.

1.14. "Includible Compensation": An Employee's actual wages in box 1 of Form W-2 for a year for services to the Employer, but subject to a maximum of \$245,000 (or such higher maximum as may apply under section 401(a)(17) of the Code) and increased (up to the dollar maximum) by any compensation reduction election under section 125, 132(f), 401(k), 403(b), 414(h) or 457(b) of the Code (including any Elective Deferral under the Plan). The amount of Includible Compensation is determined without regard to any community property laws.

1.15. "Normal Retirement Age": Age 65.

1.16. "Participant": An Employee who is eligible to participate in the Plan and who pursuant to elections made by the Participant shall have met all requirements for participation in the Plan. Only an Employee who has an account balance under the Plan shall be considered a Participant.

1.17. "Plan": University of Arkansas Community Colleges 403(b) Retirement Plan.

1.18. "Plan Administrator": The President of the University of Arkansas System, or his delegate. The Plan Administrator shall have the power and duty to take all action and to make all decisions necessary or proper to carry out the provisions of the Plan.

1.19. "Plan Compensation": Compensation as defined in the Adoption Agreement for each Employer.

Compensation shall not include amounts in excess of \$245,000. The Compensation limit shall be adjusted for cost-of-living increases under Code § 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year. For any computation period of less than 12 months, the annual Compensation limit shall be prorated.

The Adoption Agreement shall provide whether Plan Compensation includes accrued leave pay payable at termination of employment. Compensation shall include the following only to the extent such amounts are paid by the later of 2½ months after severance from employment or by the end of the limitation year that includes the date of such severance from employment. In no event shall Plan Compensation include severance pay.

(1) Regular Pay. Compensation shall include base Plan Compensation after severance of employment if:

(i) The payment is regular compensation for services during the participant's regular working hours, and

(ii) The payment would have been paid to the participant prior to a severance from employment if the participant had continued in employment with the Employer.

(2) Terminal Leave Cashouts. Leave cashouts may be included in Plan Compensation if those amounts would have been included in the definition of Plan Compensation if they were paid prior to the participant's severance from employment, and the amounts are payment for unused accrued bona fide vacation or sick leave, but only if the participant would have been able to use the leave if employment had continued.

1.20. "Plan Year": The calendar year.

1.21. "Related Employer": The Employer and any other entity which is under common control with the Employer under section 414(b) or (c) of the Code.

1.22. "Required Employee Contributions": Employee contributions which are required as a condition of participation in the Plan. Such contributions are before-tax and are allocated to the Employee's Required Employee Contributions account. Such contributions are not Elective Deferrals for purposes of the limitations thereon.

1.23. "Severance from Employment": For purpose of the Plan, Severance from Employment means termination of employment with the Employer and any Related Entity. Thus, if a Participant terminates employment with an Employer and immediately is hired with another Employer, the Participant is not considered to have had a Severance from Employment. Also, if a Participant terminates employment with an Employer and immediately is hired with an Employer participating in the University of Arkansas Optional Retirement Plan 403(b) Plan or the University of Arkansas at Fort smith 403(b) Retirement Plan, the Participant is not considered to have had a Severance from Employment.

1.24. "Valuation Date": Each business day on which the New York Stock Exchange is open for trading.

1.25. "Vendors" : The Vendors named in the Adoption Agreement for each Employer, as approved in the Board Policy.

1.26. "Year of Service" A 12 month period beginning on date of hire, or any anniversary thereof, during which a Participant is continuously employed by Employer. Rules concerning breaks in service are set forth in Section 8.3 below.

SECTION 2:

ELIGIBILITY

2.1. Eligibility-Elective Deferrals. Employees eligible to make Elective Deferrals shall be as set forth in the Adoption Agreement. Employees who are eligible to make Elective Deferrals are eligible immediately upon employment. Eligible Employees will be given written notice at the time of employment concerning their eligibility to make Elective Deferrals. An Employee must (1) complete and sign an agreement to make Elective Deferrals and (2) select a Vendor to make Elective Deferrals. Elective Deferrals will begin on the first payroll date after the completed agreement to make Elective Deferrals is received by Human Resources, provided that a reasonable number of days advance notice may be required in order to process a payroll deduction.

2.2. Eligibility-Required Employee Contributions and Employer Contributions.

(a) Employees are eligible to participate in Employer contributions under the Plan as set forth in the Adoption Agreement for each Employer. An Employee who is eligible for Employer contributions shall be provided the opportunity to elect between the Plan, the Arkansas Teachers Retirement System (“ATRS”) and the Arkansas Public Employees Retirement System (“APERS”) as set forth in the Board Policy. An Employee who pursuant to such election is included in this Plan shall be eligible for Employer contributions in this Plan, and may be required to make Required Employee Contributions as set forth in the Adoption Agreement. Such Employee shall become eligible for Employer contributions retroactive to date of hire, as of the date such election becomes effective. In order for Employer contributions to begin, the Employee must select a Vendor (if there is more than one Vendor) using documentation provided by the Employer. If an Employee elects to participate in ATRS or APERS, no Employer contribution shall be made to this Plan.

(b) In the event an Employee goes from an eligible classification to an ineligible classification, such Participant shall continue to vest in his Account as set forth in the Plan, until such time as his Accrued Benefit is forfeited or distributed pursuant to terms of the Plan, but shall no longer be eligible for Employer contributions under the Plan. If an ineligible Employee becomes a member of an eligible class, such Employee will participate effective on the date the Employee becomes a member of an eligible class, subject to completing the requirements set forth in (a).

SECTION 3:

ELECTIVE DEFERRALS AND AFTER TAX CONTRIBUTIONS

3.1. Elective Deferral Agreement. Any Elective Deferral Agreement shall remain in effect until a new election is filed. Each Employee electing to make Elective Deferrals will become a Participant in accordance with the terms and conditions of the Plan. Unless the Plan Administrator permits Roth 403(b) contributions, all Elective Deferrals shall be made on a pre-tax basis. An Employee shall become a Participant as soon as administratively practicable following the date applicable under the employee's election.

3.2. Information Provided by the Employee. Each Employee enrolling in the Plan should provide to the Employer at the time of initial enrollment, and later if there are any changes, any information necessary or advisable for the Employer to perform its duties under the Plan, including any information required under the Individual Agreements.

3.3. Change in Elective Deferrals Election. Subject to the provisions of the applicable Individual Agreements, an Employee may at any time revise his or her participation election, including a change of the amount of his or her Elective Deferrals, his or her investment direction, and his or her designated Beneficiary. A change in the investment direction shall take effect as provided by the Vendor. A change in the Beneficiary designation shall take effect when the election is accepted by the Vendor.

3.4. Contributions Made Promptly. Elective Deferrals under the Plan shall be transferred to the applicable Funding Vehicle no later than 15 business days following the end of the month in which the amount would otherwise have been paid to the Participant.

3.5. Leave of Absence. Unless an election is otherwise revised, if an Employee is absent from work by leave of absence, Elective Deferrals under the Plan shall continue to the extent that Plan Compensation continues.

3.6. Roth 403(b) Deferrals.

(a) The Plan Administrator may permit Roth 403(b) Deferrals. If the Plan Administrator permits Roth 403(b) Deferrals, all Employees must be permitted to make such deferrals. "Pre-Tax Elective Deferrals" mean a Participant's Elective Deferrals which are not includible in the Participant's gross income at the time deferred and has been irrevocably designated as Pre-Tax Elective Deferrals by the Participant in the Participant's deferral election. A Participant's Pre-Tax Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Pre-Tax Elective Deferrals.

"Roth 403(b) Deferrals" mean a Participant's Elective Deferrals that are includible in the Participant's gross income at the time deferred and has been irrevocably designated as Roth

403(b) Deferrals by the Participant in the Participant's deferral election. A Participant's Roth 403(b) Deferrals will be separately accounted for, as will gains and losses attributable to those Roth 403(b) Deferrals.

Roth 403(b) Deferrals shall be treated in the same manner as for all Plan purposes except as provided in this Section. The Employer may, in operation, implement deferral election procedures provided such procedures are communicated to Participants and permit Participants to modify their elections at least once each plan Year.

(b) The Plan Administrator operationally may implement an ordering rule procedure for withdrawals (including, but not limited to, in-service withdrawals) from a Participant's accounts attributable to Pre-Tax Elective Deferrals or Roth 403(b) Deferrals. Such ordering rules may specify whether the Pre-Tax Elective Deferrals or Roth 403(b) Deferrals are distributed first. Furthermore, such procedure may permit the Participant to elect which type of Elective Deferrals shall be distributed first.

(c) Corrective distributions attributable to Roth 403(b) Deferrals. For any Plan Year in which a Participant may make both Roth 403(b) Deferrals and Pre-Tax Elective Deferrals, the Plan Administrator operationally may implement an ordering rule procedure for the distribution of Excess Deferrals (Code Section 402(g)) and Excess Annual Additions (Code Section 415). Such ordering rules may specify whether the Pre-Tax Elective Deferrals or Roth 403(b) Deferrals are distributed first, to the extent such type of Elective Deferrals was made for the year. Furthermore, such procedure may permit the Participant to elect which type of Elective Deferrals shall be distributed first.

(d) The Plan Administrator will administer Roth 403(b) Deferrals in accordance with applicable regulations or other binding authority not reflected in the Plan.

3.7. After-Tax Contributions. A Participant may make After-Tax Contributions to the Plan. After-tax contributions and earnings, gains and losses thereon will be allocated to a separate account. After-tax contributions are treated as annual additions for purposes of the limitations of Section 415 of the Code.

SECTION 4:

EMPLOYER CONTRIBUTIONS

4.1. Employer Contributions. For those employees who pursuant to Section 2.2(a) have elected for Employer contributions to be made to this Plan, the Employer will make contributions as set forth in the Adoption Agreement. Employer contributions are made on a payroll period basis; matching contributions are made only for that portion of the year in which a Participant is making Employee contributions.

4.2. Military Leave. Employer non-elective contributions shall be made on behalf of a Participant who is in qualified military service, as defined in Code § 414(u)(5) and who is reemployed within the time required by law after the expiration of his qualified military service. Also, such Participant may make-up Employee contributions for the period of his qualified military service, based on his deemed compensation during his qualified military service as defined in Code § 414(u). Such make-up Employee contributions may be made in either a single payment or in installments and must be made during the period beginning with the date of the Participant's reemployment after his military leave equal to the lesser of (i) three times the period of his military leave and (ii) five years. As soon as reasonably practicable after any such Participant make-up contributions are made, the Employer shall make the matching Employer contributions that would have been made during the Participant's military leave on such make-up contributions.

In determining the contributions during military leave, a Participant will be treated as having received compensation during the period of qualified military service equal to the rate of pay the Participant would have received from the Employer but for the qualified military service.

4.3. Contributions for Former Employees. The Employer may, in its discretion, make contributions for former Employees under this Section. For this purpose, a former Employee is deemed to have monthly Includible Compensation for the period through the end of the taxable year of the Employee in which he or she ceases to be an Employee and through the end of each of the next five taxable years. The amount of the monthly Includible Compensation is equal to one twelfth of the former Employee's Includible Compensation during the former Employee's most recent year of service. Accordingly, non-elective Employer contributions for a former Employee must not exceed the limitation of section 415(c)(1) up to the lesser of the dollar amount in section 415(c)(1)(A) or the former Employee's annual Includible Compensation based on the former Employee's average monthly compensation during his or her most recent year of service.

SECTION 5:

LIMITATIONS ON ELECTIVE DEFERRALS

5.1. Basic Annual Limitation. Except as provided in Sections 5.2 and 5.3, the maximum amount of the Elective Deferral under the Plan for any calendar year shall not exceed the lesser of (a) the applicable dollar amount or (b) the Participant's Includible Compensation for the calendar year. The applicable dollar amount is the amount established under section 402(g)(1)(B) of the Code, which is \$16,500 for 2009, and is adjusted for cost-of-living after 2009 to the extent provided under section 415(d) of the Code.

5.2. Special Section 403(b) Catch-up Limitation for Employees With 15 Years of Service. Because the Employer is a qualified organization (within the meaning of § 1.403(b)-4(c)(3)(ii) of the Income Tax Regulations), the applicable dollar amount under Section 5.1(a) for any “qualified employee” is increased (to the extent provided in the Individual Agreements) by the least of:

- (a) \$3,000;
- (b) the excess of:
 - (1) \$15,000, over
 - (2) The total special 403(b) catch-up elective deferrals made for the qualified employee by the qualified organization for prior years; or
- (c) the excess of:
 - (1) \$5,000 multiplied by the number of years of service of the employee with the qualified organization, over
 - (2) the total Elective Deferrals made for the employee by the qualified organization for prior years.

For purposes of this Section 5.2, a “qualified employee” means an Employee who has completed at least 15 years of service taking into account only employment with the Employer.

5.3. Age 50 Catch-up Elective Deferral Contributions. An Employee who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of Elective Deferrals, up to the maximum age 50 catch-up Elective Deferrals for the year. The maximum dollar amount of the age 50 catch-up Elective Deferrals for a year is \$5,500 for 2009, and is adjusted for cost-of-living after 2009 to the extent provided under the Code.

5.4. Coordination. Amounts in excess of the limitation set forth in Section 5.1 shall be allocated first to the special 403(b) catch-up under Section 5.2 and next as an age 50 catch-up contribution under Section 5.3. However, in no event can the amount of the Elective Deferrals for a year be more than the Participant’s Includible Compensation for the year.

5.5. Special Rule for a Participant Covered by Another Section 403(b) Plan. For purposes of this Section 5, if the Participant is or has been a participant in one or more other plans under section 403(b) of the Code (and any other plan that permits elective deferrals under section 402(g) of the Code), then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this Section 5. For this purpose, the Employer shall take into account any other such plan maintained by any Related Employer and shall also take into account any other such plan for which the Employer receives from the Participant sufficient information concerning his or her participation in such other plan.

5.6. Correction of Excess Elective Deferrals. If the Elective Deferral on behalf of a Participant for any calendar year exceeds the limitations described above, or the Elective Deferral on behalf of a Participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the Participant under another plan of the Employer under section 403(b) of the Code (and any other plan that permits elective deferrals under section 402(g) of the Code for which the Participant provides information that is accepted by the Employer), then the Elective Deferral, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant.

If a Participant participates in another plan not maintained by the Employer during the calendar year in which he makes elective deferrals, the Participant may provide the Plan Administrator a written claim of Excess Deferrals made for the year. This claim must be made no later than March 1 after the applicable calendar year and shall specify the amount of the Employee's Elective Deferrals under the Plan which are Excess Deferrals. If the Plan Administrator receives a timely claim, it shall distribute the Excess Deferral, as adjusted for allocable income or loss, in accordance with the distribution procedure set forth below.

If a Participant's elective deferrals to all plans in which he participates exceed the dollar limitation under Section 402(g) for the taxable year, such excess shall be an Excess Deferral. Excess Deferrals are treated as annual additions under the Plan. All Excess Deferrals shall be distributed, as adjusted for income or loss, by April 15 of the following calendar year. Such distribution may be made irrespective of any other provision of the Plan. Elective deferrals shall include contributions under Sections 401(k), 402(h)(1)(B), 501(c)(18) or a salary reduction agreement under Section 403(b). Elective deferrals shall not include deferrals properly distributed as excess annual additions.

The amount of income or loss allocable to Excess Deferrals shall be determined in a manner in accordance with a method approved in Treasury regulations, and shall also include earnings for the gap period between the end of the applicable Plan Year and distribution.

SECTION 6:

LIMITATION ON OVERALL CONTRIBUTIONS TO THE PLAN

6.1. Maximum Annual Additions.

(a) **Maximum Annual Addition:** The limitation year shall be the same as the Plan Year. Annual addition means the sum for any Plan Year of (i) Employer contributions, (ii) Employee contributions, (iii) Forfeitures, and (iv) amounts described in Section 415(l)(1) and 419A(d)(2) of the Code. Except to the extent permitted under Code section 414(v), the annual addition that may be contributed or allocated to a Participant's account under the Plan for any limitation year shall not exceed the lesser of:

(1) \$49,000, as adjusted for increases in the cost-of living under Section 415(d) of the Code, or

(2) 100 percent of the Participant's Includible Compensation for the limitation year.

The compensation limit referred to in (2) above shall not apply to any contribution for medical benefits after separation from service (within) the meaning of Section 401(h) or Section 419A(f)(2) of the Code) which is otherwise treated as an annual addition.

(b) The following shall apply in determining annual additions:

(1) Annual additions for purposes of Code §415 shall not include restorative payments. A restorative payment is a payment made to restore losses to a plan resulting from actions by a fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under applicable federal or state law, where participants who are similarly situated are treated similarly with respect to the payments. Generally, payments are restorative payments only if the payments are made in order to restore some or all of the plan's losses due to an action (or a failure to act) that creates a reasonable risk of liability for such a breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). This includes payments to a plan made to restore losses to a qualified defined contribution plan on account of the breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). Payments made to the Plan to make up for losses due merely to market fluctuations and other payments that are not made on account of a reasonable risk of liability for breach of a fiduciary duty under applicable law are not restorative payments and generally constitute contributions that are considered annual additions.

(2) Annual additions for purposes of Code §415 shall not include: (i) The direct transfer of a benefit or employee contributions from a qualified plan to this Plan; (ii) Rollover contributions (as described in Code §§ 401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)); (iii) Repayments of loans made to a participant from the Plan; and (iv) Repayments of amounts described in Code §411(a)(7)(B)(in accordance with Code §411(a)(7)(C) and Code §411(a)(3)(D) or repayment of contributions to a governmental plan (as defined in Code

§414(d)) as described in Code §415(k)(3), as well as Employer restorations of benefits that are required pursuant to such repayments.

(3) Notwithstanding anything in the Plan to the contrary, in the case of an Employer that is exempt from Federal income tax (including a governmental employer), Employer contributions are treated as credited to a participant's account for a particular limitation year only if the contributions are actually made to the plan no later than the 15th day of the tenth calendar month following the end of the calendar year or fiscal year (as applicable, depending on the basis on which the employer keeps its books) with or within which the particular limitation year ends.

If there is a short limitation year because of a change in such year, the maximum annual addition will be multiplied by the following fraction:

Number of months in the short limitation year/12.

(c) For purposes of this Section, Includible Compensation shall not include any severance pay. Includible Compensation shall include regular salary, or terminal leave pay that a terminated participant would not have received had the participant not terminated employment, provided that such compensation is received no later than 2 ½ months following termination of employment.

Notwithstanding the preceding sentence, compensation for a Participant in a defined contribution plan who is permanently and totally disabled (as defined in Section 22(e)(3) of the Code) is the compensation such Participant would have received for the limitation year if the participant had been paid at the rate of compensation paid immediately before becoming permanently and totally disabled; such imputed compensation for the disabled Participant may be taken into account only if the participant is not a Highly Compensated Employee and contributions made on behalf of such Participant are non-forfeitable when made.

(d) For purposes of the limitations of this Section, all 403(b) Plans maintained by the Employer shall be treated as one plan and all defined benefit plans of the Employer are to be treated as one defined benefit plan.

(e) For purposes of this Section, Employer shall mean the Employer and any Related Employer.

(f) For purposes of this section, any annuity contract or Custodial account described in section 403(b) for the benefit of a Participant shall be treated as a defined contribution plan maintained by each employer with respect to which the Participant has the control required under subsection (b) or (c) of section 414 (as modified by subsection (h)). For purposes of this section, any contribution by an employer to a simplified employee pension plan for an individual for a taxable year shall be treated as an employer contribution to a defined contribution plan for such individual for such year.

SECTION 7:

INVESTMENT OF CONTRIBUTIONS

7.1. Manner of Investment. All contributions to the Plan, all property and rights purchased with such amounts under the Funding Vehicles, and all income attributable to such amounts, property, or rights shall be held and invested in one or more Annuity Contracts or Custodial Accounts. Each Custodial Account shall provide for it to be impossible, prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the Custodial Account to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

7.2. Investment of Contributions. Each Participant or Beneficiary shall direct the investment of his or her Account among the investment options available under the Annuity Contract or Custodial Account in accordance with the terms of each Vendor, as approved by the Plan Administrator. The Plan Administrator shall approve Funding Vehicles with each Vendor. Transfers among Funding Vehicles and Vendors may be made, subject to any restrictions of such Funding Vehicles and Vendors; provided, however, that the Employer may provide in the Adoption Agreement that the selection of a vendor shall be irrevocable. If such provision is made, the Employer shall provide notice at the time of the election that the selection of a Vendor may not be changed.

7.3. Current and Former Vendors. The Administrator shall maintain a list of all past and current Vendors under the Plan. The current Vendors are as listed in the definitions section. Each Vendor and the Plan Administrator shall exchange such information as may be necessary to satisfy section 403(b) of the Code or other requirements of applicable law. In the case of a Vendor which is not eligible to receive Elective Deferrals under the Plan (including a Vendor which has ceased to be a Vendor eligible to receive Elective Deferrals under the Plan), the Employer shall keep the Vendor informed of the name and contact information of the Plan Administrator in order to coordinate information necessary to satisfy section 403(b) of the Code or other requirements of applicable law.

7.4. Transfers between approved Vendors. Unless otherwise provided by the Employer in the Adoption Agreement, a Participant or a Beneficiary may elect to transfer all or a part of his Account, subject to any restrictions imposed by the Vendors, from one approved Vendor to another. In no event shall a transfer be permitted to any investment company which is not an approved Vendor.

7.5. Conditions for Vendors. In order to be an approved Vendor, the Vendor must agree to provide the Employer from time to time with the following information:

(a) Information necessary for the resulting contract or custodial account, or any other contract or custodial accounts to which contributions have been made by the Employer, to satisfy section 403(b) of the Code, including, the Employer providing information as to whether the Participant's employment with the Employer is continuing, and notifying the Vendor when the Participant has had a Severance from Employment (for purposes of the distribution restrictions); and

(b) Information necessary in order for the resulting contract or custodial account and any other contract or custodial account to which contributions have been made for the Participant by the Employer to satisfy other tax requirements, including the following: (i) the amount of any plan loan that is outstanding to the Participant in order for a Vendor to determine whether an additional plan loan satisfies the loan limitations of the Plan, so that any such additional loan is not a deemed distribution under section 72 (p)(1); and (ii) information concerning the Participant's or Beneficiary's after-tax employee contributions in order for a Vendor to determine the extent to which a distribution is includible in gross income; and

(c) Such other information as the Employer may require for administration of the Plan.

7.6. Default Investment Vehicle. The Plan Administrator may approve default Funding Vehicles for each Vendor, and may approve a default split between Vendors (or one particular Vendor as the default) for Eligible Employees who are participating in this Plan but who have not selected a Vendor or Funding Vehicles. Such rules shall be communicated to affected Participants.

7.7. Designation of Investment Providers. Any Participant may enter into an Agreement with a registered investment advisor to manage the Participant's Account under the Plan with any Vendor, provided that the Vendors and the Plan Administrator may adopt rules concerning registered investment advisors and place restrictions on registered investment advisors for the orderly operation of the Plan.

7.8. Expenses. Except as provided otherwise herein, to the extent not paid by the Employer, expenses of the Plan shall be paid out of the assets of the Plan to the extent consistent with the Funding Vehicles and charged to the applicable Accounts in the manner determined by the Plan Administrator.

The Plan Administrator may from time to time approve that portion of the administrative expenses which shall be paid from Participants' accounts. The Plan Administrator may provide that administration expenses which are charged to the Plan on a per capita basis may be passed through on a per capita basis to the Participants. The Plan Administrator may provide that a different share of such expenses shall be paid by active participants and terminated participants. The Plan Administrator may also provide that expenses attributable to particular Participants' accounts, such as distribution fees, qualified domestic relations order fees, and similar allocable expenses, may be paid from the affected Participant's accounts.

SECTION 8:

VESTING

8.1. Employee Contributions. A Participant shall be 100% vested in all Required Employee Contributions, Elective Deferrals and After-Tax Contributions made by the Participant at all times.

8.2. Employer Contributions.

(a) Employer contributions are vested for each Employer as set forth in the Adoption Agreement.

(b) A Participant shall be 100% vested in his account in the event of death or Disability while employed with the University.

8.3. Breaks in Service. If a Participant has a Severance from Employment which lasts for over 30 days and is rehired, the following shall apply:

(a) If the Participant has not previously become vested in the Participant's Employer contributions, the Employee must satisfy the vesting requirements of this section as if the Employee had not previously been employed.

(b) If the Participant has previously become vested in the Participant's Employer contributions, the Employee will be 100% vested upon rehire.

SECTION 9:

DEATH BENEFITS

9.1. Death Benefit. If a Participant dies prior to receiving benefits under the Plan, his Beneficiary shall be entitled to receive death benefits as provided hereinafter. A Beneficiary shall be one hundred percent (100%) vested in a deceased Participant's Account if the Participant dies while in the service of the Employer. A Beneficiary of a Participant who has terminated his employment but who dies prior to the payment of benefits shall be vested in the Account of such Participant in the same percentage that such deceased was vested pursuant to the provisions of the Vesting Section hereof.

9.2. Benefit Amount. The amount of the Account payable to the Beneficiary under this Article shall be determined as of the Valuation Date immediately preceding distribution, plus any contributions due after such date. The benefits shall be distributed in accordance with the Distributions Section. Subject to the provisions of the Distributions Section, the Beneficiary of a Participant shall be entitled to receive his vested Account as of any date following the Participant's death.

9.3. Designation of Beneficiary. Each Participant shall have the right to designate a Beneficiary or Beneficiaries to receive his Account upon his or her death. Such designation shall be made in the form prescribed by the Vendors and shall be effective for all purposes upon the delivery thereof to the applicable Vendors. The Participant shall have the right to change or revoke any such designation from time to time by filing a new designation or notice of revocation with the Vendor. If a Participant shall fail to designate a Beneficiary or the designated Beneficiary shall predecease the Participant, his Vested Account shall be paid to the Participant's estate.

If the Beneficiary survives the Participant but dies before complete payout of the Participant's Account, such Account shall be paid upon the Beneficiary's death to a beneficiary designated by the Beneficiary, or if none, the Beneficiary's estate. Distribution shall be in accordance with Section 11.

If a Participant designates the Participant's spouse as Beneficiary and the Participant and such spouse are divorced at the time of the Participant's death, with the former spouse still named as Beneficiary, the Participant's Account shall be payable to the former spouse.

9.4. Direct Rollover of Non-Spousal Distributions.

(a) For distributions after December 31, 2006, a non-spouse Beneficiary who is a "designated beneficiary" under Code §401(a)(9)(E) and the regulations thereunder, by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion of his/her distribution to an individual retirement account the Beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution.

(b) Although a non-spouse Beneficiary may roll over directly a distribution as provided in this section, the distribution is not subject to the direct rollover requirements of Code

§401(a)(31), the notice requirements of Code §402(f) or the mandatory withholding requirements of Code §3405(c). In a non-spouse Beneficiary receives a distribution from the Plan, the distribution is not eligible for a “60-day” rollover.

(c) If the Participant’s named Beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Code §401(a)(9)(E).

(d) A non-spouse Beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury regulations and other Revenue Service guidance. If the Participant dies before his/her required beginning date and the non-spouse Beneficiary rolls over to an IRA the maximum amount eligible for rollover, the beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treasury Regulation §1.401(a)(9)-d, A-4(c), in determining the required minimum distributions from the IRA that receives the non-spouse Beneficiary’s distributions.

SECTION 10:

LOANS

10.1. Loans. Whether loans are permitted under the Plan is provided under the Adoption Agreement. Rules concerning loans shall be restricted by any limitations or requirements contained in the Funding Vehicles.

10.2. Information Coordination Concerning Loans. Each Vendor is responsible for all information reporting and tax withholding required by applicable federal and state law in connection with distributions and loans.

10.3. Maximum Loan Amount. No loan to a Participant under the Plan may exceed the lesser of:

(a) \$50,000, reduced by the greater of (i) the outstanding balance on any loan from the Plan to the Participant on the date the loan is made or (ii) the highest outstanding balance on loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the Plan Administrator (not taking into account any payments made during such one-year period); or

(b) one half of the value of the Participant's vested Account Balance (as of the valuation date immediately preceding the date on which such loan is approved by the Administrator). For purposes of this Section, any loan from any other plan maintained by the Employer and any Related Employer shall be treated as if it were a loan made from the Plan, and the Participant's vested interest under any such other plan shall be considered a vested interest under this Plan; provided, however, that the provisions of this paragraph shall not be applied so as to allow the amount of a loan to exceed the amount that would otherwise be permitted in the absence of this paragraph.

The Employer shall be responsible for coordinating loan limitations between the Vendors, unless such responsibility has been delegated to the Vendors or another party other than the Participants.

10.4. Payment Terms.

(a) Unless the purpose of the loan is to acquire the Participant's principal residence, all loans must be completely repaid in no more than 60 months. Loans used for a downpayment on the participant's principal residence may be for the period permitted by the Vendor, not to exceed 360 months.

(b) Loans shall not be required to be made by payroll deduction. Payments shall be required over the term of the loan in at least equal quarterly payments. Loans may be made to inactive Participants.

(c) The interest rate on any loan will be established by the Vendor from time to time. Interest paid on a loan will be credited as provided by the Vendor from whom the loan is obtained.

(d) The Plan Administrator may limit the number of loans that a Participant may have outstanding at any time.

(e) The Participant will have the opportunity to prepay the loan and accrued interest at any time without penalty.

(f) If a Participant with an outstanding loan has an unpaid leave of absence, or in the event of a paid leave of absence (such as short-term disability) where the individual's pay after taxes withheld is less than the amount of the required loan payment, the Plan Administrator may establish procedures wherein payments will not be required during the leave of absence for up to 12 months. Upon returning from the leave of absence, payments will recommence. The unpaid principal and accrued interest will be added to the end of the loan; in no event may the last payment be extended beyond five years from the date of the original loan. The Plan Administrator shall establish such procedures as are consistent with practices of the Vendors.

(g) Loan transaction fees. The Vendors may charge origination and/or annual fees. The participant will bear all loan fees.

(h) Loans may be made without the consent of the Participant's spouse.

(i) The Plan Administrator may adopt loan policies not in conflict with this Section, including provisions concerning Participants with loans in default.

SECTION 11:

BENEFIT DISTRIBUTIONS

11.1. Benefit Distributions At Severance from Employment or Other Distribution Event. Except as permitted under Section 5.6 (relating to excess Elective Deferrals), Section 11.8 (relating to certain in-service distributions), or Section 13.3 (relating to termination of the Plan), distributions from a Participant's Account may not be made before the Participant has a Severance from Employment, dies, or becomes Disabled. The form of distribution shall be as provided under the terms of the Custodial Agreement or Annuity Contract governing each Funding Vehicle. Distribution to a terminated Participant may be made upon request at any time after Severance from Employment.

11.2. Mandatory Cashout. There is no provision in the Plan for cashing out of a Participant's vested Account without the Participant's consent, regardless of Account balance.

11.3. Minimum Distribution Rules: Time and Manner of Distribution.

(a) Required Beginning Date. Except as otherwise permitted by law, the Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

(b) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(1) If the Participant's surviving spouse is the Participant's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.

(2) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(3) If there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(4) If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this paragraph (b), other than subparagraph (1), will apply as if the surviving spouse were the Participant.

For purposes of this paragraph, unless (b)(4) applies, distributions are considered to begin on the Participant's Required Beginning Date. If (b)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under (b)(1).

(c) Notwithstanding the above a designated Beneficiary may elect, as provided in Section 11.6, to receive distribution of the Participant's entire Account payable to the Beneficiary by December 31 of the year which contains the fifth (5th) anniversary of the Participant's death.

11.4. Required Minimum Distribution During Participant's Lifetime.

(a) Amount of Required Minimum Distribution For Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

(1) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or

(2) if the Participant's sole designated beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(b) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this section beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death

11.5. Special rules for benefits accruing before December 31, 1986.

(a) The distribution rules provided in Section 11.4 do not apply to the undistributed portion of the account balance under the section 403(b) contract valued as of December 31, 1986, exclusive of subsequent earnings (pre-'87 account balance). The distribution rules provided in Section 11.4 apply to all benefits under section 403(b) contracts accruing after December 31, 1986 (post-'86 account balance), including earnings after December 31, 1986. Consequently, the post-'86 account balance includes earnings after December 31, 1986, on contributions made before January 1, 1987, in addition to the contributions made after December 31, 1986, and earnings thereon.

(b) The Vendor must keep records that enable it to identify the pre-'87 account balance and provide such information upon request to the relevant employee or beneficiaries with respect to the contract. If the Vendor does not keep such records, the entire account balance is treated as subject to Section 11.4.

(c) In applying the distribution rules in this Section 11, only the post-'86 account balance is used to calculate the required minimum distribution for a calendar year. The amount of any distribution is treated as being paid from the post-'86 account balance to the extent the distribution is required to satisfy the minimum distribution requirement with respect to the

Participant for a calendar year. Any amount distributed in a calendar year in excess of the required minimum distribution for a calendar year with respect to that contract is treated as paid from the pre-'87 account balance, if any, for that Participant.

(d) If an amount is distributed from the pre-'87 account balance and rolled over to another section 403(b) contract, the amount is treated as part of the post-'86 account balance in that second contract. However, if the pre-'87 account balance under a section 403(b) contract is directly transferred to another section 403(b) contract (as permitted under §1.403(b)-10(b)), the amount transferred retains its character as a pre-'87 account balance, provided the issuer of the transferee contract satisfies the recordkeeping requirements of paragraph (e)(6)(ii) of this section.

(e) The pre-'87 account balance must be distributed in accordance with the incidental benefit requirement of §1.401-1(b)(1)(i). Distributions attributable to the pre-'87 account balance are treated as satisfying this requirement if all distributions from the section 403(b) contract (including distributions attributable to the post-'86 account balance) satisfy the requirements of §1.401-1(b)(1)(i), and distributions attributable to the post-'86 account balance satisfy the rules of Section 11.4. Distributions attributable to the pre-'87 account balance are treated as satisfying the incidental benefit requirement if all distributions from the Account (including distributions attributable to both the pre-'87 account balance and the post-'86 account balance) satisfy the rules of Section 11.4.

11.6. Required Minimum Distributions After Participant's Death.

(a) Death On or After Date Distributions Begin.

(1) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated beneficiary, determined as follows:

(i) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(ii) If the Participant's surviving spouse is the Participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(iii) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is

calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(2) **No Designated Beneficiary.** If the Participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(b) Death Before Date Distributions Begin.

(1) **Participant Survived by Designated Beneficiary.** Except as provided in (2), if the Participant dies before the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated beneficiary, determined as provided in paragraph (a) above.

(2) **A Beneficiary may elect on an individual basis whether the 5-year rule or the life expectancy rule applies to distributions after the death of a Participant who has a designated beneficiary.** The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin, or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death. If the Beneficiary does not make an election under this paragraph, distributions will be made in accordance with (1) above.

(3) **No Designated Beneficiary.** If the Participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(4) **Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin.** If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse, this section will apply as if the surviving spouse were the Participant.

11.7. Definitions.

(a) Designated beneficiary. The individual who is designated as the beneficiary under the plan and is the designated beneficiary under section 401(a)(9) of the Internal Revenue Code and section 1.401(a)(9)-4, Q&A-4, of the Treasury regulations.

(b) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which

contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin. The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

(c) Life expectancy. Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

(d) Participant's account balance. The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(e) Required beginning date. The required beginning date is April 1 of the calendar year following the later of (1) the calendar year in which the Participant attains age 70 ½; or (2) the calendar year in which the Participant retires.

11.8. In-Service Withdrawals.

(a) Distributions from a Participant's Account prior to Severance from Employment are as set forth in the under the Adoption Agreement. Except as provided in (b) and (c), in no event may distributions be made prior to Severance from Employment.

(b) The Adoption Agreement shall provide whether all or a portion of the Participant's Account may be distributed prior to Severance from Employment after the Participant attains age 59 ½.

(c) The Adoption Agreement shall provide whether the Plan permits distribution of the Employee's Elective Deferrals prior to Severance from Employment for reason of hardship. Human Resources shall certify whether the requirements of a hardship are met. The following shall be deemed to meet such requirement:

(1) Expenses for (or necessary to obtain) medical care that would be deductible under section 213(d) (determined without regard to whether the expenses exceed 7.5% of adjusted gross income;

(2) Purchase (excluding mortgage payments) of a principal residence for the Participant;

(3) Payment of tuition and related educational fees, room and board for

the next 12 months of post-secondary education for the Participant, his or her spouse, children or dependents (for Plan Years beginning on or after January 1, 2005, without regard to section 152(b)(1), (b)(2) and (d)(1)(B));

(4) The need to prevent eviction of the Participant from his principal residence or foreclosure on the mortgage of the Participant's principal residence;

(5) For Plan Years after December 31, 2005, payments for burial or funeral expenses for the Participant's deceased parent, spouse, children or dependents (as defined in section 152 of the Code without regard to section 152(d)(1)(B)); or

(6) For Plan Years after December 31, 2005, expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under Code section 165 (determined without regard to whether the loss exceeds 10% of the adjusted gross income

If a Participant receives a hardship distribution of Elective deferrals, the Participant may not make Elective Deferrals for six (6) months after the withdrawal. Required Employee Contributions shall continue to be made. Further, before receiving a hardship distribution of Elective deferrals, a Participant must withdraw all other amounts available to the Participant under the Plan and borrow all nontaxable loans available to the Participant under the Plan.

(d) A Participant may receive a distribution of all or a part of the Participant's Rollover Account at any time.

11.9. Direct Rollover. A distributee may elect, at the time and in the manner prescribed by the Vendor in accordance with applicable law, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and any hardship distributions. An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, a annuity contract or custodial agreement under section 403(b) of the Code, a qualified trust described in Section 401(a) of the Code, and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state that accepts the distributee's eligible rollover distribution. A distributee includes an employee or former employee. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Code.

For purposes of the direct rollover provisions above, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

11.10. Purchases of permissive service credit by contract-to-plan transfers from a section 403(b) contract to a qualified plan.

(a) General rule. If the conditions in (b) of this section are met, the Plan may transfer the assets held in the Plan on behalf of a Participant to a qualified defined benefit plan that is a governmental plan (as defined in section 414(d)), subject to the terms of the Funding Vehicles.

(b) Conditions for plan-to-plan transfers. A transfer may be made under this paragraph (b) only if the transfer is either—

(i) For the purchase of permissive service credit (as defined in section 415(n)(3)(A)) under the receiving defined benefit plan; or

(ii) A repayment to which section 415 does not apply by reason of section 415(k)(3).

SECTION 12:

ROLLOVERS TO THE PLAN TRANSFERS

12.1. Eligible Rollover Contributions to the Plan.

(a) **Eligible Rollover Contributions.** An Employee who is a Participant who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan. Such rollover contributions shall be made in the form of cash only. The Vendor may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with section 402 of the Code and to confirm that such plan is an eligible retirement plan within the meaning of section 402(c)(8)(B) of the Code. However, in no event does the Plan accept a rollover contribution from a Roth elective deferral account under an applicable retirement plan described in section 402A(e)(1) of the Code or a Roth IRA described in section 408A of the Code.

(b) **Eligible Rollover Distribution.** For purposes of Section 12.1(a), an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include (1) any installment payment for a period of 10 years or more, (2) any distribution made as a result of an unforeseeable emergency or other distribution which is made upon hardship of the employee, or (3) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9) of the Code. In addition, an eligible retirement plan means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code, that accepts the eligible rollover distribution.

(c) **Separate Accounts.** The Vendor shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan.

SECTION 13:

AMENDMENT AND PLAN TERMINATION

13.1. Amendment. The Board of Trustees of the University of Arkansas System may amend the Plan at any time. The President of the University of Arkansas System may amend any provision of this Plan not inconsistent with Board Policies adopted by the Board of Trustees. A copy of all such amendments shall be provided to the Board of Trustees. The Adoption Agreement for each Employer may be amended by the President of each Employer and the President of the University of Arkansas System.

13.2. Amendment and Termination. The Board of Trustees of the University of Arkansas System reserves the authority to terminate this Plan at any time.

13.3. Distribution upon Termination of the Plan. The Employer may provide that, in connection with a termination of the Plan and subject to any restrictions contained in the Funding Vehicles, all Accounts will be distributed, provided that the Employer and any Related Employer on the date of termination do not make contributions to an alternative section 403(b) contract that is not part of the Plan during the period beginning on the date of plan termination and ending 12 months after the distribution of all assets from the Plan, except as permitted by the Income Tax Regulations.

SECTION 14:

MISCELLANEOUS

14.1. Non-Assignability. Except as provided in Section 14.2 and 14.3, and except as permitted as collateral on a participant loan, the interests of each Participant or Beneficiary under the Plan shall not in any way be subject to any legal process or levy of execution upon, or attachment or garnishment proceedings against, the same for the payment of any claim against any such person, and are not subject to the claims of the Participant's or Beneficiary's creditors; and neither the Participant nor any Beneficiary shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.

14.2. Domestic Relation Orders. If a Vendor receives a qualified domestic relations order under section 414(p) of the Code, then the amount of the Participant's Account Balance shall be paid in the manner and to the person or persons so directed in the domestic relations order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan.

14.3. Tax Withholding. Contributions to the Plan are subject to applicable employment taxes (including, if applicable, Federal Insurance Contributions Act (FICA) taxes with respect to Elective Deferrals, which constitute wages under section 3121 of the Code). Any benefit payment made under the Plan is subject to applicable income tax withholding requirements (including section 3401 of the Code and the Employment Tax Regulations thereunder). A payee shall provide such information as the Administrator may need to satisfy income tax withholding obligations, and any other information that may be required by guidance issued under the Code.

14.4. Payments to Minors and Incompetents. If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Vendor, benefits will be paid to such person as the Vendor may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

14.5. Mistaken Contributions. If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Plan Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Employer.

14.6. Procedure When Distributee Cannot Be Located. The Vendor shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on Employer's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guaranty

Corporation (under their program to identify payees under retirement plans), and (c) the payee has not responded within 6 months. If the Vendor is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Funding Vehicle shall continue to hold the benefits due such person.

14.7. Governing Law. The Plan will be construed, administered and enforced according to the Code and the laws of the State of Arkansas.

14.8. Headings. Headings of the Plan have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

14.9. Gender. Pronouns used in the Plan in the masculine or feminine gender include both genders unless the context clearly indicates otherwise.