

Note for online reference: Any materials or exhibits referenced in this approved resolution can be found in the meeting's materials posted at <https://trustees.uoregon.edu/meetings>.

Board of Trustees of the University of Oregon

Seconded Motion: Administration of the OUS Legacy Retirement Plans

Whereas, in connection with the effectiveness of Senate Bill 270, Oregon Laws 2013, chapter 768, as amended by Senate Bill 1525, Oregon Laws 2014, chapter 113, and House Bill 4018, Oregon Laws 2014, chapter 83, the Oregon University System (“OUS”) consists of Eastern Oregon University (“EOU”), Western Oregon University (“WOU”), Southern Oregon University (“SOU”), and Oregon Institute of Technology (“OIT”) until July 1, 2015; and the following universities are established as independent public bodies: the University of Oregon (“University”), Oregon State University, and Portland State University;

Whereas, effective July 1, 2015, the remaining universities in the OUS, including EOU, WOU, and SOU, will become separate legal entities and OUS will cease operations;

Whereas, OUS has sponsored and administered certain retirement plans for the benefit of the employees of OSU, PSU, EOU, WOU, SOU, OIT, and the Chancellor’s Office of the OUS (collectively, the “Participating Employers”) as well as the University;

Whereas, effective July 1, 2014, the University adopted and began administering three of those retirement plans, the Optional Retirement Plan (the “ORP”), the Tax-Deferred Investment 403(b) Plan (the “TDI”), and the Supplemental Retirement Plan, also known as the Presidential Cash Balance Plan (the “SRP”), on behalf of the Participating Employers and the University pursuant to agreements between the University and each Participating Employer (each agreement, a “Participation Agreement”);

Whereas, pursuant to the Participation Agreements between the University and each of the Participating Employers, effective July 1, 2014 (the “Participation Agreements”), and a Resolution of the Board of Trustees of the University of Oregon, dated June 12, 2014, the University adopted and began administering the ORP, the TDI, and the SRP on behalf of the Participating Employers and the University;

Whereas, OUS has continued to sponsor and administer two other retirement plans for the benefit of the employees of the Participating Employers and the University: the Oregon University System 401(a) Defined Contribution Plan (the “Legacy 401(a) Plan”) and the Oregon University System 403(b) Defined Contribution Plan (the “Legacy 403(b) Plan”) (the Legacy 401(a) Plan and the Legacy 403(b) are, together, the “Legacy Plans”);

Whereas, pursuant to a proposed amendment to each of the Legacy Plans and the Participation Agreements, effective July 1, 2015, the University would adopt and administer the Legacy Plans on behalf of the Participating Employers and the University;

Whereas, pursuant to Oregon Revised Statutes 243.910 to 243.945, 352.107, and 352.129, the Board of Trustees of the University of Oregon (the “Board”) has the authority to provide employee benefits, including retirement benefits, through a shared administrative services model; and

Whereas, the Finance and Facilities Committee has referred this matter to the full Board as a seconded motion;

NOW, THEREFORE, the Board of Trustees hereby resolves that the Legacy Plans be, and they hereby are, adopted and approved, in substantially the forms presented to the Board and attached hereto as Exhibits A and B, and the President of the University, or his delegate, hereby is authorized and directed to execute and deliver the Legacy Plans, and any ancillary documents and agreements, including, but not limited to, an amendment to each of the Participation Agreements, with such additional terms and conditions as the President or his delegate may approve, such approval to be conclusively evidenced by the execution and delivery of such documents by the President or his delegate.

FURTHER RESOLVED, that the Board accepts and acknowledges its role as the administrator of the Legacy Plans;

FURTHER RESOLVED, that the President of the University, or his delegate, be and are hereby authorized and empowered to act on behalf of the Board as the administrator of the Legacy Plans and shall be authorized and empowered to prepare and execute such documents, make such filings and take any additional actions he or she, in his or her discretion, deems necessary or advisable, including, but not limited to amendments to the Legacy Plans, to effect the purposes and intents of the Legacy Plans and the foregoing resolutions and to provide for the lawful administration of the Legacy Plans.

FURTHER RESOLVED, that the President of the University, or his delegate, be and are hereby authorized and empowered to appoint initial, additional, and successor fiduciaries, including, but not limited to, trustees, committees and committee members, and plan administrators, and to take any additional actions he or she, in his or her discretion, deems necessary or advisable to effect the purposes and intents of the Legacy Plans and the foregoing resolutions and to provide for the lawful administration of the Legacy Plans.

FINALLY RESOLVED, that any actions previously taken by the officers or employees of the University that would have been authorized by the foregoing resolutions, if taken after their adoption, are hereby ratified and confirmed.

VOTE: Voice Vote Recorded – Ayes carried (no dissention)

DATE: June 4, 2015

Recorded by the University Secretary: 

EXHIBIT A

OREGON PUBLIC UNIVERSITIES 401(a) DEFINED CONTRIBUTION PLAN

As Amended and Restated Effective July 1, 2015

OREGON PUBLIC UNIVERSITIES 401(a) DEFINED CONTRIBUTION PLAN

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ARTICLE I
BACKGROUND

1.1 Plan History.

- (a) 1965 Authorizing Statutes. In 1965 the Oregon Legislature enacted Oregon Revised Statutes ("ORS") 243.910 to 243.940 to authorize the Oregon State Board of Higher Education to assist faculty rank employees who are members of the Oregon Public Employees Retirement System ("PERS"), and who elect to be so assisted, in the purchase of retirement benefits supplementing the benefits to which those employees are entitled under PERS.
- (b) 1967 Creation of 403(b) Plan. Under the authority in ORS 243.910 to 243.940, the Oregon State Board of Higher Education established the Oregon University System 403(b) Defined Contribution Plan (then named the Oregon State Board of Higher Education TIAA-CREF Retirement Plan) as of January 1, 1967 (the "403(b) Plan"), and operated the 403(b) Plan under Internal Revenue Code ("Code") Section 403(b).
- (c) 1989 Freezing of 403(b) Plan, Creation of this Plan, and Favorable IRS Determination Letter for this Plan. Effective July 1, 1989, the Oregon State Board of Higher Education stopped assisting faculty rank employees through the 403(b) Plan and began assisting faculty rank employees through this Plan (then named the Oregon State System of Higher Education Defined Contribution Retirement Plan), which was established effective July 1, 1989, as a money purchase plan under Code Section 401(a) and as a "governmental plan" as defined in Code Section 414(d). By letter dated October 16, 1989, the Internal Revenue Service issued a favorable determination for this Plan, under the name Oregon State Board of Higher Education Money Purchase Plan.
- (d) 1995 Designation of Certain Employees as not Eligible to Participate in this Plan. In 1995 the Oregon Legislature enacted 1995 Oregon Laws chapter 600 to (i) require the Oregon State Board of Higher Education to establish an optional retirement plan (established as the Oregon University System Optional Retirement Plan) for administrative and academic employees, (ii) designate employees hired on or after September 9, 1995, as not eligible to be assisted by the Oregon State Board of Higher Education under ORS 243.910 to 243.945, and (iii) designate employees hired before September 9, 1995, who had not previously elected to be assisted by the Oregon State Board of Higher Education under ORS 243.910 to 243.945 as not eligible to be so assisted.
- (e) 1997 Change of Names of Three Participating Institutions. In 1997 the Oregon Legislature enacted 1997 Oregon Laws chapter 11, section 1, to change the name of (i) Eastern Oregon State College to Eastern Oregon University, (ii) Southern Oregon State College to Southern Oregon University, and (iii) Western Oregon State College to Western Oregon University.
- (f) 2001 Change of Name of Oregon Health Sciences University to Oregon Health and Science University. In 2001 the Oregon Legislature enacted 2001 Oregon

Laws chapter 123, section 1, to change the name of Oregon Health Sciences University to Oregon Health and Science University.

- (g) 2001 Change of Name of Oregon State System of Higher Education to Oregon University System. In 2001 the Oregon Legislature enacted 2001 Oregon Laws chapter 382, section 1, to change the name of the Oregon State System of Higher Education to the Oregon University System.
- (h) 2002 Amendment to Allow Certain Cash Withdrawals. By an Amendment dated December 17, 2002, the third and fourth paragraphs of Section 7.1 of this Plan as established effective July 1, 1989, were amended effective January 1, 2003.
- (i) 2011 Establishment of Oregon University System as a Public University System. In 2011 the Oregon Legislature enacted 2011 Oregon Laws chapter 637, section 19, to establish the Oregon University System as a public university system.
- (j) 2013 Change of Plan Name. Among other changes, the name of this Plan was changed to Oregon University System 401(a) Defined Contribution Plan

1.2 2015 Restatement. Effective July 1, 2015, the Plan is amended and restated to reflect the following:

- (a) Change of Plan Name. This amendment and restatement changes the name of this Plan to Oregon Public Universities 401(a) Defined Contribution Plan.
- (b) Change of Plan Sponsor. This amendment and restatement changes the sponsor and administrator responsible for this plan from the Oregon State Board of Higher Education to the Board of Trustees of the University of Oregon.

1.3 Benefits Provided Through Funding Vehicles. Plan Contributions are invested, at the direction of each Participant, in one or more of the Funding Vehicles available to Participants under this Plan. All benefits under this Plan are provided solely through the Funding Vehicles selected by the Participant.

ARTICLE II DEFINITIONS

Unless the context gives the term a different meaning, capitalized terms used in this Plan and defined in this Article have the following meanings.

2.1 Accumulation Account. "Accumulation Account" means the separate account established for each Participant. The value of a Participant's Accumulation Account includes all Plan Contributions, less expense charges, plus or minus investment earnings and losses, and less benefit payments.

2.2 Beneficiary. "Beneficiary" means the individual, institution, trustee, or estate designated by the Participant to receive benefits.

2.3 Board. "Board" means the Board of Trustees of the University of Oregon or its delegate.

2.4 Code. "Code" means the Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code includes not only the section but any comparable section or sections of any future legislation that amends, supplements, or supersedes the section.

2.5 Compensation. "Compensation" means the individual's salary as defined in ORS 238.005 from an Institution.

However, Compensation does not include an individual's Compensation as defined above in this Section 2.5 for any period for which the individual does not actively participate in this Plan as provided in Article III on annual salary in excess of \$4,800.

2.6 Eligible Employee. "Eligible Employee" means an employee of an Institution with faculty rank hired by an Institution before September 9, 1995, who is not participating in the Oregon Public Universities Optional Retirement Plan and is entitled under ORS 238A.025(3) to receive the benefits provided by ORS chapter 238 for all service performed before, on and after August 29, 2003.

2.7 Employee Plan Contributions. "Employee Plan Contributions" means the contributions by a Participant under this Plan, as required by Section 4.1. These amounts are designated by an Institution as being paid by the Institution and do not reduce the Participant's salary. Consistent with Internal Revenue Service revenue rulings under Code Section 414(h)(2), each Institution states here that all Employee Plan Contributions are paid by the Institution as described in Code Section 414(h)(2) as an additional Institution-funded contribution and thus, although designated by ORS 243.920 as employee contributions, are being paid by the Institution in lieu of such employee contributions. No Participant may opt out of this pick-up arrangement or elect to receive the contributed amounts directly instead of having them paid by the Institution to this Plan.

However, an Institution will not pay Employee Plan Contributions (a) for Participants who are part-time faculty at Portland State University and members of the American Federation of Teachers bargaining unit or (b) for certain federal employees under the Civil Service Retirement System hired through the Oregon State University Extension Service on or after

January 1, 1984. Employee Plan Contributions for such Participants, deducted from Participants' salary, will be made on an after-tax basis. A Participant's after-tax contributions shall be maintained in a separate account from the rest of the Participant's Accumulation Account. Gains, losses, and other credits or charges must be separately allocated on a reasonable and consistent basis to that separate account and the rest of the Participant's Accumulation Account. Withdrawals with respect to that separate account shall be debited to only that separate account.

2.8 Fund Sponsor. "Fund Sponsor" means a life insurance or annuity company that provides Funding Vehicles available to Participants under this Plan.

2.9 Funding Vehicles. "Funding Vehicles" means deferred annuities issued for the purpose of funding accrued benefits under this Plan.

2.10 Indemnified Persons. "Indemnified Persons" means any member of the Board; the Plan Sponsor; the Plan Administrator; officers, employees, agents, and representatives of any of the foregoing; and, in performing service as a designee under Section 9.1, any employee of the Plan Sponsor, Plan Administrator, or any Institution. "Indemnified Person" means one of the Indemnified Persons. Despite the above provisions of this Section 2.10, "Indemnified Persons" and "Indemnified Person" do not include any Fund Sponsor and do not include any paid consultant, paid contractor, or paid agent with respect to the Plan whose consultancy, contract, or agency is not served as a member, officer, or employee of the Board, the Plan Sponsor, or the Plan Administrator.

2.11 Institution. "Institution" means the Oregon State Board of Higher Education and the following universities while either under its jurisdiction or previously under its jurisdiction but still having an obligation to provide benefits under this Plan:

Eastern Oregon University
Oregon Health and Science University
Oregon Institute of Technology
Oregon State University
Portland State University
Southern Oregon University
University of Oregon
Western Oregon University

2.12 Institution Plan Contributions. "Institution Plan Contributions" means contributions by an Institution under this Plan, as required by Section 4.1.

2.13 Limitation Year. "Limitation Year" means a calendar year.

2.14 Normal Retirement Age. "Normal Retirement Age" is the last day of the academic year in which age 65 is attained.

2.15 ORS. "ORS" means Oregon Revised Statutes, as amended.

2.16 Participant. "Participant" means any employee of an Institution who participates in this Plan in accordance with Article III.

- 2.17 PERS. "PERS" means the Oregon Public Employees Retirement System.
- 2.18 Plan. "Plan" means the Oregon Public Universities 401(a) Defined Contribution Plan.
- 2.19 Plan Contributions. "Plan Contributions" means Employee Plan Contributions and Institution Plan Contributions.
- 2.20 Plan Sponsor. "Plan Sponsor" means the University of Oregon.
- 2.21 Plan Year. "Plan Year" means:
- (a) Before July 1, 2013, the Plan Year was the twelve consecutive month period beginning on July 1 and ending on June 30.
 - (b) July 1, 2013, through December 31, 2013, will be a short Plan Year.
 - (c) Beginning January 1, 2014, the Plan Year will be the twelve consecutive month period beginning on January 1 and ending on December 31.
- 2.22 Severance from Employment. "Severance from Employment" means permanent termination of the Participant's employment with all the universities named in Section 2.10 and with all employers aggregated with any such university under any of Code Sections 414(b), (c), (m), and (o).

ARTICLE III
ELIGIBILITY FOR PARTICIPATION

3.1 Participation.

- (a) An Eligible Employee who is actively participating in this Plan at the close of July 1, 2013, on annual salary in excess of \$4,800 will continue to actively participate in this Plan on annual salary in excess of \$4,800 until the individual ceases as provided in Section 3.2 to actively participate in this Plan.
- (b) An individual who is not actively participating in this Plan at the close of July 1, 2013, on annual salary in excess of \$4,800, or who thereafter ceases as provided in Section 3.2 to actively participate in the Plan on annual salary in excess of \$4,800, may not thereafter actively participate in this Plan on annual salary in excess of \$4,800 except as provided in Section 3.3.
- (c) An individual who on July 1, 2013, has an amount in the individual's Accumulation Account will remain a participant in this Plan until the amount of the individual's Accumulation Account is reduced to zero, even if the individual has ceased to actively participate in this Plan on annual salary in excess of \$4,800.

Each Participant is entitled to the benefits and is bound by all of the terms, provisions, and conditions of this Plan, including any and all amendments which from time to time may be adopted, including the terms, provisions, and conditions of any contract and/or certificate under this Plan.

3.2 Cessation of Active Participation. During the first 60 days of any calendar year, an individual may elect to cease to actively participate in this Plan on annual salary in excess of \$4,800 by filing with the Board a written (i) cancellation of the individual's prior election to be assisted by the Board under ORS 243.910(1) and (ii) election of full participation in PERS on annual salary in excess of \$4,800. An individual will also cease to actively participate in this Plan on annual salary in excess of \$4,800 when:

- (a) His or her employment is reduced to less than the FTE equivalent of 600 hours per twelve-month period (unless active participation is pursuant to a retirement incentive agreement between a Participant and an Institution);
- (b) He or she is retired or separated from employment with the Institution;
- (c) He or she is transferred/reclassified to a position that does not qualify under ORS 243.910 to 243.945 for active participation in this Plan; or
- (d) This Plan is terminated.

3.3 Restoration of Active Participation.

- (a) During the first 60 days of any calendar year, an Eligible Employee who has cancelled his or her prior election to be assisted by the Board under ORS 243.910(1) and is not prevented by Section 3.2.(a), (b), (c), or (d) from actively

participating in this Plan may again actively participate in this Plan on annual salary in excess of \$4,800 by filing with the Board a written election to be assisted by the Board under ORS 243.920(1).

- (b) An individual who ceased as provided in Section 3.2(a), (b), or (c) to actively participate in this Plan and does not have in effect a cancellation of the individual's prior election to be assisted by the Board under ORS 243.910(1) will again become an active participant in this Plan on annual salary in excess of \$4,800 on the first date that none of Section 3.2(a), (b), (c), or (d) prevents the individual from actively participating in this Plan, but only if on that date the individual is an Eligible Employee.

ARTICLE IV
PLAN CONTRIBUTIONS

4.1 Plan Contributions. For each individual actively participating in this Plan as provided in Article III on annual salary in excess of \$4,800, after contributions to PERS have been made on the first \$4,800 of the individual's Compensation for a calendar year, Plan Contributions will be made at least yearly in accordance with the following schedule:

Plan Contributions as a Percentage of the Individual's Compensation in Excess of
\$4,800 for the Calendar Year

<u>By the Participant*</u>	<u>By the Institution</u>	<u>Total</u>
6%	6%	12%

*Such amounts are Employee Plan Contributions as defined in Section 2.7.

During a paid leave of absence, Plan Contributions will continue to be made for a Participant on the basis of Compensation then being paid by an Institution.

4.2 Allocation of Plan Contributions. Plan Contributions under Section 4.1 shall be forwarded to the Fund Sponsor(s) of the Funding Vehicle(s) selected by a Participant, in accordance with the procedures established by the Plan Sponsor, and may be allocated by the Participant to one or more Funding Vehicle(s) in whole-number percentages. At least as frequently as once a month, a Participant may change his or her allocation of future Plan Contributions to such Funding Vehicle(s).

4.3 Institution Transmittals to Fund Sponsors. Each Institution will determine the total amount of contributions to be made for each Participant from time to time on the basis of its books and records and in accordance with the provisions of this Article. When each contribution payment is made by the Institution, the Institution will prepare a statement showing the name of each Participant and the portion of the payment which is made for him or her, and will deliver the statement to the appropriate Fund Sponsor(s) with the contributions payment. Any determination and contribution payment by the Institution, which is delivered to the Fund Sponsor(s), is final and binding on all Participants, their Beneficiaries or contingent annuitants, or any other person or persons claiming an interest in or derived from the contributions payment.

4.4 Records and Reports. Records for each Participant under this Plan are maintained on a calendar year basis. At least once a year the Fund Sponsor(s) will send each Participant a report summarizing the status of his or her Accumulation Account(s) as of December 31 each year. Similar reports or illustrations may be obtained by a Participant upon termination of employment or at any other time by direct request to the Fund Sponsor.

4.5 Limitations. Notwithstanding anything to the contrary contained in this Plan, the obligation of each Institution to make contributions is subject to the provisions relating to the amendment and termination of this Plan.

4.6 No Reversion. Under no circumstances or conditions will any contribution of an Institution revert to, be paid to, or inure to the benefit of, directly or indirectly, the Institution.

However, in the event that Plan Contributions are made by an Institution by mistake of fact, these Plan Contributions may be returned to the Institution within one year of the date that Plan Contributions were made.

ARTICLE V
FUND SPONSORS/FUNDING VEHICLES

5.1 Fund Sponsors/Funding Vehicles. Plan Contributions are invested in one or more Funding Vehicles available to Participants under this Plan. The Fund Sponsors and their Funding Vehicles are as follows:

- (a) Teachers Insurance and Annuity Association of America (TIAA), whose Funding Vehicle is the TIAA Retirement Annuity Contract.
- (b) College Retirement Equities Fund (CREF), whose Funding Vehicle is the CREF Retirement Unit-Annuity Certificate.

5.2 Fund Transfers. Accumulation Account investments in any Funding Vehicle are subject to any restrictions imposed by the Funding Vehicle, or by the Fund Sponsor with respect to the Funding Vehicle, on the transfer of an amount of the Accumulation Account within the Funding Vehicle or to another Funding Vehicle.

ARTICLE VI
VESTING

6.1 Vesting. The amount of an individual's Accumulation Account is at all times 100% vested and nonforfeitable, including at Normal Retirement Age.

ARTICLE VII
BENEFITS

- 7.1 Retirement Benefits. Upon a Participant's:
- (a) Severance from Employment; or
 - (b) Retirement under the terms of a retirement incentive program approved by an Institution and attainment of Normal Retirement Age or, effective for distributions after June 30, 2007, age 62,

the Participant is entitled under the terms of his or her individually-owned TIAA and/or CREF Retirement Annuities to receive a monthly or periodic income under one of the options set forth in the TIAA contract(s) or CREF certificate(s).

A Participant who becomes entitled to receive a monthly or periodic income as provided in the preceding paragraph may alternatively elect to receive a cash withdrawal of the amount of the Participant's Accumulation Account as permitted by the Participant's Funding Vehicles and this Section 7. Such a Participant is not required to have begun receiving PERS monthly retirement benefits to request cash withdrawal, but must be eligible to receive PERS monthly retirement benefits to elect cash withdrawal of the Institution Plan Contributions TIAA and/or CREF accounts.

7.2 Death Benefits. In the event a Participant dies prior to commencement of retirement benefit payments, the full current value of the Accumulation Account(s) is then payable to the Beneficiary or Beneficiaries named by the Participant, under one of the options offered by TIAA-CREF.

7.3 Application for Benefits. Procedures for receipt of benefits are initiated by writing directly to TIAA-CREF. Benefits provided under TIAA Retirement Annuity contract(s) or CREF Retirement Unit-Annuity Certificate(s) to which Plan Contributions have been applied will be payable by TIAA-CREF upon receipt of a satisfactorily completed application for benefits and supporting documents. The necessary forms will be provided to the Participant or the Beneficiary by TIAA-CREF.

ARTICLE VIII
NON-ALIENATION; ASSIGNMENT TO ALTERNATE PAYEE

8.1 Non-Alienation of Retirement Rights or Benefits. No benefit under this Plan may at any time be subject in any manner to alienation, encumbrance, the claims of creditors or legal process to the fullest extent permitted by law. No person will have power in any manner to transfer, assign, alienate, or in any way encumber his or her benefits under this Plan, or any part thereof, and any attempt to do so will be void and of no effect. This Section 8.1 is subject to Section 8.2 and does not apply to the extent otherwise provided in Oregon or federal law.

8.2. Assignment to Alternate Payee. Despite any contrary provision of this Plan except Section 12.1, to the extent required by and subject to the restrictions of ORS 237.600, a Participant's benefit will be paid, in whole or in part, to an alternate payee (and not to the Participant or other beneficiary) if and to the extent expressly provided for in the terms of any court decree of annulment or dissolution of marriage or of separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of annulment or dissolution of marriage or of separation.

- (a) This Plan will apply ORS 237.600 to decrees, orders, or agreements whenever entered or modified, including those entered or last modified before January 1, 1994.
- (b) Neither the Plan Sponsor, any Institution nor this Plan will charge or collect out of the benefits payable to the Participant or the alternate payee any administrative expenses or related costs incurred by the Plan Sponsor, any Institution or this Plan in obtaining data or making calculations necessary by reason of ORS 237.600 in excess of the amount permitted under ORS 237.600(5).
- (c) This Section 8.2 applies to a Participant and an individual who Section 12.14 requires be treated the same as the Participant's spouse or former spouse in the same manner as this Section 8.2 applies to a Participant and the Participant's spouse or former spouse, except that this Section 8.2 does not allow this Plan to distribute a benefit to an individual who Section 12.14 requires be treated the same as a Participant's spouse or former spouse (or other person with respect to whom the distribution does not satisfy the requirements of Code Section 414(p)(11)) if the Participant has not attained age 62 or separated from employment with the employer (within the meaning of Code Section 414(b), (c), (m), and (o)) at the time of the distribution.

ARTICLE IX
ADMINISTRATOR

9.1 Plan Administrator. The Board or its delegate is the Plan Administrator of this Plan, and is responsible for enrolling Participants, sending Plan Contributions for each Participant to TIAA-CREF, and for performing other duties required for the operation of this Plan. The Plan Administrator will act through persons designated from time to time. Any one of such designees may act for the Oregon University System as Plan Administrator without the consent of any of the others.

9.2 Authority of the Plan Administrator. The Plan Administrator has all the powers and authority expressly conferred upon it herein and further the sole right and discretionary authority to interpret and construe this Plan, and to determine any disputes arising under it. In exercising these powers and authority, the Plan Administrator will at all times exercise good faith, apply standards of uniform application, and refrain from arbitrary action. The Plan Administrator may employ attorneys, agents, and accountants as it finds necessary or advisable to assist it in carrying out its duties.

9.3 Action of the Plan Administrator. Any action taken by the Plan Administrator which is authorized, permitted, or required under this Plan and is in accordance with a TIAA-CREF's contractual obligations is final and binding upon the Plan Administrator, the Plan Sponsor, each Institution, and all persons who have or who claim an interest under this Plan, and all third parties dealing with the Plan Administrator, the Plan Sponsor or an Institution.

ARTICLE X
AMENDMENT AND TERMINATION

10.1 Amendment and Termination. While it is expected that this Plan will continue indefinitely, the Plan Sponsor reserves the right at any time to amend, otherwise modify, or terminate this Plan, or to discontinue any further contributions or payments under this Plan, by resolution of the Board or its delegate. As provided in, and only to the extent required by, Code Section 401(a)(7) as in effect on September 1, 1974 and Treasury Regulation Section 1.401-6, upon the termination of this Plan or upon the complete discontinuance of contributions under this Plan, the rights of each employee to benefits accrued to the date of such termination or discontinuance, to the extent then funded, or the rights of each employee to the amounts credited to the employee's account at such time, are nonforfeitable.

10.2 Limitation. Notwithstanding the provisions of Section 10.1, no amendment or termination of this Plan may cause any asset of the Funding Vehicles to be used for or diverted to any purpose other than for the exclusive benefit of Participants or their beneficiaries and defraying reasonable expenses of administering this Plan and the Funding Vehicles and, except as may be required for this Plan to be a qualified plan under Code Section 401(a), no amendment or termination of this Plan will reduce the amount of a Participant's Accumulation Account on the date the amendment or termination is adopted or affect any obligation of an Institution to make contributions with respect to salary earned by Participants before the date of the amendment or termination is adopted. Any determination or recommendation by the Internal Revenue Service or the Plan Sponsor's or Plan Administrator's counsel will be sufficient as to establish that an amendment is required for this Plan to be a qualified plan under Code Section 401(a).

ARTICLE XI
MISCELLANEOUS

11.1 Plan Non-Contractual. Nothing contained in this Plan will be construed as a commitment or agreement on the part of any person to continue his or her employment with an Institution, and nothing contained in this Plan will be construed as a commitment on the part of the Institution to continue the employment or the rate of salary of any person for any period, and all employees of the Institution will remain subject to discharge to the same extent as if this Plan had never been put into effect.

11.2 Claims of Other Persons. The provisions of this Plan will in no event be construed as giving any Participant or any other person, firm, or corporation, any legal or equitable right against an Institution, its officers, employees, or directors, except the rights as are specifically provided for in this Plan or created in accordance with the terms and provisions of this Plan.

11.3 Governing Law. Except as provided under federal law, the provisions of this Plan are governed by and construed in accordance with the laws of the State of Oregon.

11.4 Merger, Consolidation, or Transfers of Plan Assets. This Plan will not be merged or consolidated with any other Plan, nor will any of its assets or liabilities be transferred to another Plan, unless, immediately after a merger, consolidation, or transfer of assets or liabilities, each Participant would receive a benefit under this Plan which is at least equal to the benefit he or she would have received immediately prior to a merger, consolidation, or transfer of assets or liabilities (assuming in each instance that this Plan had then terminated).

11.5 Contracts. The terms of each TIAA Retirement Annuity Contract and CREF Retirement Unit-Annuity Certificate, referred to in Section 5.1, are a part of this Plan as if fully set forth in this Plan and the provisions of each are incorporated by reference into this Plan. In cases where there is any inconsistency or ambiguity between the terms of this Plan and those of the TIAA contracts and CREF certificates the terms of this Plan control.

11.6 Indemnification.

- (a) The Board agrees to indemnify Indemnified Persons for all acts taken in carrying out his, her, or their responsibilities under the terms of the Plan. This indemnification for all acts is intentionally broad but shall not provide indemnification for gross negligence, willful misconduct, embezzlement, or diversion of Plan funds for the benefit of the Indemnified Person. The Board agrees to indemnify Indemnified Persons for all expenses of defending an action, including all legal fees for counsel selected with the Board's consent and other costs of such defense. The Board shall also indemnify Indemnified Persons for any monetary recovery in any court or arbitration proceeding. In addition, if the claim is settled out of court with the concurrence of the Board, the Board shall indemnify Indemnified Persons for any monetary liability under said settlement. The Board shall have the right, but not the obligation, to conduct the defense of Indemnified Persons in any proceeding to which this section applies. The Board may satisfy its obligation under this section in whole or in part through the purchase of a policy or policies of insurance providing equivalent protection.

- (b) Notwithstanding the foregoing, the indemnification provided for in this Section 11.6 shall be subject to any applicable limitations under Article XI, Section 7, of the Oregon Constitution, or the Oregon Tort Claims Act, ORS 30.260 to 30.300.

11.7 Limitation of Liability. Subject to any requirements of the Code:

- (a) Except as provided in section 11.7(b) below, none of the following persons is liable to any person for any act or failure to act under or with respect to the Plan where the act or failure to act is in good faith: the Board (and any member of the Board); the Plan Sponsor; the Plan Administrator; any Institution; officers, employees, agents, and representatives of any of the foregoing; and, in performing service as a designee under Section 9.1, any employee of the foregoing. This section is not intended, and will not be construed, to expand the duties or liability of any of the foregoing persons beyond their duties and liabilities in the absence of this section.
- (b) The exoneration from liability in Section 11.7(a) above does not apply to any Fund Sponsor and does not apply to any paid consultant, paid contractor, or paid agent with respect to the Plan whose consultancy, contract, or agency is not served as a member, officer, or employee of the Board or as an employee of the Plan Sponsor, Plan Administrator or an Institution.
- (c) Nothing in the Plan and Section 11.7(a) above, constitutes a waiver of the sovereign immunity of the State of Oregon or a waiver of any other defense or right of any of the persons described in Section 11.7(a) above.

ARTICLE XII
REQUIRED PROVISIONS

12.1 Required Starting Date.

- (a) For purposes of this Section 12.1:
- (i) "Required Starting Date" means April 1 of the calendar year following the later of (a) the calendar year in which the participant attains age 70½ or (b) the calendar year in which the participant retires.
 - (ii) "Designated Beneficiary" means any individual designated as a beneficiary by the participant.
 - (iii) "Spouse" and "surviving spouse" include an alternate payee who is the participant's former spouse.
 - (iv) In accordance with Treasury regulations, any amount paid to a child will be treated as if it had been paid to the surviving spouse if such amount will become payable to the surviving spouse upon such child reaching majority (or other designated event permitted under Treasury regulations).
 - (v) Any distribution required under the incidental death benefit requirements of Code Section 401(a) will be treated as a distribution required under this Section 12.1.
- (b) The entire interest of each participant in this Plan:
- (i) Will be distributed to the participant no later than the Required Starting Date; or
 - (ii) Will be distributed, starting not later than the Required Starting Date, in accordance with Treasury regulations, over the life of the participant or over the lives of the participant and a Designated Beneficiary (or over a period not extending beyond the life expectancy of the participant or the life expectancy of the participant and a Designated Beneficiary).
- (c) If the distribution of the participant's interest has begun in accordance with Section 12.1(b)(ii) and the participant dies before the participant's entire interest has been distributed to the participant, the remaining portion of the participant's interest will be distributed at least as rapidly as under the method of distributions being made under Section 12.1(b)(ii) as of the date of the participant's death.
- (d) If a participant dies before the distribution of the participant's interest has begun in accordance with Section 12.1(b)(ii), the entire interest of the participant will be distributed within five years after the death of the participant. However, the five-year rule does not apply to any portion of the participant's interest payable to (or for the benefit of) a Designated Beneficiary; and not later than one year after the date of the participant's death or such later date as may be prescribed by Treasury

regulations distributions (in accordance with Treasury regulations) of such portion will start over the life of the Designated Beneficiary (or over a period not extending beyond the life expectancy of the Designated Beneficiary).

- (e) With respect to a Designated Beneficiary who is the participant's surviving spouse:
 - (i) The date on which the distributions are required to start for purposes of the exception to the five-year rule in Section 12.1(d) will not be earlier than the date on which the participant would have attained age 70½; and
 - (ii) If the surviving spouse dies before the distributions to the spouse start, Section 12.1(c) and (d) will be applied as if the spouse were the participant.
- (f) Effective for calendar years beginning after December 31, 2008:
 - (i) The requirements of this Section 12.1, except this Section 12.1(f), do not apply for calendar year 2009.
 - (ii) Installment payments that a Participant, Beneficiary, or alternate payee elected to receive and that, but for Section 12.1(f)(i) above, would include payments required for calendar year 2009 under this Section 12.1, will continue to be made except to the extent the Participant, Beneficiary, or alternate payee elects not to receive the payments for calendar year 2009, but this Section 12.1(f)(ii) does not allow a Participant, Beneficiary, or alternate payee to elect not to receive payments being made under an irrevocable annuity.
 - (iii) The Required Starting Date with respect to any individual will be determined without regard to this Section 12.1(f) for purposes of applying this Section 12.1 for calendar years after 2009.
 - (iv) The 5-year period described in Section 12.1(d) will be determined without regard to calendar year 2009.
- (g) Despite any contrary provision of this Plan except Section 12.1(f), this Plan will apply the minimum distribution requirements of Code Section 401(a)(9) in accordance with the following proposed, final, and temporary Treasury regulations:
 - (i) With respect to distributions made for calendar years beginning before January 1, 2001, the regulations under Code Section 401(a)(9) that were proposed in 1987, including Proposed Treasury Regulation Section 1.401(a)(9)-2.
 - (ii) With respect to distributions made for the 2001 calendar year, the regulations under Code Section 401(a)(9) that were proposed on January 17, 2001.

- (iii) With respect to distributions made for calendar years beginning on or after January 1, 2002, the regulations under Code Section 401(a)(9), including the incidental death benefit requirement of Code Section 401(a)(9)(G).
 - (iv) With respect to distributions made for any calendar year, the provision in Treasury Regulation Section 1.401(a)(9)-1 Q&A-2(d), as published in 74 Fed. Reg. 45993 (September 8, 2009), treating a governmental plan (within the meaning of Code Section 414(d)) as having complied with Code Section 401(a)(9) for all years to which Code Section 401(a)(9) applies to the plan if the plan complies with a reasonable and good faith interpretation of Code Section 401(a)(9).
- (h) This Section 12.1:
- (i) Overrides any distribution options in this Plan inconsistent with Code Section 401(a)(9).
 - (ii) Applies to Plan Years beginning after June 30, 1989.

12.2 Annual Compensation Limit. This Section 12.2 applies to Plan Years beginning after December 31, 1995, and Limitation Years beginning after June 30, 2007. Except for purposes of Sections 12.6 and 12.8, the annual compensation taken into account for each participant in determining plan allocations and benefit accruals under this Plan for any Plan Year is limited to the annual compensation limit under Code Section 401(a)(17)(A) (\$150,000 for Plan Years beginning before January 1, 2002, and \$200,000 for Plan Years beginning after December 31, 2001), as adjusted for increases in the cost of living in accordance with Code Section 401(a)(17)(B). For Plan Years beginning before January 1, 1997, in determining the compensation of a participant the rules of Code Section 414(q)(6) will apply, except that in applying such rules the term "family" will include only the spouse of the participant and any lineal descendants of the participant who have not attained age 19 before the close of the Plan Year. The requirements of Code Section 401(a)(17) and the Treasury regulations thereunder are incorporated into this Plan by this reference.

12.3 Direct Rollovers. Despite any contrary provision of this Plan that would otherwise limit a distributee's election under this Section 12.3, a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution made after December 31, 1992, paid directly to an eligible retirement plan specified by the distributee in a direct rollover. The following definitions apply to this Section 12.3:

- (a) Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, but not including any of the following:
 - (i) 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 (within the

meaning of Code Section 402(c)(4)(A)(i)), or for a specified period of 10 years or more.

- (ii) Any distribution to the extent such distribution is required under Code Section 401(a)(9). As provided in Code Section 402(c)(4), if all or any portion of a distribution during calendar year 2009 is treated as an eligible rollover distribution but would not be so treated if the minimum distribution requirements under Code Section 401(a)(9) had applied during calendar year 2009, such distribution shall not be treated as an Eligible Rollover Distribution. The determination of any distribution required under Code Section 401(a)(9) that is ineligible for rollover for a designated beneficiary described in Section 12.3(c)(iv) will be made in accordance with Q&A-17 and -18 of Internal Revenue Service Notice 2007-7, 2007-5 I.R.B. 395, or later guidance by the Internal Revenue Service or in Treasury regulations.
 - (iii) For distributions made before January 1, 2002, the portion of any distribution that is not includible in gross income.
 - (iv) For distributions made after December 31, 2001, any distribution that is made upon hardship (within the meaning of Code Section 402(c)(4)(C)) of the employee.
 - (v) Unless the Plan Administrator affirmatively elects to the contrary, any minimum amount permitted by Code Section 401(a)(31) and Treasury regulations issued thereunder that is permitted to be excluded from the definition of eligible rollover distribution.
 - (vi) Any other distribution designated in Treasury regulations, or by the Commissioner of Internal Revenue Service pursuant to Treasury regulations, as not an eligible rollover distribution within the meaning of Code Section 402(c)(4).
- (b) Eligible retirement plan: An eligible retirement plan is any of the following that accepts the distributee's eligible rollover distribution:
- (i) An individual retirement plan described in Code Section 7701(a)(37) (other than an endowment contract), including, for distributions made after December 31, 2007, a Roth IRA described in Code Section 408A, except that, for taxable years beginning before January 1, 2010, an individual retirement plan does not include a Roth IRA if, for the taxable year of the distribution to which the direct rollover relates, (1) the taxpayer's adjusted gross income (as determined under Code Section 408A(c)(3)) exceeds \$100,000 or (2) the taxpayer is a married individual filing a separate return.
 - (ii) A qualified plan described in Code Section 401(a) or 403(a).

- (iii) For distributions made after December 31, 2001, an annuity contract described in Code Section 403(b).
- (iv) For distributions made after December 31, 2001, an eligible deferred compensation plan described in Code Section 457(b) maintained by an eligible employer described in Code Section 457(e)(1)(A) and that agrees to separately account for amounts transferred into such plan from this Plan.

However:

- (v) In the case of an eligible rollover distribution to the surviving spouse in a distribution made before January 1, 2002, an eligible retirement plan is only an individual retirement plan described in Code Section 7701(a)(37) (other than an endowment contract).
- (vi) In the case of a direct rollover that is not on behalf of a designated beneficiary described in Section 12.3(c)(iv) and that includes an amount that is not includible in gross income in a distribution made after December 31, 2001:
 - (1) If the distribution is made in a tax year beginning before January 1, 2007, an eligible retirement plan is only:
 - (A) A qualified defined contribution plan described in Code Section 401(a) or 403(a) that agrees to separately account for amounts transferred in the direct rollover, including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible; or
 - (B) An individual retirement plan described in Code Section 7701(a)(37) (other than an endowment contract).
 - (2) If the distribution is made in a tax year beginning after December 31, 2006, an eligible retirement plan is only:
 - (A) A qualified trust described in Code Section 401(a) or 403(a) or an annuity contract described in Code Section 403(b) which trust or contract provides for separate accounting for amounts transferred in the direct rollover (including earnings thereon), including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible; or
 - (B) An individual retirement plan described in Code Section 7701(a)(37) (other than an endowment contract).

- (vii) In the case of an eligible rollover distribution for a designated beneficiary described in Section 12.3(c)(iv), an eligible retirement plan is only an individual retirement plan described in Code Section 7701(a)(37) (other than an endowment contract and including, for distributions made after December 31, 2007, a Roth IRA described in Code Section 408A) established for the purpose of receiving the distribution on behalf of the designated beneficiary and that will be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of Code Section 408(d)(3)(C)) pursuant to Code Section 402(c)(11), except that, for taxable years beginning before January 1, 2010, an individual retirement plan does not include a Roth IRA if, for the taxable year of the distribution to which the direct rollover relates, (1) the taxpayer's adjusted gross income (as determined under Code Section 408A(c)(3)) exceeds \$100,000 or (2) the taxpayer is a married individual filing a separate return.

- (c) Distributee: A distributee includes any of the following:
 - (i) An employee or former employee.
 - (ii) An employee or former employee's surviving spouse.
 - (iii) An employee's or former employee's spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in Code Section 414(p).
 - (iv) Effective for distributions made on or after December 31, 2007, a designated beneficiary. For this purpose, a designated beneficiary is an employee's or former employee's beneficiary meeting either of the following requirements:
 - (1) The beneficiary:
 - (A) Is an individual and a designated beneficiary (as defined in Code Section 401(a)(9)(E)) of the employee or former employee;
 - (B) Is not the employee's or former employee's surviving spouse; and
 - (C) Is not an alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), who is the employee's or former employee's spouse or former spouse; or
 - (2) The beneficiary is a trust maintained for the benefit of one or more designated beneficiaries (as defined in Code Section 401(a)(9)(E)) of the employee or former employee.

- (d) Direct rollover: A direct rollover is a payment by this Plan to the eligible retirement plan specified by the distributee.

Such distribution may begin less than 30 days after the notice under Code Section 402(f) is given to the distributee if (1) the Plan Administrator clearly informs the distributee that the distributee has a right to a period of at least 30 days after receiving the notice to consider the decision whether to elect a particular distribution option and (2) the distributee, after receiving the notice, affirmatively elects a distribution. For Plan Years beginning before January 1, 2010, the previous sentence does not require that a designated beneficiary described in Section 12.3(c)(iv) be given the notice under Code Section 402(f).

12.4 Automatic Rollovers. Despite any contrary provision of this Plan, the Plan Administrator will cause any eligible rollover distribution described in this Section 12.4 to be paid in a direct rollover to an individual retirement plan designated by the Plan Administrator and will notify the participant in writing (either separately or as part of the notice under Code Section 402(f)) that the distribution may be transferred to another individual retirement plan. An eligible rollover distribution is described in this Section 12.4 if:

- (a) The distribution (1) is made after December 31, 2005, (2) is more than \$1,000, (3) is made with respect to a participant before the participant attains the later of age 62 or Normal Retirement Age, and (4) may be made without the participant's consent; and
- (b) The participant does not elect to have the distribution paid directly to an eligible retirement plan specified by the participant in a direct rollover or to receive the distribution directly.

The definitions in Section 12.3 apply to this Section 12.4, except that the individual retirement plan is designated by the Plan Administrator, not specified by the participant. For purposes of this Section 12.4, an individual retirement plan is an individual retirement plan described in Code Section 7701(a)(37) but does not include a Roth IRA.

12.5 Benefits for Military Service.

- (a) Effective for reemployments initiated on or after December 12, 1994, and despite any contrary provision of this Plan, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u).
- (b) However, effective for deaths and disabilities occurring on or after January 1, 2007, this Plan will not apply Code Section 414(u)(9) (about treatment in the case of death or disability resulting from active military service) as added by section 104(b) of Public Law No. 110-245, the Heroes Earnings Assistance and Relief Tax Act of 2008; and therefore, for benefit accrual purposes, this Plan will not treat an individual who dies or becomes disabled while performing qualified military service with respect to the employer maintaining this Plan as if the individual has resumed employment in accordance with the individual's reemployment rights under chapter 43 of title 38, United States Code, on the day

preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability.

- (c) An individual receiving a differential wage payment from an Institution will be treated as an employee of the Institution as to the differential wage payment. The differential wage payment will be treated as compensation, but only for purposes of Section 12.7. A differential wage payment is any payment that:
 - (i) Is made by an Institution to an individual with respect to any period during which the individual is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) while on active duty for a period of more than 30 days; and
 - (ii) Represents all or a portion of the wages the individual would have received from the Institution if the individual were performing service for the Institution.

This Section 12.5(c) does not entitle any employee or former employee of an Institution to a differential wage payment. This Section 12.5(c) applies to years beginning after December 31, 2008, and implements, and will be interpreted and administered consistent with, section 414(u)(12).

- (d) In the case of a participant who dies while performing qualified military service (as defined in Code Section 414(u)), the survivors of the participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under this Plan had the participant resumed and then terminated employment on account of death. This Section 12.5(d) applies to deaths occurring on or after January 1, 2007, and implements, and will be interpreted and administered consistent with, Code Section 401(a)(37).

12.6 Limit on Annual Additions for Limitation Years Beginning After December 31, 1988, and Before July 1, 2007. This Section 12.6 applies to Limitation Years beginning after December 31, 1988, and before July 1, 2007.

- (a) Despite any contrary provision of this Plan, the annual additions credited to any participant's accounts under this Plan for any Limitation Year may not exceed the lesser of the dollar limitation in Code Section 415(c)(1)(A) or 25% (100% for Limitation Years beginning after December 31, 2001) of the participant's compensation (as defined in Section 12.9). The dollar limit in this Section 12.6(a) will be annually adjusted as follows:
 - (i) For increases in the cost of living in accordance with Code Section 415(d).
 - (ii) For Limitation Years beginning before January 1, 1995, the dollar limit will be adjusted to, if greater, one-quarter of the dollar limitation in effect under Code Section 415(b)(1)(A).
- (b) In the case of any participant in more than one defined contribution plan of the employer (within the meaning of Code Section 414(b), (c), (m), and (o), after

applying Code Section 415(h)), all such plans will be treated as one plan, and the maximum annual addition to the participant's accounts under this Plan as provided above will be reduced, to the extent required to comply with Code Section 415, by the aggregate of the amount of the annual additions to the participant's accounts under such other plans.

- (c) If the annual additions exceed the limitations, the excess amounts will be held unallocated in a suspense account and will be applied to reduce further contributions by the employer to this Plan.
- (d) The limitations in this Section 12.6 will be applied according to adjustments described in and the provisions of Code Sections 415 and 419A(d) and Treasury regulations and guidance by the Internal Revenue Service under Code Sections 415 and 419A(d) (including the effective dates of such adjustments and provisions), which are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of Code Sections 415(c) (about limitation for defined contribution plans), 415(d) (about COLAs), 415(l) (about individual medical benefit accounts), and 419A(d)(2) (about medical benefit accounts for key employees in a welfare benefit fund).

12.7 Limit on Annual Additions for Limitation Years Beginning After June 30, 2007.

This Section 12.7 applies to Limitation Years beginning after June 30, 2007.

- (a) Despite any contrary provision of this Plan, the annual additions credited to any participant's accounts under this Plan for any Limitation Year may not exceed the lesser of the dollar limitation in Code Section 415(c)(1)(A) or 100% of the participant's compensation (as defined in Section 12.10). The dollar limit in this Section 12.7(a) will be annually adjusted pursuant to Code Section 415(d).
- (b) In the case of any participant in more than one defined contribution plan of the employer (within the meaning of Code Section 414(b), (c), (m), and (o), after applying Code Section 415(h)), all such plans will be treated as one plan, and the maximum annual addition to the participant's accounts under this Plan as provided above will be reduced, to the extent required to comply with Code Section 415, by the aggregate of the amount of the annual additions to the participant's accounts under such other plans.
- (c) The limitations in this Section 12.7 will be applied according to adjustments described in and the provisions of Code Sections 415 and 419A(d) and Treasury regulations and guidance by the Internal Revenue Service under Code Sections 415 and 419A(d) (including the effective dates of such adjustments and provisions), which are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of Code Sections 415(c) (about limitation for defined contribution plans), 415(d) (about COLAs), 415(l) (about individual medical benefit accounts), and 419A(d)(2) (about medical benefit accounts for key employees in a welfare benefit fund). As provided in Treasury Regulation Section 1.415(a)-1(d)(3)(ii) (April 5, 2007), this Plan will be applied according to the default rules under Code Section 415 except

where this Plan specifies a permitted optional manner in which Code Section 415 is to be applied in variance from the default rule.

12.8 Combined Limit on Benefits and Annual Additions for Limitation Years Beginning After December 31, 1988, and Before January 1, 2000. This Section 12.8 applies to Limitation Years beginning after December 31, 1988, and before January 1, 2000. Despite any contrary provision of this Plan:

- (a) If a participant is a participant in another defined contribution plan or a defined benefit plan of the employer (within the meaning of Code Section 414(b), (c), (m), and (o), after applying Code Section 415(h)), all defined benefit plans of the employer will be treated as one plan, and all defined contribution plans of the employer will be treated as one plan, and the sum of the participant's defined benefit plan fraction (within the meaning of Code Section 415(e)) for such aggregate defined benefit plans and the participant's defined contribution plan fraction (within the meaning of Code Section 415(e)) for such aggregate defined contribution plans for any Limitation Year may not exceed 1.0. If such sum would otherwise exceed 1.0, the participant's projected annual benefit under such defined benefit plans will be reduced pro rata to the extent necessary for such sum not to exceed 1.0.
- (b) The limitations in this Section 12.8 will be applied according to the adjustments described in and the provisions of Code Sections 415 and 419A(d) and Treasury regulations and guidance by the Internal Revenue Service under Code Sections 415 and 419A(d) (including the effective dates of such adjustments and provisions), which are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of Code Sections 415(e) (about limitation in the case of a defined benefit plan and a defined contribution plan for the same employee).

12.9 Compensation for Purposes of Limits for Limitation Years Beginning After December 31, 1988, and Before July 1, 2007. This Section 12.9 applies to Limitation Years beginning after December 31, 1988, and before July 1, 2007. For purposes of Sections 12.6 and 12.8, "compensation" means wages within the meaning of Code Section 3401(a) (for the purposes of income tax withholding at the source) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).

- (a) For Limitation Years beginning after December 31, 1997, "compensation" includes any elective deferral (as defined in Code Section 402(g)(3)) contributed by the employer and any amount contributed or deferred by the employer at the election of the participant and not includible in the gross income of the participant by reason of Code Section 125 or 457.
- (b) For Limitation Years beginning after December 31, 2000, "compensation" includes any amount contributed or deferred by the employer at the election of the participant and not includible in the gross income of the participant by reason of Code Section 132(f)(4).

- (c) Effective January 1, 2002, "compensation" includes any additional elective deferral under Code Section 414(v) contributed by the employer.
- (d) For purposes of Sections 12.6 and 12.8, the amounts included in a participant's compensation under this Section 12.9 will be based on such amounts from the employer (within the meaning of Code Section 414(b), (c), (m) (applicable to Plan Years beginning after November 30, 1980), and (o) (effective July 18, 1984), after applying Code Section 415(h)).

12.10 Compensation for Purposes of Limit on Annual Additions for Limitation Years Beginning After June 30, 2007. This Section 12.10 applies to Limitation Years beginning after June 30, 2007. For purposes of Section 12.7, "compensation" means wages within the meaning of Code Section 3401(a) (for the purposes of income tax withholding at the source) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)). For purposes of Section 12.7:

- (a) Compensation includes any elective deferral (as defined in Code Section 402(g)(3)), or additional elective deferral under Code Section 414(v), contributed by the employer and any amount contributed or deferred by the employer at the election of the participant and not includible in the gross income of the participant by reason of Code Section 125, 132(f)(4), or 457.
- (b) Code Section 415(c)(3)(C) (about special rules for permanent and total disability) and Treasury Regulation Section 1.415(c)-2(g)(4) (about permanent and total disability of defined contribution plan participant) will apply to with respect to all participants.
- (c) The amounts included in a participant's compensation under this Section 12.10 will be based on such amounts from the employer (within the meaning of Code Section 414(b), (c), (m), and (o), after applying Code Section 415(h)).
- (d) Compensation will be limited as provided in Section 12.2.
- (e) Compensation for any Limitation Year is the compensation (as defined in the above provisions of this Section 12.10) actually paid or made available to the participant (or, if earlier, includible in the gross income of the participant) during such year. For purposes of this Section 12.10(e):
 - (i) Compensation is treated as paid on a date if it is actually paid on that date or it would have been paid on that date but for an election described in Section 12.10(a).
 - (ii) Compensation includes only those amounts described in the above provisions of this Section 12.10 that are:
 - (1) Paid or treated as paid to the employee (in accordance with the above provisions of this Section 12.10(e)) before the employee's

severance from employment (as defined in Treasury Regulation Section 1.415(a)-1(f)(5)) with the employer; or

- (2) Paid after such severance and by the later of 2½ months after such severance or the end of the Limitation Year that includes the date of such severance and which:
 - (A) Are regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
 - (B) Would have been paid to the employee prior to a severance from employment if the employee had continued in employment with the employer.

Thus compensation does not include severance pay if paid after such severance.

- (iii) Payments awarded by an administrative agency or court or pursuant to a bona fide agreement by employer to compensate an employee for lost wages are compensation for the Limitation Year to which the back pay relates, but only to the extent such payments represent wages and compensation that would otherwise be included in compensation under this Section 12.10. This Section 12.10(e)(iii) applies only to back pay that this Section 12.10(e)(iii) would allocate to a Limitation Year beginning after June 30, 2007.

12.11 Leased Employees. This Section 12.11 applies to Plan Years and Limitation Years beginning after December 31, 1988.

- (a) A Leased Employee as such may not participate in this Plan.
- (b) For periods after a Leased Employee has performed services for an Institution (or for the Institution and related persons determined in accordance with Code Section 414(n)(6)(A)) on a substantially full-time basis for a period of at least one year:
 - (i) The Leased Employee will be considered an employee of the Institution for purposes of Sections 12.2 and 12.8 through 12.10; and
 - (ii) For purposes of Sections 12.8 through 12.10, contributions or benefits provided by the Leasing Organization that are attributable to services performed for the Institution will be treated as provided by the Institution.
- (c) A "Leased Employee" is any person (other than an employee of an Institution) who pursuant to an agreement between an Institution and any other person (the "Leasing Organization") has performed services for the Institution (or for the

Institution and related persons determined in accordance with Code Section 414(n)(6)(A)) on a substantially full-time basis for a period of at least one year, and (for years beginning after December 31, 1996) such services are performed under primary direction or control by the Institution or (for years beginning before January 1, 1997) such services are of a type historically performed, in the business field of the Institution, by employees.

- (d) An individual will not be considered a Leased Employee if (i) the individual is covered by a money purchase pension plan providing (1) a nonintegrated employer contribution rate of at least 10% of compensation (as defined in Code Section 414(n)(5)(iii)), (2) immediate participation (after applying the exceptions from immediate participation provided in Code Section 414(n)(5)(B)) and (3) full and immediate vesting and (ii) Leased Employees do not constitute more than 20% of an Institution's nonhighly compensated work force (as defined in Code Section 414(n)(5)(ii)).
- (e) For purposes of this Section 12.11, an "Institution" includes all persons aggregated with the Institution pursuant to Code Section 414(b), (c), (m), or (o).
- (f) The requirements of Code Section 414(n) and the Treasury regulations thereunder are incorporated into this Plan by this reference.

12.12 Annuity Contracts. Benefits may be paid by distributing an annuity contract purchased for the participant, alternate payee, or beneficiary (the payee).

- (a) Delivery of any such contract will be in full satisfaction of the rights under this Plan of the payee and the payee's joint annuitant, beneficiary, and estate, and upon the delivery thereof such persons will have no further interest under this Plan with respect to the benefits to be paid under the contract and must look solely to the insurer issuing the contract for the payment of such benefits.
- (b) Any such contract must be nontransferable and may not pay benefits that exceed the limitations of Section 12.7.
- (c) The terms of this Plan control in the event of any conflict between the terms of this Plan and the terms of any such contract.

12.13 Oregon Family Fairness Act. This Plan will be administered to comply with the Oregon Family Fairness Act, which is ORS 106.300 to 106.340.

[Signature Page Follows]

The Plan, as amended and restated herein, is adopted by the Board through its delegate.

IN WITNESS WHEREOF, the Board, through its delegate, has caused this document to be duly executed on this _____ day of _____, 2015.

FOR THE UNIVERSITY OF OREGON

Jamie H. Moffitt, Vice President for Finance & Administration / CFO

EXHIBIT B

OREGON PUBLIC UNIVERSITIES 403(b) DEFINED CONTRIBUTION PLAN

As Amended and Restated Effective July 1, 2015

OREGON UNIVERSITY SYSTEM 403(b) DEFINED CONTRIBUTION PLAN

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OREGON PUBLIC UNIVERSITIES 403(b) DEFINED CONTRIBUTION PLAN

Preamble

The Board of Trustees of the University of Oregon (the "Board") documents the Oregon Public Universities 403(b) Defined Contribution Plan (the "Plan") in this Plan.

This Plan is amended and restated effective July 1, 2015.

The Plan was established effective January 1, 1967, under the authority in ORS 243.910 to 243.940 and section 403(b) of the Internal Revenue Code, as the Oregon State System of Higher Education TIAA-CREF Retirement Plan, to assist faculty rank employees who are members of the Oregon Public Employees Retirement System, and who elect to be so assisted, in the purchase of retirement benefits supplementing the benefits to which those employees are entitled under such System. The Plan is now named the Oregon Public Universities 403(b) Defined Contribution Plan.

The Plan last received contributions in 1989. Effective July 1, 1989, contributions authorized under ORS 243.910 to 243.940 ceased being made to the Plan and started being made to the Oregon State System of Higher Education Defined Contribution Retirement Plan (a plan qualified under section 401(a) of the Internal Revenue Code), now named the Oregon Public Universities 401(a) Defined Contribution Plan.

The Plan is intended to be a governmental plan exempt from titles I and IV of the Employee Retirement Income Security Act of 1974.

The Plan is not part of any other plan or program of the Board.

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, Beneficiary, or Alternate Payee under an Annuity Contract or a Grandfathered Custodial Account. The Vendor shall establish the following separate Source accounts within a Participant's, Beneficiary's, or Alternate Payee's Account, subject to the Individual Agreements:

- (a) Participant Pre-Tax Elective Deferral Source account, for any elective deferrals (within the meaning of section 402(g)(3)(C) of the Code).
- (b) Participant Pre-Tax Contributions Source account, for any participant pre-tax contributions that are not elective deferrals described in Section 1.1(a) above.

- (c) Employer Contributions Source account, for any employer contributions that are not elective deferrals described in Section 1(a) above or participant pre-tax contributions described in Section 1.1(b) above.
- (d) Participant After-Tax Contributions Source account, for any employee after-tax contributions.
- (e) Rollover Source account, for any eligible rollover distributions received by the Plan before January 1, 2009, or transferred to the Plan before March 1, 2013, as provided in Section 5.2.

The Vendor may also establish additional Source accounts within an Account. Any amount transferred to the Plan as provided in Section 5.2 will be held in the appropriate account described above to the extent provided in Section 5.2(d) or (e).

1.2 "Account Balance"

The bookkeeping account maintained for each Participant which reflects the aggregate amount credited to the Participant's Account under all Accounts, including contributions to the Plan for the Participant, the earnings or loss of each Annuity Contract or Grandfathered Custodial Account (net of expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to or for the Participant or the Participant's Beneficiary or Alternate Payee. The Account Balance includes any Source accounts established for eligible rollover distributions received by the Plan before January 1, 2009, or transferred to the Plan before March 1, 2013, as provided in Section 5.2 and any other transfers to the Plan before March 1, 2013, as provided in Section 5.2. A Beneficiary's Account Balance includes any amount credited to an Account or Source account established for the Beneficiary after the Participant's death. An Alternate Payee's Account Balance includes any amount credited to an Account or Source account established for the Alternate Payee.

1.3 "Administrator"

The Board of Trustees of the University of Oregon or its delegate. See Section 10.21 for the persons through which the Administrator may act.

1.4 "Alternate Payee"

A spouse, former spouse, child, or other dependent of a Participant who is recognized by a domestic relations order, as defined in Section 10.2(b), as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to the Participant.

1.5 "Annuity Contract"

A nontransferable contract, as defined in section 403(b)(1) of the Code, established by each Participant individually, that is issued by an insurance

company qualified to issue annuities in the State of Oregon and that includes payment in the form of an annuity.

1.6 "Beneficiary"

An individual or any type of entity that is entitled to receive benefits under the Plan after the death of a Participant, subject to Section 7 (relating to Beneficiary).

1.7 "Board"

The Board of Trustees of the University of Oregon or its delegate.

1.8 "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.

1.9 "Contract Exchange"

An exchange, permitted under § 1.403(b)-10(b)(2) of the Income Tax Regulations, of any part of a Participant's, Beneficiary's, or Alternate Payee's interest in a nontransferable contract as defined in section 403(b)(1) of the Code, or in a custodial account as defined in section 403(b)(7) of the Code, for an interest in another such contract or account. See Section 5.3(b) for prohibited Contract Exchanges.

1.10 "Employer"

The University of Oregon.

1.11 "Funding Vehicles"

The Annuity Contracts or Grandfathered Custodial Accounts issued for funding amounts held under the Plan and specifically approved by the Employer for use under the Plan. "Funding Vehicle" means one such Annuity Contract or Custodial Account.

1.12 "Grandfathered Custodial Account"

A group custodial account, as defined in section 403(b)(7) of the Code, established for each Participant to hold assets of the Plan. On November 23, 2010, the only custodial account agreement to hold assets of the Plan at any time during January 1, 2009, through November 23, 2010, terminated. No custodial account to hold assets of the Plan may be established after November 22, 2010.

1.13 "Indemnified Persons"

Any member of the Board; the Employer; the Administrator; officers, employees, agents, and representatives of any of the foregoing; and, in performing service as a designee under Section 10.21 or 10.22 (relating to designees through which the Administrator or Employer may act), any employee of the Employer or an Institution of Higher Education. "Indemnified Person" means one of the Indemnified Persons. See Section 10.23 (relating to indemnification of

Indemnified Persons). Despite the above provisions of this Section 1.13, "Indemnified Persons" and "Indemnified Person" do not include, and indemnification under Section 10.23 will not be provided for, any Vendor, and do not include, and indemnification under Section 10.23 will not be provided for, any paid consultant, paid contractor, or paid agent with respect to the Plan whose consultancy, contract, or agency is not served as a member, officer, or employee of the Board or of the Employer or an Institution of Higher Education.

1.14 "Individual Agreement"

The agreements between a Vendor and the Employer or a Participant that constitutes or governs a Grandfathered Custodial Account or an Annuity Contract

1.15 "Institution of Higher Education"

A public university that was under the control or jurisdiction of the Oregon State Board of Higher Education at any time during 1967 through 1989.

1.16 "ORS"

Oregon Revised Statutes, as now in effect or as hereafter amended. All citations to a section or chapter of the ORS are to such section or chapter as it may from time to time be amended or renumbered.

1.17 "Participant"

An individual for whom contributions have previously been made under the Plan and who has not received a distribution of his or her entire benefit under the Plan. Contributions have previously been made under the Plan for only faculty rank employees who were appointed or employed by or under the authority of the Oregon State Board of Higher Education.

1.18 "Plan"

The Oregon Public Universities 403(b) Defined Contribution Plan.

1.19 "Related Employer"

- (a) With respect to the Employer, "Related Employer" means the Employer and any other entity which is under common control with the Employer under section 414(b) or (c) of the Code.
- (b) With respect to an Institution of Higher Education, "Related Employer" means the Institution of Higher Education and any other entity which is under common control with the Institution of Higher Education under section 414(b) or (c) of the Code.
- (c) For this purpose, the Employer shall determine which entities are Related Employers based on a reasonable, good faith standard and taking into account the special rules applicable under Notice 89-23, 1989-1 C.B. 654.

1.20 "Severance from Employment"

For purpose of the Plan, Severance from Employment means Severance from Employment with the Employer, all Institutions of Higher Education, and any Related Employer with respect to the Employer or with respect to any Institution of Higher Education.

1.21 "Source"

"Source" identifies the origin of funds that flow into or out of an Account that, for purposes of the Plan, must or may be separately accounted for, including but not limited to for purposes of their tax treatment, withdrawal provisions, and contribution limits. The funds Source for each of the Source accounts established under Section 1.1 (defining "Account") is the type of contribution or account for which the Vendor establishes the Source account. For example, the funds Source for a Rollover Source account is eligible rollover distributions received by the Plan before January 1, 2009, or transferred to the Plan before March 1, 2013, as provided in Section 5.2.

1.22 "Vendor"

The provider of an Annuity Contract or a Grandfathered Custodial Account.

**Section 2
Participation and Contributions**

2.1 Eligibility.

No individual may become a participant in the Plan on or after January 1, 2009. An individual who is a Participant on January 1, 2009, will remain a Participant until the individual receives a distribution of his or her entire benefit under the Plan. No individual shall be eligible to contribute to the Plan or have any contribution made to the Plan for the individual.

2.2 Maintenance of Source Accounts.

Each Source account established under Section 1.1 (defining "Account") by a Vendor for a Participant, Beneficiary, or Alternate Payee (the "account holder") shall be maintained as follows:

- (a) Contributions, transfers, and withdrawals with respect to the account holder of that account's funds Source shall be credited and debited to only that account;
- (b) No contributions or transfers with respect to the account holder other than that account's funds Source and properly attributable earnings shall be credited to that account;
- (c) Gains, losses, and other credits or charges must be separately allocated on a reasonable and consistent basis to that account and the other accounts under the Annuity Contract or Grandfathered Custodial Account; and

(d) The Plan shall maintain a record of the amount of that account.

2.3 Information Provided by the Participants.

Whenever requested by the Administrator or whenever there is a change with respect to such information previously provided, each Participant shall provide to the Administrator any information necessary or advisable for the Administrator to administer the Plan, including any information required under the Individual Agreements.

2.4 Obligation to Notify Administrator of Account Errors.

Within 30 days after receiving a report or statement of the status of an Account the Participant, Beneficiary, or Alternate Payee must inform the Administrator in writing of any error in the report or statement, in a manner that identifies the error with sufficient clarity for the Administrator to act effectively (based on the written information given by the Participant, Beneficiary, or Alternate Payee) to request the Vendor to correct the error. The Participant, Beneficiary, or Alternate Payee shall suffer any loss resulting from failing to so inform the Administrator if by reason of such failure the Administrator is unable to cause the Vendor providing the Annuity Contract or Grandfathered Custodial Account with respect to which the error was made to correct the error at the Vendor's sole expense.

Section 3

Protection of Persons Who Serve in a Uniformed Service

Despite any contrary provision of the Plan except Section 3.1 below, benefits and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Code. Without limiting the foregoing:

3.1 Section 414(u)(9) of the Code not applied.

The Plan will not apply section 414(u)(9) of the Code (relating to treatment in the case of death or disability resulting from active military service) as added by section 104(b) of Public Law No. 110-245, the Heroes Earnings Assistance and Relief Tax Act of 2008; and therefore, for benefit accrual purposes, the Plan will not treat an individual who dies or becomes disabled while performing qualified military service with respect to the Employer or an Institution of Higher Education as if the individual has resumed employment in accordance with the individual's reemployment rights under chapter 43 of title 38, United States Code, on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability.

3.2 Additional Benefits Had a Participant Who Died During Uniformed Service Resumed Employment.

In the case of a Participant who dies while performing qualified military service (as defined in section 414(u) of the Code), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the

period of qualified military service) provided under the Plan had the Participant resumed and then terminated employment on account of death. This Section 3.2 implements, and will be interpreted and administered consistent with, sections 401(a)(37) and 403(b)(14) of the Code.

Section 4 Benefit Distributions

4.1 Benefit Distributions At Severance from Employment or Other Distribution Event.

Except as permitted under Section 9.2 (relating to distributions upon termination of the Plan) and Section 10.2 (relating to domestic relations orders), distributions from a Participant's Account may not be made earlier than the earliest of the date, and may be made on or after the earliest date, on which the Participant has a Severance from Employment, retires under the terms of a retirement incentive program approved by the Employer or an Institution of Higher Education and has attained age 62, or dies, and any such distribution shall comply with the requirements of section 401(a)(31)(B) of the Code (relating to automatic distribution as a direct rollover to an individual retirement plan for distributions in excess of \$1,000). Distributions shall otherwise be made in accordance with the terms of the Individual Agreements and this Section 4. A Participant who becomes entitled to receive a distribution as provided in this Section 4.1 may elect to receive a cash withdrawal of the amount of the Participant's Account as permitted by the Individual Agreements and this Section 4. Such a Participant is not required to have begun receiving monthly retirement benefits from the Oregon Public Employees Retirement System to request cash withdrawal, but must be eligible to receive monthly retirement benefits from such System to elect cash withdrawal of the portion of the Participant's Account attributable to employer contributions under ORS 243.930 (net of attributable earnings, losses, and expenses).

4.2 Minimum Distributions.

Each Individual Agreement shall comply with the minimum distribution requirements of section 401(a)(9) of the Code and the regulations thereunder. For purposes of applying the distribution rules of section 401(a)(9) of the Code, each Individual Agreement is treated as an individual retirement account (IRA) and distributions shall be made in accordance with the provisions of § 1.408-8 of the Income Tax Regulations, except as provided in § 1.403(b)-6(e) of the Income Tax Regulations. Effective for calendar years beginning after December 31, 2008:

- (a) The minimum distribution requirements of section 401(a)(9) of the Code do not apply for calendar year 2009.
- (b) Installment payments that a Participant, Beneficiary, or Alternate Payee elected to receive and that, but for Section 4.2(a) above, would include payments required for calendar year 2009 under section 401(a)(9) of the

Code, will continue to be made except to the extent the Participant, Beneficiary, or Alternate Payee elects not to receive the payments for calendar year 2009, but this Section 4.2(b) does not allow a Participant, Beneficiary, or Alternate Payee to elect not to receive payments being made under an irrevocable annuity.

- (c) The required beginning date with respect to any individual will be determined without regard to Section 4.2(a) above for purposes of applying section 401(a)(9) of the Code for calendar years after 2009.
- (d) The 5-year period described in section 401(a)(9)(B)(ii) of the Code will be determined without regard to calendar year 2009.

4.3 Exchange of Information.

The Individual Agreements shall provide for the exchange of information among the Employer or an Institution of Higher Education and the Vendors to the extent necessary to implement the Individual Agreements.

4.4 Rollover Distributions.

(a) *Direct Rollovers.*

Subject to Section 4.4(c) below, a Participant or the Beneficiary of a deceased Participant (or a Participant's spouse or former spouse who is an Alternate Payee under a domestic relations order, as defined in Section 10.2(b)) who is entitled to an eligible rollover distribution may elect to have any portion of an eligible rollover distribution (as defined in section 402(c)(4) of the Code) from the Plan paid directly to an eligible retirement plan (as defined in section 402(c)(8)(B) of the Code) specified by the Participant or other distributee in a direct rollover. As provided in section 402(c)(4) of the Code, if all or any portion of a distribution during calendar year 2009 is treated as an eligible rollover distribution but would not be so treated if the minimum distribution requirements under section 401(a)(9) of the Code had applied during calendar year 2009, such distribution shall not be treated as an eligible rollover distribution for purposes of section 401(a)(31) or 402(f) of the Code. In the case of a distribution to a Beneficiary who at the time of the Participant's death was neither the spouse of the Participant nor the spouse or former spouse of the Participant who is an Alternate Payee under a domestic relations order, a direct rollover is payable only to an individual retirement account or individual retirement annuity (IRA) that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of section 408(d)(3)(C) of the Code).

(b) *Vendors to Provide Special Tax Notice.*

Each Vendor shall be separately responsible for providing, within a reasonable time period before making an initial eligible rollover

distribution, an explanation to the Participant of his or her right to elect a direct rollover and the income tax withholding consequences of not electing a direct rollover.

(c) ***Direct Rollovers are Subject to Limitations Under the Code and Individual Agreements.***

The right of a Participant, Beneficiary, and Alternate Payee to elect a direct rollover is subject to any limitations imposed by the Code, Income Tax Regulations, or Internal Revenue Service guidance and to any limitations imposed by the Individual Agreement to the extent consistent with the Code, Income Tax Regulations, and Internal Revenue Service guidance. For example, an Individual Agreement might not allow a direct rollover if the amount of the distributions that are eligible rollover distributions are reasonably expected to total less than \$200 during a year and might allow a Participant to elect a direct rollover of only a portion of an eligible rollover distribution only if the amount rolled over is at least \$500.

Section 5

Rollovers and Grandfathered Transfers to the Plan, Contract Exchanges, and Information Sharing Agreements

5.1 Rollover Contributions to the Plan Prohibited.

The Plan will not accept transfers or contributions of eligible rollover distributions, whether by direct rollover or by payment by a Participant, Beneficiary, or Alternate Payee, but will accept eligible rollover distributions transferred to the Plan before March 1, 2013, as provided in Section 5.2.

5.2 Grandfathered Plan-to-Plan Transfers to the Plan.

- (a) After February 28, 2013, no amount may be transferred to the Plan as provided in this Section 5.2 or as provided in § 1.403(b)-10(b)(3) of the Income Tax Regulations.
- (b) Before March 1, 2013, a transfer of assets may be made to the Plan, as provided in this Section 5.2, for a Participant who is a participant or beneficiary in another plan under section 403(b) of the Code. Such a transfer is permitted only if the other plan provides for the direct transfer to the Plan of the part of the Participant's interest therein that is transferred to the Plan and the Participant is an employee or former employee of the Employer or an Institution of Higher Education. The Administrator and any Vendor accepting such transferred amounts may require that the transfer be in cash or other property acceptable to it. The Administrator or any Vendor accepting such transferred amounts may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with § 1.403(b)-10(b)(3) of the Income Tax

Regulations and to confirm that the other plan is a plan that satisfies section 403(b) of the Code.

- (c) The amount so transferred shall be credited to the Participant's Account Balance, so that the Participant whose assets are being transferred has an accumulated benefit immediately after the transfer at least equal to the accumulated benefit with respect to that Participant immediately before the transfer.
- (d) If the transfer does not constitute a complete transfer of the Participant's interest in the transferor section 403(b) plan, (1) the Plan will treat the amounts transferred as a continuation of a pro rata portion of the Participant's interest in the transferor section 403(b) plan (for example, a pro rata portion of the Participant's interest in any after-tax employee contributions) and (2) the amounts transferred shall be held, accounted for, administered, and otherwise treated in the same manner as an elective deferral described in Section 1.1(a), a participant pre-tax contribution described in Section 1.1(b), an employer contribution described in Section 1.1(c), an employee after-tax contribution described in Section 1.1(d), or an eligible rollover distribution described in Section 1.1(e), as determined by the transferred fund Sources, or in such other manner as is consistent with the requirements under the Code.
- (e) If the transfer constitutes a complete transfer of the Participant's interest in the transferor section 403(b) plan, then, to the extent provided in the Individual Agreements holding such transferred amounts, the amounts transferred shall be held, accounted for, administered, and otherwise treated as described in Section 5.2(d) above.
- (f) However, the Individual Agreement which holds any amount transferred to the Plan under this Section 5.2 must provide that, to the extent any amount transferred is subject to any distribution restrictions required under section 403(b) of the Code, the Individual Agreement must impose restrictions on distributions to the Participant whose assets are being transferred that are not less stringent than those imposed on the transferor plan.

5.3 Contract Exchanges and Grandfathered Custodial Account Exchanges.

- (a) ***Permitted Within the Plan.***
Subject to the terms of the Individual Agreements (including without limitation any restrictions imposed by an Individual Agreement that do not allow such an investment change), a Participant, Beneficiary, or Alternate Payee is permitted to change the investment of his or her Account Balance by transfer of the full or partial Account Balance at least one time each calendar year. However, an investment change (referred to below as a

Contract Exchange) is not permitted unless the conditions in Sections 5.3(b) through (e) below are satisfied.

(b) ***Not Permitted.***

A Participant, Beneficiary, or Alternate Payee is not permitted a Contract Exchange of any part of his or her Account Balance for an interest in a 403(b) contract or custodial account unless the contract or account is part of the Plan and the insurer or custodian with respect to the contract or account is a Vendor under the Plan.

(c) ***Account Balance.***

The Participant, Beneficiary, or Alternate Payee must have an Account Balance immediately after the Contract Exchange that is at least equal to the Account Balance of that Participant, Beneficiary, or Alternate Payee immediately before the Contract Exchange (taking into account the Account Balance of that Participant, Beneficiary, or Alternate Payee under both section 403(b) contracts or custodial accounts immediately before the Contract Exchange).

(d) ***Distribution Restrictions.***

The Individual Agreement with the receiving Vendor has distribution restrictions with respect to the Participant that are not less stringent than those imposed on the investment being exchanged in the Contract Exchange.

(e) ***Information Sharing Agreement.***

The Employer or an Institution of Higher Education enters into an agreement with the receiving Vendor for the other contract or custodial account under which the Employer and the Vendor will from time to time in the future provide each other with the following information:

- (1) 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 or an Institution of Higher Education, to satisfy section 403(b) of the Code, including the following: (i) the Employer providing information as to whether the Participant's employment with the Employer or an Institution of Higher Education is continuing and notifying the Vendor when the Participant has had a Severance from Employment (for purposes of the distribution restrictions in Section 4.1); and (ii) the Vendor providing information to the Employer or other Vendors concerning the Participant's, Beneficiary's, or Alternate Payee's section 403(b) contracts or custodial accounts or qualified employer plan benefits (to enable a Vendor to determine the amount of any plan loans and any rollover

accounts that are available to the Participant under the Plan in order to satisfy the financial need for a hardship withdrawal; and

- (2) 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 or an Institution of Higher Education 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 section 72(p) of the Code, so that any such additional loan is not a deemed distribution under section 72(p)(1) of the Code; and (ii) information concerning the Participant's, Beneficiary's, or Alternate Payee's after-tax employee contributions in order for a Vendor to determine the extent to which a distribution is includible in gross income.

5.4 Information Sharing Agreements.

In the case of a Vendor which is not eligible to receive contributions under the Plan but continues to hold assets of the Plan, the Employer or an Institution of Higher Education will enter into an information sharing agreement as described in Section 5.3(e) above, to the extent the Employer's or the Institution of Higher Education's contract with the Vendor does not provide for the exchange of information described in Sections 5.3(e)(1) and (2) above.

Section 6

Investment of Accounts and Vesting

6.1 Manner of Investment.

All amounts contributed 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 Grandfathered Custodial Accounts. Each Grandfathered 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.

6.2 Investment of Accounts.

Each Participant, Beneficiary, or Alternate Payee shall direct the investment of his or her Account among the investment options available under the Annuity Contract or Grandfathered Custodial Account in accordance with the terms of the Individual Agreements. Subject to the terms of the Individual Agreements (including without limitation any restrictions imposed by an Individual Agreement that do not allow such a transfer), transfers among Annuity Contracts and Grandfathered Custodial Accounts provided by the Vendors under the Plan

may be made at least one time each calendar year to the extent provided in the Individual Agreements and permitted under applicable Income Tax Regulations.

6.3 Vesting.

A Participant's, Beneficiary's, and Alternate Payee's Account Balance is at all times fully vested and nonforfeitable.

6.4 Vendors.

- (a) The Administrator shall maintain a list of all Vendors under the Plan. Such list is hereby incorporated as part of the Plan.
- (b) Each Vendor and the Administrator shall exchange such information as may be necessary to satisfy section 403(b) of the Code or other requirements of applicable law.
- (c) In the case of a Vendor which is not eligible to receive contributions under the Plan but that continues to hold assets of the Plan (including a Vendor which has ceased to be a Vendor eligible to receive contributions under the Plan, and a Vendor holding assets under the Plan in accordance with Section 5.2, but that continues to hold assets of the Plan), the Employer shall keep the Vendor informed of the name and contact information of the Administrator in order to coordinate information necessary to satisfy section 403(b) of the Code or other requirements of applicable law.

**Section 7
Beneficiary**

7.1 Participant's Beneficiary.

A Participant may deliver to the Vendor a designation of beneficiary designating the Beneficiary or Beneficiaries who are to receive any of the Participant's benefits under the Plan that are payable after the Participant's death.

7.2 Requirements.

A designation of beneficiary must be on a written paper document or through an electronic means made available by the Vendor for this purpose and is effective when properly completed by the Participant and delivered to the Vendor during the Participant's life at the place specified in the document or the electronic means or the instructions therefor, and when effective revokes all earlier designations of beneficiary by the Participant with respect to the Participant's Account Balance. However, a designation of beneficiary that applies to only part of a Participant's Account Balance does not apply to any other part of the Participant's Account Balance and does not, as to any other part of the Participant's Account Balance, revoke earlier designations of beneficiary. A Beneficiary does not include an individual, even if designated by the Participant, who does not survive the Participant. A Beneficiary may be an individual or any type of entity.

7.3 Default Beneficiary.

If at the Participant's death there is not an effective designation of beneficiary, or if none of the Beneficiaries designated by the Participant survives the Participant, the Participant's Beneficiary will be the following person or persons in the following order of priority: the Participant's (a) surviving spouse, (b) surviving same-sex domestic partner, (c) surviving children in equal shares, (d) surviving parents in equal shares, or (e) estate. For this purpose (1) "surviving" means survives the Participant and (2) a Participant's surviving same-sex domestic partner is the individual, if any, who the Oregon Family Fairness Act (which is ORS 106.300 to 106.340) requires be treated the same as the Participant's surviving spouse.

7.4 Beneficiary's Beneficiary.

To the extent permitted by the Individual Agreements controlling the Account Balance, after the Participant's death a Beneficiary may designate a beneficiary or beneficiaries of the Beneficiary's Account Balance and the Beneficiary's interest in the Participant's Account Balance, and that beneficiary or those beneficiaries will be the Beneficiary's Beneficiary or Beneficiaries for purposes of the Plan. The designation may be made only as provided in this Section 7 for a designation by a Participant and is subject to all the terms of this Section 7 as if the Participant's Beneficiary were a Participant, except that Section 7.3 applies to determine a Beneficiary's Beneficiary for only any part of the Beneficiary's Account Balance, or the Beneficiary's interest in the Participant's Account Balance, for which the Beneficiary has designated a Beneficiary under this Section 7.4.

7.5 Alternate Payee's Beneficiary.

To the extent permitted by the Individual Agreements controlling the Account Balance and to the extent consistent with the domestic relations order, an Alternate Payee under a domestic relations order, as defined in Section 10.2(b), may designate a beneficiary or beneficiaries of the Alternate Payee's Account Balance and the Alternate Payee's interest in the Participant's Account Balance, and that beneficiary or those beneficiaries will be the Alternate Payee's Beneficiary or Beneficiaries for purposes of the Plan. The designation may be made only as provided in this Section 7 for a designation by a Participant and is subject to all the terms of this Section 7 as if the Alternate Payee were a Participant, except that Section 7.3 applies to determine an Alternate Payee's Beneficiary for only any part of the Alternate Payee's Account Balance, or the Alternate Payee's interest in the Participant's Account Balance, for which the Alternate Payee has designated a Beneficiary under this Section 7.5.

7.6 Survivorship and Relationships.

Whenever application of the Plan depends on the relationship of one individual to another or whether one individual survives another (including without limitation when determining whether an individual is a Beneficiary):

- (a) Oregon law applies to determine whether one individual survives another. For this purpose, (1) the individuals will be treated as residing in Oregon and (2) Oregon law includes without limitation the Uniform Simultaneous Death Act (ORS 112.570 to ORS 112.590) or its successor and the Uniform Disclaimer of Property Interests Act (ORS 105.623 to 105.649) or its successor but does not include Oregon law regarding conflicts of laws. The Uniform Simultaneous Death Act or its successor will be applied by treating the Plan as a pension plan. However, if a Participant's designation of beneficiary requires an individual to survive the Participant's death for a specified period of time in order to be the Participant's Beneficiary, that specified period, and not the 120-hour period in the Uniform Simultaneous Death Act, will apply.
- (b) ORS 112.175 to 112.195, about adoption, or successor Oregon statutes, apply to determine relationships. ORS 112.105, about paternity, or successor Oregon statutes, apply without regard to any limitation therein regarding intestate succession. ORS 112.455 to 112.555, regarding certain deaths caused by an individual, or successor Oregon statutes, apply without regard to whether the death occurs or the individuals reside in Oregon and will be applied by treating the Plan as a pension plan.

7.7 Contrary Terms in Individual Agreement.

Any term in an Individual Agreement that is contrary to a term in this Section 7 applies instead of that term in this Section 7, unless under the Individual Agreement the Plan controls as to that term.

Section 8 Claims Procedure

8.1 Requests for Determination.

Any time a request for determination of eligibility for participation or benefits distribution is disputed, an interpretation of Plan provisions is disputed, or a Participant, Beneficiary, or Alternate Payee is adversely affected with respect to the Plan by action of a benefits officer of an Institution of Higher Education, a Vendor, or the Administrator, the person (the "Claimant") may submit a claim for determination to the Administrator.¹ The Claimant shall be notified of the Administrator's determination within 90 days after receipt of the claim, unless special circumstances require an extension of time for processing. Such notice will indicate the basis for the determination or interpretation and an explanation of the procedure for requesting an appeal as set forth in this Section 8.

¹ The Administrator may in its discretion determine that the person acting for the Administrator who determines the claim should be different from any person or persons acting for the Administrator whose decision or action is contested by the Claimant.

8.2 Appeal Procedure.

Any Claimant who has received an adverse determination shall have the right to appeal the Administrator's determination to the Administrator.² Such appeal must be in writing and must be made within 60 days after the Claimant is advised of the adverse action. If a written request for appeal is not made within such 60-day period, the Claimant shall forfeit his or her right to an appeal. The Claimant or a duly authorized representative of the Claimant may review all pertinent documents and submit issues and comments to the Administrator.

8.3 Consideration of Appeal.

The Administrator shall consider appeals received under Section 8.2. It may hold a hearing if it deems it necessary and shall issue a written decision affirming, modifying, or setting aside the former action within 120 days after receipt of the written request for appeal, unless special circumstances require an extension of time for processing. A copy of the decision shall be furnished to the Claimant. The decision shall set forth its reasons and pertinent Plan provisions on which it is based.

8.4 Final Decision.

The Administrator's decision on the appeal shall constitute the final decision of the Plan and the Employer and shall be binding upon the Claimant, the Employer, an Institution of Higher Education, the Administrator, and all other persons involved to the maximum extent permitted by law. Any person seeking judicial review of the decision must file a timely appeal with the Oregon Circuit Court of Marion County in Salem, Oregon. The Administrator will inform the Claimant of the right to appeal to the Oregon Circuit Court of Marion County in Salem, Oregon. Any review, judicial or otherwise, of the Administrator's decision shall be based on the record before the Administrator and be limited to whether the Administrator acted arbitrarily or capriciously in the exercise of its discretion. In no event shall such review be *de novo*, as the Administrator has the discretionary authority under Section 10.19 to, among other matters, determine eligibility for benefits and construe the terms of the Plan.

8.5 Exhaustion of Remedies.

- (a) No Claimant may challenge in judicial or administrative proceedings any action or inaction of any of the following persons with respect to the Plan without first exhausting the remedies available under the Plan: the Board (and any member of the Board); the Employer; any Institution of Higher Education; the Administrator; officers, employees, agents, and representatives of any of the foregoing; and, in performing service as a

² The Administrator may in its discretion determine that the person acting for the Administrator who decides the appeal should be different from any person or persons acting for the Administrator whose decision or action is contested by the Claimant and different from the person acting for the Administrator who made the determination the Claimant is appealing.

designee under Section 10.21 or 10.22, any employee of the Employer or an Institution of Higher Education.

- (b) Any judicial or administrative review of any such action or inaction is subject to Section 10.24 (relating to limitation of liability).

Section 9 Amendment and Plan Termination

9.1 Amendment and Termination.

The Employer reserves the authority to amend or terminate the Plan at any time or times as the Employer deems advisable, including amending the Plan retroactively, by adopting a writing making the amendment or termination. Any retroactive amendment applies to Participants, Beneficiaries, Alternate Payees, and all other persons retroactively according to the terms of the amendment. However, (a) an amendment or termination adopted other than by the Board may not restrict the Board's authority to amend or terminate the Plan and (b) an amendment or termination may not limit the Board's obligations under Section 10.23 (relating to indemnification) with respect to an act or failure to act that occurs before the amendment or termination.

9.2 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 Individual Agreements, all Accounts will be distributed, provided that the Employer, an Institution of Higher Education, and any Related Employer of the Employer or an Institution of Higher Education 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 10 Miscellaneous

10.1 Non-Assignability.

Except as provided in Section 10.2 and Section 10.3, the interests of each Participant, Beneficiary, or Alternate Payee under the Plan are not subject to the claims of the Participant's, Beneficiary's, or Alternate Payee's creditors; and neither the Participant nor any Beneficiary or Alternate Payee 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.

10.2 Domestic Relation Orders.

- (a) Notwithstanding Section 10.1, if permitted by section 414(p) of the Code, the amount of the Participant's Account Balance shall be paid to an Alternate Payee in the manner and to the person or persons so directed in a domestic relations order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan.
- (b) For purposes of the Plan, "domestic relations order" means a judgment, decree, or order (including approval of a property settlement agreement) ("Order") that:
 - (1) Relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant;
 - (2) Is made pursuant to the domestic relations law of any State;
 - (3) Creates or recognizes the existence of an Alternate Payee's right to, or assigns to an Alternate Payee the right to, receive all or a portion of the benefits payable with respect to a Participant under the Plan;
 - (4) Clearly specifies:
 - (i) The name and the last known mailing address (if any) of the Participant and the name and mailing address of each Alternate Payee covered by the order;
 - (ii) The amount or percentage of the Participant's benefits to be paid by the Plan to each such Alternate Payee, or the manner in which such amount or percentage is to be determined;
 - (iii) The number of payments or period to which such Order applies; and
 - (iv) That the Order applies to the Plan;
 - (5) Does not require the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan (other than payment without regard to whether the Participant is eligible for a distribution of benefits under the Plan) and does not require the Plan to pay benefits to the Alternate Payee in the form of a joint and survivor annuity with respect to the Alternate Payee and his or her subsequent spouse;
 - (6) Does not require the Plan to provide increased benefits;

- (7) Does not require the payment of benefits to an Alternate Payee that are required to be paid to another Alternate Payee under another Order previously determined to be a domestic relations order; and
 - (8) Does not require any action that would be inconsistent with the terms of the Plan, section 401(a)(9) or 403(b) of the Code, any other federal or Oregon law, or any Funding Vehicle.
- (c) The Administrator shall establish reasonable procedures for determining the status of any such Order and for effectuating distribution pursuant to the domestic relations order.
- (d) Pursuant to ORS 106.430(6), the Administrator concludes that the extension of the benefits of this Section 10.2 to an individual because the individual is or was in a domestic partnership (as defined in section 3 of that Act) would conflict with a condition for tax qualification of the Plan, or a condition for other favorable tax treatment of the Plan, under the Code or regulations adopted under the Code.

10.3 IRS Levy.

Notwithstanding Section 10.1, the Administrator may pay from a Participant's or Beneficiary's Account Balance the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or that the Administrator finds is lawfully sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

10.4 Tax Withholding.

Any benefit payment made under the Plan is subject to applicable income tax withholding requirements (including section 3401 of the Code and the Treasury 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.

10.5 Payments to Minors and Incompetents.

If a person entitled to receive any benefits hereunder is a minor or incompetent by reason of physical or mental disability, or is deemed so by the Administrator, benefits may, subject to any applicable provisions of ORS chapter 126, be paid to such third person as the Administrator may designate for the benefit of the person entitled to benefits. Such payments shall be considered a payment to the person entitled to benefits and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan. The Administrator has no duty to inquire about whether a person entitled to benefits is a minor or incompetent, and may (even after notice of minority or incompetency) pay benefits directly to a person entitled to benefits who is a minor or incompetent, and such direct

payments shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

10.6 Procedure When Distributee Cannot Be Located.

The Administrator 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 the Employer's, an Institution of Higher Education's or the Administrator'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 Administrator 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.

10.7 Incorporation of Individual Agreements.

The Plan, together with the Individual Agreements, is intended to satisfy the requirements of section 403(b) of the Code and the Income Tax Regulations thereunder. Terms and conditions of the Individual Agreements are hereby incorporated by reference into the Plan, excluding those terms that are inconsistent with the Plan or section 403(b) of the Code.

10.8 Governing Law.

The Plan will be construed, administered and enforced according to the Code and the laws of the State of Oregon and consistent with the Employer's intent that the Plan satisfy section 403(b) of the Code. Any provision of the Plan that is based on a provision of the Code, including one not necessary for the Plan to satisfy section 403(b) of the Code, will be construed, administered, and enforced consistent with such provision and the interpretive authorities thereunder.

10.9 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.

10.10 Gender.

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

10.11 Plan Year.

The Plan's plan year is the calendar year.

10.12 Severability.

If a court of competent jurisdiction determines that any provision of the Plan is invalid or unenforceable, the remaining provisions will continue to be fully effective.

10.13 No Contract Rights.

Except for rights required for the Plan to satisfy ORS 243.910 to 243.945, section 403(b) of the Code, any other section of the Code, Treasury regulations, or Internal Revenue Service guidance, no Participant, Beneficiary, or other person will acquire a right, contractual or otherwise, to (a) contribute to the Plan, (b) the terms or the continuance of (1) the Plan, (2) any Annuity Contract or Grandfathered Custodial Account, (3) any annuity contract to which amounts have been transferred under the right granted in Section 10.18, or (4) any investment fund, or (c) have the Participant's Account Balance held or continue to be held in any particular Annuity Contract or Grandfathered Custodial Account or be invested or continue to be invested in any particular investment fund or funds.

10.14 Powers of Attorney.

The Administrator may allow any person to act under the Plan through an agent or attorney-in-fact designated in a written power of attorney. For this purpose ORS 127.005 to 127.045 and successor Oregon statutes apply, including without limitation the provisions in those statutes allowing the Administrator to rely on the authority of the attorney-in-fact or agent and protecting the Administrator from liability. This Section 10.14 does not prevent a Vendor from requiring compliance with the Vendor's rules for acts taken through an agent or attorney-in-fact.

10.15 Effect of Plan Summary, Information, and Administration Forms.

The terms of the Plan control in the event of any inconsistency between the Plan and any (a) written, electronic, or oral summary of, or information about, the Plan or any of its provisions or (b) administration form provided (as a written paper document or through electronic or other means) in connection with the Plan.

10.16 Reliance on Evidence of a Person's Identity.

Where the Administrator establishes reasonable means to identify a person, the Administrator may, unless the Administrator has actual knowledge to the contrary, rely on that evidence as establishing the person's identity. Such reasonable means include, without limitation, identification by password, personal identification number, identifying information (for example, social security number or mother's maiden name), a document (for example, a driver's license or other picture ID), or familiarity with the person (for example, with the person's voice or physical appearance).

10.17 Correcting 403(b) Failures.

The Administrator may require a Vendor, Participant, Beneficiary, Alternate Payee, and any other person to take any actions the Administrator deems advisable to correct one or more 403(b) Failures with respect to the Plan in a manner allowed by the Internal Revenue Service's Employee Plans Compliance Resolution System (which defines "403(b) Failure"), including without limitation

require that the amount of a Participant's Account Balance be changed or paid in part or whole.

10.18 The Employer's Irrevocable Right to Take Actions to Change and Terminate the Plan, Including Actions on Behalf of and in the Name of Participants and Beneficiaries.

The Employer has the irrevocable right to take all actions (except actions that would cause the Plan to fail to satisfy ORS 243.910 to 243.945 or section 403(b) of the Code, any other section of the Code, Treasury regulations, or Internal Revenue Service guidance) that the Employer deems appropriate, including without limitation actions on behalf of and in the name of the Participant and the Participant's beneficiaries, to facilitate all changes that the Employer determines to make to the Plan and to facilitate termination of the Plan, including without limitation actions:

- (a) To cause the Participant's Account Balance to be transferred, in a Contract Exchange satisfying the conditions in Sections 5.3(b) through (e), to one or more annuity contracts to which contributions may be made under section 403(b) of the Code and which will, as the Employer determines, (1) be under the control of the Participant or (after the Participant's death) one or more of the Participant's beneficiaries or (2) be under the control of the Employer; and
- (b) To designate the one or more investment funds in which the Participant's Account Balance is to be invested, and the one or more Annuity Contracts in which the Participant's Account Balance is to be held, and from time to time to change the designation.

This right allows the Employer to effect the Employer's interest in making changes to the Plan and in terminating the Plan. No person who relies in good faith on this right of the Employer is liable to any other person based on that reliance.

10.19 Administrator's Discretionary Authority.

The Administrator has discretionary authority in exercising, or deciding not to exercise, each of its functions under the Plan. Without limiting the foregoing, the Administrator has discretionary authority to construe and interpret the Plan and to determine all questions that arise under the Plan. The Administrator's decisions are final and binding on all parties and affected persons and their beneficiaries and successors to the maximum extent permitted by law.

10.20 Employer's Sole Discretion.

The Employer has sole discretion in exercising, or deciding not to exercise, each of its functions under the Plan. The Employer's decisions are final and binding on all parties and affected persons and their beneficiaries and successors to the maximum extent permitted by law.

10.21 Designees Through Which the Administrator May Act.

The Administrator may act through any person designated from time to time. Any one of such designees may act for the Administrator without the consent of any of the others.

10.22 Designees Through Which the Employer May Act.

In fulfilling its functions under the Plan, the Employer may act through any person designated from time to time by the Employer or any designee.

10.23 Indemnification.

- (a) In order to facilitate the recruitment of competent persons, the Board agrees to provide the indemnification as described in this Section 10.23.
- (b) The Board agrees to indemnify Indemnified Persons for all acts taken in carrying out his, her, or their responsibilities under the terms of the Plan. This indemnification for all acts is intentionally broad but shall not provide indemnification for gross negligence, willful misconduct, embezzlement, or diversion of Plan funds for the benefit of the Indemnified Person. The Board agrees to indemnify Indemnified Persons for all expenses of defending an action, including all legal fees for counsel selected with the Board's consent and other costs of such defense. The Board shall also indemnify Indemnified Persons for any monetary recovery in any court or arbitration proceeding. In addition, if the claim is settled out of court with the concurrence of the Board, the Board shall indemnify Indemnified Persons for any monetary liability under said settlement. The Board shall have the right, but not the obligation, to conduct the defense of Indemnified Persons in any proceeding to which this Section 10.23 applies. The Board may satisfy its obligation under this Section 10.23 in whole or in part through the purchase of a policy or policies of insurance providing equivalent protection.
- (c) Notwithstanding the foregoing, the indemnification provided for in this Section 10.23 shall be subject to any applicable limitations under Article XI, Section 7, of the Oregon Constitution, or the Oregon Tort Claims Act, ORS 30.260 to 30.300.

10.24 Limitation of Liability.

Subject to any requirements under section 403(b) of the Code:

- (a) Except as provided in section 10.24(b) below, none of the following persons is liable to any person for any act or failure to act under or with respect to the Plan where the act or failure to act is in good faith: the

Board (and any member of the Board); the Employer; any Institution of Higher Education; the Administrator; officers, employees, agents, and representatives of any of the foregoing; and, in performing service as a designee under Section 10.21 or 10.22, any employee of the Employer or an Institution of Higher Education. This Section 10.24(a) is not intended, and will not be construed, to expand the duties or liability of any of the foregoing persons beyond their duties and liabilities in the absence of this Section 10.24(a).

- (b) The exoneration from liability in Section 10.24(a) above does not apply to any Vendor and does not apply to any paid consultant, paid contractor, or paid agent with respect to the Plan whose consultancy, contract, or agency is not served as a member, officer, or employee of the Board or as an employee of the Employer or an Institution of Higher Education.
- (c) Nothing in the Plan, including without limitation Section 8 (relating to claims procedure) and Section 10.24(a) above, constitutes a waiver of the sovereign immunity of the State of Oregon or a waiver of any other defense or right of any of the persons described in Section 10.24(a) above.

10.25 Source of Benefits.

All benefits payable with respect to amounts paid or transferred to an Annuity Contract or a Grandfathered Custodial Account will be paid solely from the Annuity Contract or the Custodial Account, and no person described in Section 10.24(a) and not in Section 10.24(b) is liable or responsible therefor.

10.26 Oregon Family Fairness Act.

The Administrator will administer the Plan to comply with the Oregon Family Fairness Act, which is ORS 106.300 to 106.340.

10.27 Not a Contract of Employment.

The Plan is not a contract of employment between the Employer or any Institution of Higher Education and any employee. Nothing in the Plan gives any employee the right to be retained in the employ of the Employer or any Institution of Higher Education or to interfere with any right of the Employer or any Institution of Higher Education to discharge any employee at any time. Nothing in the Plan gives the Employer or any Institution of Higher Education the right to require any employee to remain in its employ or to interfere with any right of any employee to terminate the employee's employment at any time.

The Plan, as amended and restated herein, is adopted by the Board through its delegate.

IN WITNESS WHEREOF, the Board, through its delegate, has caused this document to be duly executed on this _____ day of _____, 2015.

FOR THE UNIVERSITY OF OREGON

Jamie H. Moffitt, Vice President for Finance & Administration / CFO