PLAN DOCUMENT

Kendall College of Art & Design of Ferris State University Section 403(b) Retirement Plan

Restated December 1, 2016

Kendall College of Art and Design
of Ferris State University

Warner Norcross & Judd LLP
ATTORNEYS AT LAW

Warner Norcross & Judd LLP
900 Fifth Third Center, 111 Lyon Street NW
Grand Rapids, MI 49503-2487
616.752.2000
WNJ.com

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SECTION 403(b) RETIREMENT PLAN

I. ESTABLISHMENT OF PLAN

1.1 Name and Type of Plan.

Ferris State University ("University") amends and restates the Kendall College of Art & Design of Ferris State University Faculty Members 403(b) Tax Sheltered Annuity Retirement Plan and the Kendall College of Art & Design of Ferris State University Administrative and Staff 403(b) Tax Sheltered Annuity Retirement Plan to become the Kendall College of Art & Design of Ferris State University Section 403(b) Retirement Plan ("plan"). The plan will now also incorporate the operating provisions of the Kendall College of Art & Design of Ferris State University Faculty Members' Defined Contribution Retirement Plan and the Kendall College of Art & Design of Ferris State University Administrative and Staff Defined Contribution Retirement Plan.

The plan is established, for the exclusive benefit of eligible employees and their beneficiaries, as a tax-sheltered annuity program under Section 403(b) of the Internal Revenue Code of 1986, as amended ("Code"). The plan is intended to meet the requirements of Code Section 403(b) and to constitute an "optional retirement program" (as provided for in Michigan Compiled Laws §§38.381 to 38.387) with respect to certain eligible employees, and will be construed and administered consistently with those objectives. The plan was established by the University to provide eligible employees who are not members of the Michigan Public School Employees' Retirement System ("MPSERS") (provided for in Michigan Compiled Laws §§38.1301 et seq.) or any other retirement program provided by the Michigan Public School Employees' Retirement Act, another source of retirement income derived from service with the University.

1.2 Effective Date.

Unless a provision specifies a different effective date, the effective date of this restatement is December 1, 2016. Each plan provision applies from its effective date until the effective date of an amendment. Except when otherwise specified, the terms of the prior plan documents apply to and control the participation and benefits of Participants for all periods prior to the adoption and effective date of an amended provision.

1.3 Inactive and Former Participants.

Employees who are Participants in this plan on the effective date of this restatement shall continue to participate under the terms of this restated plan. An amendment to this plan will apply to former Participants on the effective date of the amendment only if it amends a provision of the plan that continues to apply to those

Participants or only to the extent it expressly states that it is applicable. Except as specified in the preceding sentence, if a Participant is not eligible to participate in this plan on the effective date of an amendment, the amendment shall not apply to the Participant unless the Participant becomes eligible to participate in the plan after the effective date of the amendment.

II. DEFINITIONS

Except for the following general definitions, defined terms are located at or near the first major use of the term in this plan. A table showing the location of all definitions appears immediately after the table of contents. When used as defined, the first letter of each defined term is capitalized.

2.1 Hour of Service.

"Hour of Service" means each hour that an Employee is directly or indirectly paid or entitled to be paid by the Employer for the performance of duties during the applicable period. These hours will be credited for the period in which the duties are performed.

(a) **Back Pay**. Hours of Service include each hour for which back pay, irrespective of mitigation of damages, is awarded or agreed to by the Employer. Back pay hours shall be credited to the Employee for the period or periods to which the award or agreement pertains.

(b) **No Duties Performed**. For all purposes under this plan, an Employee shall be credited with the first 501 Hours of Service for which the Employee is directly or indirectly paid or entitled to be paid by the Employer (including back pay) for each single period of absence from work, even if no duties are performed due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military service, leave of absence, or other similar reasons, even if employment terminates. However, an Employee is not required to be credited with Hours of Service for periods in which no duties are performed if the Employee is compensated solely as required by worker's compensation, unemployment compensation, or disability insurance laws. Hours described in this subsection (b) shall be credited to the Employee for the period in which payment is made or amounts payable to the Employee become due.

(c) **Qualified Military Service**. If an Employee enters Qualified Military Service and returns to employment with the Employer, the Employee shall be credited with Hours of Service for the hours the Employee would have been scheduled to work during the period of Qualified Military Service. To qualify for this credit, the Employee must return to employment with the Employer in accordance with and within the time limits established by the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") (Chapter 43 of Title 38 of the United States Code).

(d) **No Duplication**. There shall be no duplication in the crediting of Hours of Service. An Employee shall not be credited with more than one Hour of Service for each hour paid at a premium rate.

2.2 Plan Year.

The "Plan Year" is the calendar year.

2.3 Recognized Compensation.

Except as modified below, "Recognized Compensation" means the total cash earnings paid to a Participant in a Plan Year for personal services performed for the University in Covered Employment that are required to be reported under Code Sections 6041, 6051, and 6052 (wages, tips and other compensation as reported on Form W-2) for the Participant 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.

(a) **Included Amounts**. Recognized Compensation includes:

(i) **Pre-Tax Amounts.** Elective contributions that are excluded from gross income by Code Sections 125, 132(f)(4), 402(g)(3), or 457 and Deemed 125 Compensation;

(ii) **Differential Wage Payments.** Differential wage payments as defined under Code Section 3401(h)(2) made with respect to any period the Participant is performing Qualified Military Service; and

(iii) **Compensation Paid After Employment Terminates**. The following amounts paid after employment terminates provided they are paid by the later of 2 1/2 months after the date of termination or the end of the Plan Year that includes the date of termination;

(A) **Regular Compensation**. Regular compensation for services performed during the Participant's regular working hours, or compensation for services performed outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, provided they would have been made and included in Recognized Compensation had the Participant continued in employment with the Employer; and

(B) **Leave Cashouts**. Payments made for unused accrued bona fide sick, vacation, or other leave that the Participant would have been able to use if employment had continued.

(b) **Excluded Amounts**. Recognized Compensation excludes:

(i) **Other Termination Payments**. Any amounts paid after termination of employment other than those included under (a)(iii) above (including, but not limited to, lump sum or installment severance payments) even if paid by the later of 2 1/2 months after the date employment terminates or the end of the Plan Year that includes the date of termination; and

(ii) **Additional Exclusions for University Contributions.** Only for purposes of determining University contributions and notwithstanding (a) above, pay for opting out of health coverage, pay in lieu of unused vacation or sick leave at termination of employment, uniform allowances, mileage payments, excellence awards (such as distinguished faculty and staff awards), and all payments made to the Employee prior to the date the Employee became a Participant in the plan with respect to University contributions.

(c) **Maximum**. Recognized Compensation for any Plan Year may not exceed the Annual Compensation Limit. "Annual Compensation Limit" means $260,000 (as adjusted under Code Section 401(a)(17)(B) for calendar years beginning after December 31, 2016).

2.4 Related Employer.

"Related Employer" means any other entity under common control with the University under Code Section 414(b) or (c). For this purpose, the University shall determine which entities, if any, 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.

2.5 Year of Service.

"Year of Service" means:

(a) **Eligibility**. For purposes of determining eligibility to participate in this plan with respect to University contributions, a 12-month period starting with the Employee's date of employment (or anniversary date of employment) or a 12-month period starting with the Employee's date of reemployment (or anniversary date of reemployment) during which the Employee completes at least 1,000 Hours of Service. All full-time tenured or tenure-track faculty members (other than adjunct faculty members) will be deemed to have satisfied the 1,000 hour requirement.

(b) **Termination/Distribution**. For purposes of determining eligibility to request a distribution from this plan upon termination of employment, each 12-month period, beginning with the date an Employee is first eligible to participate in the plan, during which the Employee is eligible to participate in the plan. If an Employee is rehired after a termination of employment with the University, the Employee's Years of Service prior to the termination, if any, shall be disregarded under the plan.

III. ELIGIBILITY AND PARTICIPATION

3.1 Eligible Employees.

An Employee of the University in Covered Employment shall become a Participant ("Participant") with respect to Elective Contributions on the date the Employee first has an Hour of Service, and with respect to University contributions on the first day of the month following completion of two Years of Service.

(a) **Employee**. "Employee" means an individual who is employed by the University and who receives compensation for personal services to the University that is subject to withholding for federal income tax purposes.

(b) **Covered Employment**. "Covered Employment" means all employment with the University except as modified under (i) and (ii) below.

(i) **Elective Contributions**. For all contributions, Covered Employment excludes:

(A) **Deferral Election Under Other Plan**. Employment in a position that is primarily assigned to the Ferris State University campus in Big Rapids, Michigan, or at another University location (other than the Kendall College campus in Grand Rapids, Michigan) and that is eligible to make a deferral election under the Ferris State University Section 403(b) Retirement Plan;

(B) **Nonresident Alien**. Employment as a nonresident alien with no earned income from sources within the United States; or

(C) **Students**. Employment as a student performing services described in Code Section 3121(b)(10).

(ii) **Other Contributions**. In addition to the classifications excluded under (i) above, for all contributions other than Elective Contributions, Covered Employment also excludes the classifications described in (A), (B), and (C) below:

(A) **Union**. An Employee who is in a unit of employees covered by a collective bargaining agreement under which the University has engaged in good faith negotiations about retirement benefits unless, and to the extent, such bargaining results in participation in this plan. For purposes of this plan, a collective bargaining agreement shall be deemed to continue after its expiration date, during collective bargaining negotiations, pending the execution of a new agreement. The only union currently participating in the plan is the Kendall Faculty Association/Michigan Education Association/National Education Association and its current collective bargaining agreement expires on August 20, 2017.

(B) **MPSERS**. An Employee participating in the MPSERS or any other retirement program provided by the Michigan Public School Employees'

Retirement Act. Full-time faculty or administrative personnel hired with prior eligible service under MPSERS at any of the following seven universities: Central Michigan University, Eastern Michigan University, Ferris State University, Lake Superior State University, Michigan Technological University, Northern Michigan University, or Western Michigan University are eligible to participate in this plan if they make a one-time irrevocable election to participate in this plan (instead of MPSERS) within 90 days of the date their employment begins.

(C) **Reclassified Employees**. Any individual who is classified by the Employer as other than an Employee even if it is later determined that the classification is not correct.

3.2 **Participation Rules**.

(a) **Termination of Participation**. Participation shall terminate upon the earlier of the date the Participant is not an Employee and has been paid the full amount due under this plan or the date of the Participant's death.

(b) **Reemployment**. A former Participant shall become a Participant immediately upon completion of one Hour of Service in Covered Employment.

(c) **Transfer**. The following rules apply to an Employee who transfers to or from Covered Employment under this plan.

(i) **Transfer From Covered Employment**. If a Participant transfers to a position with the University or a Related Employer that results in the Participant ceasing to be employed in Covered Employment under this plan, the Participant will receive contributions under this plan based solely on service and Compensation with the University prior to the date of the transfer. The Participant's account will continue to share in investment gains or losses under this plan as long as the account remains part of the plan, however, the Participant will not share in any contributions based on service or compensation earned subsequent to the transfer.

(ii) **Transfer to Covered Employment**. If an Employee transfers from employment with the University or Related Employer not covered by this plan to Covered Employment, the Employee's eligibility to participate in the plan shall be determined in accordance with the provisions of this plan taking into account the service earned by the Employee prior to the transfer.

IV. CONTRIBUTIONS

4.1 Participant Contributions.

(a) **Elective Contributions**. A Participant may elect to reduce the Participant's Recognized Compensation by pre-tax salary reductions. The University shall contribute a corresponding amount on behalf of the Participant to the Funding

Vehicle or Vehicles designated by the Participant. University contributions corresponding to a Participant's salary reductions are "Elective Contributions."

(i) **Pre-Tax**. Elective Contributions, including Catch Up Contributions, shall be made on a pre-tax basis and will not be subject to income tax at the time contributed to this plan.

(ii) **Limit on Contributions**. A Participant's Elective Deferrals (including Elective Contributions under this plan) for a calendar year shall not exceed the Elective Deferral Limit.

(A) **Amount of Limit**. "Elective Deferral Limit" means $18,000 for the calendar year beginning January 1, 2016. The "Elective Deferral Limit" for subsequent calendar years shall be determined under Code Section 402(g), adjusted under Code Section 415(d) as of the beginning of the calendar year.

(B) **Elective Deferrals**. "Elective Deferrals" means the Elective Contributions made for the Participant under this plan and as to other plans, any other portion of the Participant's income deferred and excluded from current taxation under Code Sections 401(k) (a qualified cash or deferred arrangement); 402A (a qualified Roth contribution program); 408(k)(6) (a simplified employee pension plan); 403(b) (a tax-sheltered annuity); 408(p)(2)(A)(ii) (a SIMPLE retirement plan); or 501(c)(18) (a pre-June 25, 1959, employee contributions only plan). In applying the limit, all of the Participant's Elective Deferrals for the calendar year shall be aggregated.

(b) **Catch Up Contributions**. A Participant who has attained, or will attain, age 50 before the end of a calendar year is eligible, as of January 1 of that year, to make Catch Up Contributions in accordance with, and subject to the limitations of, Code Section 414(v) and Regulations.

(i) **Determination/Definition**. "Catch Up Contributions" are Elective Contributions made by an eligible Participant that exceed the Statutory Limit or an Employer-Provided Limit (collectively, the "Applicable Limits").

(A) **Statutory Limit**. "Statutory Limit" means a limit on Elective Deferrals or Annual Additions imposed by Code Section 401(a)(30) (Code Section 401(k) deferral limit), 402(h) (simplified employee pension plan deferral limit), 403(b) (Elective Deferral Limit), 408 (individual retirement account deferral limit, including a SIMPLE plan), 415(c) (Annual Additions limit), or 457(b)(2) (governmental and tax-exempt deferred compensation plan limit without regard to Code Section 457(b)(3)).

(B) **Employer-Provided Limit**. "Employer-Provided Limit" means the limit on Elective Contributions established by the University.

(ii) **Limit on Catch Up Contributions**. Catch Up Contributions for a calendar year shall not exceed the Catch Up Limit. "Catch Up Limit" means $6,000 for the calendar year beginning January 1, 2016. The "Catch Up Limit" for subsequent calendar years shall be determined under Code Section 414(v), adjusted under Code Section 415(d) as of the beginning of the calendar year.

(iii) **Treatment**. Catch Up Contributions are treated as Elective Contributions except that a Catch Up Contribution is not subject to the Elective Deferral Limit or the Alternative Deferral Limit and shall not be included as an Annual Addition.

(c) **Salary Reduction Agreement**. A Participant must enter into a salary reduction agreement with the University and an enrollment agreement with one or more Funding Agents to make an Elective Contribution. An election to make an Elective Contribution will be effective as soon as administratively feasible following the election.

(i) **Changes**. Salary reductions are subject to the terms and conditions set forth in the applicable salary reduction agreement and enrollment agreement. A Participant may make a new salary reduction election or change a prior election at any time. The election shall continue in effect until modified by the Participant, the Participant is no longer an Employee eligible to participate in this plan, or the plan terminates.

(ii) **Allowable Compensation**. Notwithstanding anything in this section or the plan to the contrary, for purposes of determining Elective Contributions, the contributions corresponding to a Participant's payroll deductions may only apply against amounts that are, or could be, considered compensation under Code Section 415(c)(3) and Regulations Section 1.415(c)-2.

(iii) **Leave of Absence**. Subject to (iv) below, Elective Contributions shall continue to be made in accordance with the Participant's salary reduction agreement during a leave of absence with pay. Elective Contributions shall be discontinued during a Participant's leave of absence without pay.

(iv) **Insufficient Compensation**. If the amount of compensation payable to a Participant in any paycheck is insufficient (after all authorized or legally required payroll deductions) to permit making the full Elective Contribution for the pay period, Elective Contributions may be suspended until the next pay period for which sufficient compensation is available to make the full Elective Contribution. Elective Contributions that are suspended shall not be made up in subsequent pay periods.

(d) **Timing of Deposit**. The University shall submit salary reductions to the applicable Funding Agents as soon as administratively feasible, but not later than fifteen days following the payroll period. The Funding Agents shall credit a Participant's individual account after payment is received.

4.2 University Contributions.

On a payroll period basis, the University shall make a contribution on behalf of each eligible Participant (as determined under (a) and (b) below) to the applicable Funding Vehicle or Vehicles elected by the Participant. Except as provided in an applicable collective bargaining agreement or by agreement with the President, the rate of contributions to this plan shall be determined by the University separately for each class of Participants identified in (a) below and is subject to change at the discretion of the University.

(a) **Amount**.

(i) **Generally**. Except as provided in an applicable collective bargaining agreement, the contribution for all Participants other than as specified below shall be 12% of the Participants' Recognized Compensation.

(ii) **Prior to September 1, 2002**. The contribution for Participants who had commenced participation in the Kendall College of Art & Design of Ferris State University Faculty Members' Defined Contribution Retirement Plan or the Kendall College of Art & Design of Ferris State University Administrative and Staff Defined Contribution Retirement Plan and attained age 55 before September 1, 2002 shall be 15% of the Participant's Recognized Compensation.

(iii) **Part-Time Classifications and Adjunct and Term Appointment Faculty**. Participants classified as part-time or as adjunct faculty and term appointment faculty members are not eligible to receive a contribution.

(b) **Eligibility**. A Participant shall only receive a contribution for the payroll period if the Participant is employed in Covered Employment for the payroll period. Further, the University contribution for each Participant who is subject to a collective bargaining agreement is contingent on collective bargaining negotiations and may change from time to time in accordance with the collective bargaining agreement that applies to the Participant.

(c) **Enrollment Forms**. Each eligible Participant must complete all enrollment and other administrative forms, including investment election forms, designated by the Funding Agent and the University as necessary to receive a contribution. If a Participant fails to submit the completed documentation within 30 days of the Participant's date of employment, contributions shall be deposited with the Funding Agent chosen as the default Funding Agent by the University. Elections must be made sufficiently in advance of the payroll processing deadline for that payroll period to enable the University to deposit a contribution for the Participant for that payroll period in accordance with the Participant's elections.

4.3 Immediate Vesting.

A Participant shall be fully and immediately vested in amounts attributable to Elective Contributions (including Catch-Up Contributions) under Section 4.1 and University contributions made on behalf of the Participant under Section 4.2.

4.4 Limitation on Annual Additions.

The total Annual Additions for a Participant for any Limitation Year shall not exceed the Maximum Annual Contribution.

(a) **Maximum Annual Contribution**. The Maximum Annual Contribution for the Limitation Year is the lesser of the Percentage Limit or the Defined Contribution Dollar Limit.

(i) **Percentage Limit**. "Percentage Limit" means 100% of the Participant's Includible Compensation for the Limitation Year.

(ii) **Defined Contribution Dollar Limit**. For Limitation Years beginning on or after January 1, 2016, "Defined Contribution Dollar Limit" means $53,000 (as adjusted under Code Section 415(d)).

(b) **Annual Additions**. "Annual Additions" for a Participant for a Limitation Year means the sum of:

(i) **Employer Contributions and Forfeitures**. The Participant's share of employer contributions and forfeitures;

(ii) **After-Tax Employee Contributions**. The Participant's after-tax employee contributions;

(iii) **Post-Retirement Medical Benefits Accounts**. For purposes of the Defined Contribution Dollar Limit and for Limitation Years beginning after December 31, 1985, amounts allocated to a separate post-retirement medical benefits account of a Key Employee, as defined in Code Section 419A(d)(3), under a welfare benefit fund, as defined in Code Section 419(e);

(iv) **Individual Medical Benefits Accounts**. For purposes of the Defined Contribution Dollar Limit, contributions allocated for Limitation Years beginning after March 31, 1984, to an individual medical benefit account in a pension or annuity plan, as defined in Code Section 415(l)(2);

(v) **Excess Deferrals**. For the Limitation Years during which these amounts were contributed, excess Elective Deferrals that are not distributed to a Participant by the first April 15th following the end of the Participant's taxable year;

(vi) **Excess Annual Addition Applied**. An excess Annual Addition from the preceding Limitation Year applied to reduce the University contributions for the current Plan Year;

(vii) **Other Plans**. Contributions to the defined contribution plan of any employer that is controlled by the Participant as described in (f)(ii) below; and

(viii) **Additional Amounts**. Any additional amounts, if any, required by the Regulations under Code Section 415.

(c) **Includible Compensation**. Except as modified below, "Includible Compensation" means an Employee's compensation received from the University that is includible in the Participant's gross income for Federal income tax purposes (computed without regard to Code Section 911 relating to United States citizens or residents living abroad) for the most recent period that is a Year of Credited Service.

(i) **Inclusions**. Includible Compensation includes:

(A) **Elective Contributions**. Elective contributions that are excluded from gross income by Code Sections 125, 132(f)(4), 402(g)(3) or 457(b);

(B) **Deemed Section 125 Compensation**. Elective contributions for payment of group health coverage that are not available to a Participant in cash because the Participant is unable to certify to alternative health coverage but only if the University does not request or collect information regarding the Participant's alternative health coverage as part of the enrollment process for the group health plan ("Deemed 125 Compensation");

(C) **Differential Wage Payments**. Differential wage payments as defined under Code Section 3401(h)(2) made on or after January 1, 2009, with respect to any period the Participant is performing Qualified Military Service; and

(D) **Compensation Paid after Employment Terminates**. The following amounts paid after employment terminates provided they are paid by the later of 2 1/2 months after the date of termination or the end of the Limitation Year that includes the date of termination:

(1) **Regular Compensation**. Regular compensation for services performed during the Participant's regular working hours, or compensation for services performed outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, provided they would have been made had the Participant continued in employment with the University;

(2) **Leave Cashouts**. Payments made for unused accrued bona fide sick, vacation, or other leave that the Participant would have been able to use if employment had continued; or

(3) **Deferred Compensation**. Payments made pursuant to a nonqualified unfunded deferred compensation plan that would have been paid at the same time had employment continued, but only to the extent the payment is includible in the Participant's gross income.

(ii) **Exclusions**. Includible Compensation excludes:

(A) **Ineligible Employer**. Amounts received during a period when an employer (other than an employer controlled by the Participant as described in (f)(ii) below) is not an eligible employer within the meaning of Code Section 403(b) and Regulations Section 1.403(b)-2(b)(8); and

(B) **Other Termination Payments**. Any amounts paid after termination of employment other than those included under (i)(D) above (including, but not limited to, lump sum or installment severance payments) even if paid by the later of 2 1/2 months after the date employment terminates or the end of the Limitation Year that includes the date of termination.

(iii) **Determination**. Includible Compensation shall be determined under Code Section 403(b)(3) and Regulations including, but not limited to, the following rules.

(A) **Annual Compensation Limit**. Includible Compensation shall not exceed the Annual Compensation Limit.

(B) **Community Property Laws**. The amount of Includible Compensation is determined without regard to community property laws.

(C) **Estimation**. Until Includible Compensation is actually determinable, the University may use a reasonable estimate of Includible Compensation. As soon as administratively feasible, actual Includible Compensation shall be determined.

(D) **Deemed Compensation**. To the extent directed by the University for the purpose of determining the Maximum Annual Contribution:

(i) **Former Employee**. A former Employee shall be deemed to have monthly Includible Compensation for the period through the end of the taxable year in which employment terminated and through the end of each of the next five taxable years. The monthly amount shall be equal to one-twelfth of the former Employee's Includible Compensation during the former Employee's most recent Year of Credited Service.

(ii) **Disabled Participant**. Includible Compensation for a Participant who is permanently and totally disabled (as defined in Code

Section 22(e)(3)) is the compensation the Participant would have received for the Limitation Year if the Participant had been paid at the rate of compensation paid immediately before becoming permanently and totally disabled.

(d) **Year of Credited Service**. "Year of Credited Service" means a complete year during which the Employee is a full-time employee of the University or a Related Employer that has adopted the plan.

(i) **Partial Year**. An Employee shall also be credited with a partial Year of Credited Service based on a fraction of a year (determined in accordance with Code Section 403(b) and Regulations Section 1.403(b)-4(e)) for each complete year during which the Employee is a part-time employee of the University or a Related Employer that has adopted the plan and for each part of a year during which the Employee is a full-time or part-time employee of the University or a Related Employer that has adopted the plan.

(ii) **Work Period**. A Year of Credited Service is based on the University's annual work period, not the Employee's taxable year. In general, the number of Years of Credited Service for an Employee equals the aggregate number of annual work periods during which the Employee is employed by the University or a Related Employer.

(e) **Limitation Year**. "Limitation Year" means the Plan Year.

(i) **Change**. If the Limitation Year is amended to a different 12-month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is effective.

(ii) **Short Limitation Year**. If there is a short Limitation Year, the Defined Contribution Dollar Limit shall be multiplied by a fraction. The numerator of the fraction is the number of months in the short Limitation Year and the denominator is 12.

(iii) **Controlled Employer**. Notwithstanding any other provision in this section, if the Participant is in control of an employer pursuant to (f)(ii) below, the Limitation Year shall be the Limitation Year for the defined contribution plan(s) of the employer controlled by the Participant

(iv) **Plan Termination**. If the plan is terminated effective as of a date other than the last day of the Limitation Year, the Limitation Year shall end on the date of termination. As a result, the Defined Contribution Dollar Limit for the final Limitation Year must be prorated in accordance with the short Limitation Year rules described in (ii) above.

(f) **Aggregation of Plans**. For purposes of applying this section, plans and contributions shall be aggregated as specified in (i) and (ii) below.

(i) **Aggregation of Section 403(b) Contracts**. All Code Section 403(b) annuity contracts purchased by the University and any other Related Employer (including plans purchased through compensation reduction elections) for the Participant shall be aggregated and treated as purchased under a single Code Section 403(b) annuity contract and contributions received under all Code Section 403(b) annuity contracts of the University and any other Related Employer will be aggregated. For this purpose, references to an annuity contract include custodial accounts maintained pursuant to Code Section 403(b)(7). Generally all such annuity contracts are deemed to be maintained by a Participant for the Limitation Year under Regulations Section 1.415(f)-1(f)(1).

(ii) **Aggregation where Participant is in Control of Employer**. If a Participant receives an allocation under a Code Section 403(b) annuity contract, as aggregated under (i) above, and the Participant is in control of any employer for a Limitation Year (whether or not the employer controlled by the Participant is the University maintaining this plan), the Code Section 403(b) annuity contract will be considered a defined contribution plan maintained by both the controlled employer and the Participant for the Limitation Year and the aggregation rules specified in (A) and (B) below shall apply. For purposes of this provision, a Participant is in control of an employer based upon the rules of Code Sections 414(b) and 414(c) (each as modified by Code Section 415(h)), as determined under Regulations Sections 1.415(a)–1(f)(1) and (2) and 1.415(f)–1(f).

(A) **Contributions**. The Code Section 403(b) annuity contract and the defined contribution plans (as defined in Regulations Section 1.415(c)-1(a)) of any controlled employer will be aggregated for purposes of this Section 4.4 and the limit on the Maximum Annual Contribution must be satisfied both separately by the Code Section 403(b) annuity contract and by each defined contribution plan of a controlled employer and in the aggregate by the Code Section 403(b) annuity contract and all defined contribution plans of the controlled employer(s).

(B) **Includible Compensation**. The Participant's Includible Compensation with respect to the Code Section 403(b) annuity contract and compensation with respect to each defined contribution plan of a controlled employer shall be aggregated, as described in Regulations Section 1.415(c)-2(g)(3), when the plans are aggregated for testing compliance with the limit but shall not be aggregated, as provided in Regulations Section 1.415(f)-1(f)(3), when the plans are tested separately.

(C) **Notice**. To ensure compliance with the above requirements, Participants will be notified annually of their responsibility to provide information necessary to satisfy the requirements of this section. The notice will advise Participants that the applicable limits will be determined by taking into account information supplied by the Participant and that failure to provide necessary and correct information could result in adverse tax consequences to the Participant, including the inability to exclude contributions to the plan under Code Section 403(b).

4.5 Excess Amounts.

(a) **Prevention of Excess Amounts**. Contributions under this plan must be coordinated with contributions that the University makes to tax-qualified plans (other than 457 plans) and, in certain situations, the Michigan Public School Employees Retirement System, when calculating the maximum deferral amount applicable to a Participant. Also, contributions to the various Funding Agents under this plan must be coordinated when calculating the maximum deferral amount applicable to a Participant. If the Elective Deferral Limit may be exceeded, Elective Contributions for individual Employees may be reduced or suspended as necessary. If it is discovered that a proposed contribution to this plan will cause the Annual Additions limitation to be exceeded for a Participant, the University contribution for the Plan Year will be reduced to the maximum amount permitted for the Participant under Section 4.4.

(b) **Correction of Excess Annual Additions**. Any contribution that exceeds the Annual Additions limitation under Section 4.4 for the Plan Year may be handled in accordance with the requirements of the Employee Plans Compliance Resolution System (EPCRS) or any successor procedures issued by the Internal Revenue Service or corrected under such other method allowed by the Code, Regulations, or other guidance. An excess amount held in a separate account under (ii) below may be distributed from the plan at any time.

(i) **Ordering Rule**. If the Annual Additions limitation will be exceeded for the Plan Year, the excess Annual Addition will be deemed to consist of the Annual Addition last allocated, except Annual Additions to a defined contribution plan maintained by an employer controlled by the Participant will be deemed to have been allocated first. If an excess amount is allocated to a Participant under this plan on a date which coincides with an allocation date of another plan, the excess amount attributable to this plan will equal the product of:

(A) **Total**. The total excess amount allocated as of such date, multiplied by

(B) **Ratio**. The ratio of (1) the Annual Additions allocated to the Participant as of such date for the Limitation Year under this plan to (2) the total Annual Additions allocated to the Participant as of such date for the Limitation Year under this plan and all other aggregated plans.

(ii) **Separate Account**. An excess Annual Addition shall be maintained in a separate account for each year the excess amount remains in the plan. If a Participant is in control of an employer and the excess Annual Addition needs to be maintained in a separate account under this plan, such separate account shall only be required to be established if sufficient information is received from the Participant concerning the Participant's participation in such other defined contribution plan controlled by the Participant. Excess Annual Additions that are held in a separate account under this plan will not be treated as a Code Section 403(b) contract. Amounts held in the separate account may be distributed at any time in accordance with Regulations Section 1.403(b)-4(f) and any other applicable guidance issued by the Internal Revenue Service.

(c) **Correction of Excess Elective Contributions**. "Excess Elective Contributions" means a Participant's Elective Deferrals that exceed the Elective Deferral Limit. If a Participant's Elective Deferrals under this plan and any one or more plans of unrelated employers exceed the Elective Deferral Limit for a calendar year, the Participant may designate all or any part of the Elective Contributions made during that year to this plan as Excess Elective Contributions by notifying the University Human Resources Office on or before February 15 following the calendar year of the amount of the excess. Notwithstanding any other provision of this plan, Excess Elective Contributions in this plan (and any other plans of the University for a calendar year), or any amount designated as excess by the Participant (as adjusted to reflect any credited investment experience for the calendar year), shall be distributed no later than April 15 of the following year to the Participant.

4.6 Rollovers and Transfers.

The Funding Agent may accept and administer an amount that is either a direct transfer from another Code Section 403(b) plan or a qualifying rollover for an Employee who is a Participant in accordance with the following provisions.

(a) **Authorized Amounts**. The amount must not include after-tax employee contributions and must be either:

(i) **Plan-to-Plan Transfer**. A direct plan-to-plan transfer of funds held under another Code Section 403(b) plan that is not a qualifying rollover and which complies with Regulations Section 1.403(b)-10(b)(3) and Section 8.4, or

(ii) **Qualifying Rollover**. A rollover amount, including a direct rollover, that is reasonably concluded to be a qualifying rollover from the following eligible plans:

(A) **Qualified Plan**. A qualified plan under Code Section 401(a) or an annuity plan under Code Section 403(a); or

(B) **Annuity Contract**. An annuity contract or custodial account under Code Section 403(b).

(b) **Return of Improper Rollover**. If a rollover amount is determined not to be a qualifying rollover or constitutes a prohibited transfer, the amount, plus any earnings and minus any losses, shall be distributed to the Employee immediately.

4.7 Make-Up Contributions Under USERRA.

A former Participant who returns from Qualified Military Service to employment with the University within the time limits established by USERRA is entitled to make up contributions the Participant could have made and to receive an allocation of contributions the Participant would have received if the Participant had been employed by the University during the period of Qualified Military Service in accordance with Code Section 414(u) and Regulations. Make-up contributions permitted or required by USERRA are treated as having been made in the Plan Year for which they are made and shall not be subject to the applicable plan contribution limits for the Plan Year in which the contributions are actually made.

(a) **Qualified Military Service**. "Qualified Military Service" means the performance of duty, on a voluntary or involuntary basis, in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty. For purposes of this definition, a uniformed service means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, or any other category of persons designated by the President in time of war or national emergency.

(b) **Make-Up Contributions**. As soon as administratively feasible after the Participant's reemployment, the University shall contribute to this plan, and allocate to the Participant's accounts, the University contributions that the Participant would have received but for the period of Qualified Military Service. A Participant may elect to have additional Elective Contributions made beginning on the date of the Participant's reemployment and extending five years or, if less, three times the period of the Participant's Qualified Military Service. Additional Elective Contributions shall not exceed the amount that would have been permitted under this plan if the Participant had continued to be employed by the University during the period of Qualified Military Service minus the Participant's Elective Contributions actually made during that period, if any.

(c) **Compensation**. For purposes of determining the amount of make-up contributions under (a) above, the Participant shall be treated as receiving compensation from the University at the rate of pay the Participant would have received during the period of Qualified Military Service. If the Participant's compensation during the period of Qualified Military Service cannot be determined with reasonable certainty, the Participant's compensation shall equal the Participant's average compensation from the University for the 12-month period immediately preceding the Qualified Military Service (or, if shorter than 12 months, the period of employment immediately preceding the Qualified Military Service).

(d) **No Investment Experience**. No earnings shall be credited on make-up contributions for any period prior to the date the contributions are actually made.

V. INVESTMENT OF FUNDS: FUNDING VEHICLES AND FUNDING AGENTS

5.1 **Funding**.

Plan assets shall be held only in annuity contracts and custodial accounts that meet the requirements for a Funding Vehicle. All such annuity contracts and custodial accounts shall be:

(a) **Exclusive Benefit**. Established and operated for the exclusive benefit of Participants and their beneficiaries and may not be diverted to other purposes, except that plan assets may be used to pay reasonable expenses of administration; and

(b) **Incorporation by Reference**. Incorporated by reference as a part of this plan as if fully set forth in this document. The provisions of this plan control when there is any inconsistency or ambiguity between the terms of this plan and the terms of the custodial account, annuity contract, or related documentation.

5.2 Funding Vehicles.

Plan assets shall be held in and invested only through Funding Vehicles. "Funding Vehicle" means an arrangement offered by a Funding Agent and designated by the University as available for this plan from time to time that conforms to the requirements of this plan and Code Section 403(b) and is described in (a) or (b) below:

(a) **Annuity Contract**. A group or individual annuity contract (as defined in Code Sections 403(b)(1) and 401(g)) that is nontransferable by the Participant and meets all other requirements of Code Section 403(b); or

(b) **Mutual Fund/Custodial Account**. A group or individual custodial account (as defined in Code Section 403(b)(7)) invested in stock of a regulated investment company under Code Section 851(a) (mutual funds). A regulated investment company may include the common fund of a bank which has met the registration requirements of applicable Federal securities laws.

5.3 Commingled Principal and Income.

Plan assets may be commingled for investment without distinction between principal and income.

5.4 Participant Investment Direction.

Participants may choose among the Funding Vehicles and shall direct investments to the extent permitted in the selected Funding Vehicles. The University may, in its sole discretion, add additional annuity contracts or mutual fund options or delete existing options with respect to future contributions at any time.

(a) **Commingling**. Funds or assets invested at the direction of a Participant under this provision may be commingled with other funds or assets similarly invested by other Participants.

(b) **Direction**. Choice among Funding Vehicles and investment directions shall be given and changed by the means established by the University and each Funding Agent from time to time. An investment direction shall remain in effect until modified or revoked or until the designated Funding Vehicle is no longer available. The Funding Agent may rely upon the investment direction and, to the extent not implemented by the direction itself, shall implement the direction by procedures established for that purpose. During any period in which there is a change in Funding Vehicles, the appropriate Funding Agent may hold contributions and other amounts in cash pending implementation of the conversion.

(c) **No Direction**. If a Participant fails to direct the investment of all or any portion of the Participant's accounts at any time (including when changes in Funding Vehicles are made by the University), the undirected portion of the Participant's accounts shall be invested, as soon as feasible, as provided in the University's direction delivered in writing to the Funding Agent.

(d) **Additional Terms and Conditions**. The University may formulate additional terms and conditions for selecting and changing Funding Vehicles and for giving and changing investment directions by the Participants as necessary or appropriate.

(e) **Responsibility of Participant**. The Participant shall be solely responsible for the investment consequences of the Participant's choices among Funding Vehicles and for all investment directions by the Participant. Neither the University or any other fiduciary nor any Funding Agent shall have any responsibility or liability for the investment performance resulting from a Participant's choices among Funding Vehicles or any other investment directions.

(f) **Direction by Beneficiary**. Following the death of the Participant, the Participant's Beneficiary shall have the right to direct the investment of the portion of the Participant's annuity contract or custodial account held on behalf of the Beneficiary, subject to the same terms and conditions as applied to the Participant prior to death.

(g) **Transfers Among Funding Agents**. A Participant may transfer funds accumulated under this plan and redirect future contributions among different Funding

Agents and their Funding Vehicles. All transfers are subject to the provisions, and any restrictions, of each Funding Agent and the rules established by the University. Prior to a permitted distribution event specified in Section 6.1, a transfer to any vendor that has not been designated as a Funding Agent for this plan is prohibited unless it is a permitted service credit transfer under Section 6.3(a)(vi). Enrollment with any Funding Agent must take place through the Funding Agent's designated representatives as contracted with the University.

5.5 Funding Agents.

"Funding Agent" means each insurance company or custodian (including their investment affiliates) designated by the University to provide Funding Vehicles. An insurance company designated as a Funding Agent must be authorized to transact insurance in any state where the University has employees and must offer arrangements meeting the requirements of Section 5.2(a). A custodian designated as a Funding Agent must be a bank, or other person approved by the Secretary of Treasury, and authorized to maintain custodial accounts meeting the requirements of Section 5.2(b). Except in the event of a conflict or ambiguity as specified in Section 5.1, Funding Agents shall have the powers and responsibilities specified in their respective Funding Vehicles and related documentation.

The selection and appointment of each Funding Agent shall be made by the University. The University shall have the right to determine the form and substance of each annuity contract or custodial account agreement under which any part of the contributions under the plan are held, subject to the requirement that they are not inconsistent with the provisions of the plan. The University may, in its sole discretion, add additional Funding Agents or eliminate existing Funding Agents with respect to future contributions at any time.

A list of the Funding Agents and Funding Vehicles available to Participants from time to time shall be attached to this plan and provided to Participants upon request.

5.6 Limitation on Duties of Funding Agents.

(a) **Participant Direction**. To the extent that a Participant directs investment in or through a Funding Vehicle that continues to be available under this plan, the Funding Agent may not exercise discretionary authority or control with respect to the selection or allocation of a Participant's account among investment choices. With respect to implementation of a Participant's investment directions, the duties of the Funding Agents are limited to the following:

(i) **Custody and Protection**. To act as custodian of the assets transferred to the Funding Agent, and to protect the assets in its custody from loss by theft, fire, or other cause;

(ii) **Acquisitions**. To acquire additional assets in accordance with the directions of the Participant;

(iii) **Dispositions**. To sell or otherwise dispose of assets in accordance with the directions of the Participant;

(iv) **Authorized Actions**. To take other authorized actions in accordance with directions of the Participant; and

(v) **Accountings**. To account for and render accountings with respect to the Participant's assets (except for assets held by another Funding Agent);

(vi) **Ministerial and Custodial Tasks**. To perform other ministerial and custodial tasks in accordance with the directions of the Participant.

(b) **Transfer**. If assets are transferred to another Funding Agent, that Funding Agent shall have, and the Funding Agent from which the assets are transferred shall no longer have, the foregoing duties and powers with respect to those assets.

5.7 **Information Sharing Agreements**.

Each Funding Agent that receives contributions under this plan agrees that it will, when requested by the University, enter into an agreement with the University providing that, as long as it is a designated Funding Agent under the plan and, if it ceases to be a designated Funding Agent under the plan, for as long as it holds one or more Funding Vehicles that were issued under the plan, it will, at reasonable intervals, provide to the University and obtain from the University the following information:

(a) **Compliance with Section 403(b)**. Information necessary for the resulting Funding Vehicle, or any other Funding Vehicle(s) to which contributions have been made by the University, to satisfy Code Section 403(b), including the following:

(i) **Termination of Employment**. Information whether the Participant's employment with the University is continuing and notice to the Funding Agent when the Participant's employment has terminated;

(ii) **Hardship Withdrawal**. Notice of any hardship withdrawal under this plan or any other plan of the University if the withdrawal results in a suspension of the Participant's right to make contributions; and

(iii) **Distributable Benefits**. Information from the Funding Agent to the University or other current and former Funding Agents concerning the Participant's or Beneficiary's annuity contracts or custodial accounts, or qualified employer plan benefits, to enable any other Funding Agent to determine, to the extent applicable, the amount of any plan loans and any rollover accounts that are available to the Participant in order to satisfy the financial need requirement under any hardship withdrawal provision; and

(b) **Other Tax Requirements**. Information necessary in order for the Funding Vehicle, and any other Funding Vehicle(s) to which contributions have been made for the Participant by the Employer, to satisfy other tax requirements, including information concerning the Participant's or Beneficiary's tax basis in order for a Funding Agent to determine the extent to which a distribution is includable in gross income.

5.8 Accounting.

The Funding Agent must maintain accurate and detailed records of all investments, receipts, disbursements, and other transactions. The records must be available for inspection at all reasonable times by the University.

(a) **Report**. Each Funding Agent must prepare and furnish to Participants periodic statements of account.

(b) **Judicial Settlement**. A dispute concerning the records or statement of account may be settled by a suit for an accounting brought by a person having an interest in the account.

5.9 Appointment, Resignation, and Removal of Funding Agent.

Unless otherwise stated in an agreement between the University and the Funding Agent, the appointment, resignation, and removal of a Funding Agent shall be subject to the following:

(a) **Resignation**. A Funding Agent may resign from receipt of future contributions and/or transfers with at least 60 days' written notice to the University, effective as of the date specified in the notice.

(b) **Removal**. The University may remove a Funding Agent from receipt of future contributions and/or transfers with at least 60 days' written notice to the Funding Agent, effective as of the date specified in the notice.

(c) **Successor**. The University may but is not required to appoint a successor Funding Agent by written instrument with the acceptance of the successor endorsed on the instrument, provided, however, that there shall always be at least one Funding Agent designated by the University for this plan.

5.10 Action by Funding Agent.

Actions by a Funding Agent must be either by a resolution of its board of directors or by a written instrument executed by an authorized individual.

VI. DISTRIBUTIONS

6.1 Distribution Events.

The following events permit distribution.

(a) **Termination of Employment**. If the Participant's employment terminates, the Participant may request a distribution under (i) or (ii) below. An Employee has a termination of employment when the Employee ceases to be employed by the University or a Related Employer in accordance with Regulations Section 1.403(b)-2(b)(19) or 1.403(b)-6(h). A transfer between Covered Employment and any other employment with the University or a transfer between the University and a Related Employer that is an eligible employer within the meaning of Regulations Section 1.403(b)-2(b)(8) is not a termination of employment.

(i) **Elective Contributions Account and Rollover Account**. The Participant may request a distribution of the Participant's Elective Contributions account and rollover account, if any, at any time following the date employment terminates.

(ii) **Other Accounts**. The Participant may request a distribution of all of the Participant's accounts at any time following the date the Participant attains age 55 or, if the Participant had completed 30 Years of Service prior to the date of termination, at any time following termination of employment. The requirement to reach age 55 or complete 30 Years of Service shall not apply if (A) the Participant effects a direct rollover under Section 6.3(a)(iv) or (B) the nonforfeitable balance of the Participant's accounts attributable to University contributions is less than $20,000 at the time distribution is requested.

(b) **Death**. A Participant dies.

(c) **Total Disability**. A Participant's employment terminates due to a Total Disability. "Total Disability" means the Participant has been absent from the Participant's duties of employment at the University for at least one year and meets one of the following conditions:

(i) **Code Section 72(m) Definition**. The Participant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration;

(ii) **Participants Covered by University Plan**. The Participant has been approved to receive disability benefits under a Long-Term Disability Plan sponsored by the University; or

(iii) **Participants Not Covered by University Plan**. Two or more physicians (chosen or approved by the University) certify that Total Disability exists.

(d) **Age 59½**. The Participant attains age 59½ and requests a distribution of all or any portion of the Participant's Elective Contributions account.

(e) **Plan Termination**. Termination of this plan with respect to all Participants.

(f) **Required Beginning Date**. A Participant reaches the Participant's Required Beginning Date.

(g) **EDRO**. This plan receives a domestic relations order that an appropriate Funding Agent or the University determines to be an EDRO. "EDRO" means an eligible domestic relations order, as defined in Act 46 of the Michigan Public Acts of 1991, that is issued by a competent state court and that meets the following conditions:

(i) **Alternate Payee**. The alternate payee must be the Spouse or former Spouse or a child or other dependent of the Participant.

(ii) **Reason for Distribution**. The distribution must relate to alimony, support of a child or other dependent, or a division of marital property.

(iii) **Contents**. The order must contain the name and address of the Participant and the alternate payee, the amount of the distribution or percentage of the Participant's account to be distributed, the valuation date as of which the amount or percentage is to be determined, and instructions concerning the timing and method of distribution.

(iv) **Restrictions**. The order may not require (A) this plan to pay more to the Participant and all alternate payees than the Participant's total benefits under the plan; (B) a method, commencement date, or duration of payment not otherwise permitted under this plan; or (C) cancellation of the prior rights of another alternate payee.

(h) **Hardship Withdrawal**. A Participant requests a hardship withdrawal.

(i) **Elective Contributions Only**. A hardship withdrawal may be made only from a Participant's Elective Contributions account and must satisfy the following conditions:

(A) **Amount**. The amount of the withdrawal shall not exceed the amount necessary to meet an immediate and heavy financial need as defined below. The amount of an immediate and heavy financial need may include amounts needed to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the withdrawal. A hardship withdrawal shall not include earnings on Elective Contributions.

(B) **Immediate and Heavy Financial Need**. The request must demonstrate an unusual financial burden due to one or more of the following, which are deemed to be immediate and heavy financial needs for purposes of this plan:

The purchase of, but not mortgage or other regular payments for, a principal residence for the Participant; tuition and related educational costs for the next 12 months of post-secondary education for the Participant or the Participant's Spouse, child, dependent or primary beneficiary; medical expenses previously incurred or necessary to obtain medical care of the type deductible under Code Section 213(d) for the Participant or the Participant's Spouse, dependent or primary beneficiary; prevention of eviction from, or foreclosure (or forfeiture) of the mortgage, land contract, or other security interest on, the Participant's principal residence; burial or funeral expenses for the Participant's parent, Spouse, child, dependent, or primary beneficiary; expenses for the repair of damage to the Participant's principal residence that are the type deductible under Code Section 165; or other conditions specified by the Commissioner of Internal Revenue in official pronouncements. For purposes of this paragraph, a Participant's primary beneficiary is an individual designated by the Participant as a primary beneficiary under Section 6.7 and who has a right to all or a portion of the Participant's account balance upon the death of the Participant.

(C) **Other Resources**. The amount needed to meet the immediate and heavy financial need must not be reasonably available from other resources of the Participant. A Participant shall be deemed to have no other available resources if (i) the Participant has received all available loans and all distributions payable without termination of employment from this plan and all other qualified and nonqualified plans maintained by the University; and (ii) the Participant's right to make Elective Contributions and after-tax employee contributions under this plan and all other qualified and nonqualified plans maintained by the University including stock option, stock purchase, and similar plans, and including a cash or deferred arrangement that is part of a cafeteria plan under Code Section 125 (but not the cafeteria plan itself), but excluding other health and welfare benefit plans, is suspended for a period of six months after the withdrawal.

(i) **Prohibited Transfers**. Except upon the occurrence of a permitted distribution event, there shall be no transfer, other than a permissive service credit transfer under Section 6.3(a)(vi), to a vendor that has not been designated by the University as a Funding Agent under this plan.

6.2 Valuation for Distribution

The valuation of the Participant's benefits for distribution will be made in accordance with the procedures established by the Funding Agent for the applicable Funding Vehicle.

6.3 Methods of Distribution.

(a) **Methods of Distribution**. Except as otherwise provided, upon the occurrence of a distribution event specified in Section 6.1 and election by the Participant or Beneficiary, distribution shall be made, subject to (b) and (c) below and Sections 6.4, 6.5, and 6.6, in one or a combination of the following methods:

(i) **Lump Sum**. Payment of the entire account in a lump sum. A single lump sum shall be the only permitted method of distribution for the following:

(A) **Small Balance**. A distribution when the Participant's consent is not required pursuant to Section 6.6(b)(iii);

(B) **Plan Termination**. Termination of this plan under Section 8.2; or

(C) **EDRO**. A distribution pursuant to an EDRO under Section 6.1(g).

(ii) **Installments**. Payment in a series of annual, systematic or periodic withdrawals over an elected period not exceeding the life expectancy of the Participant or the joint life expectancy of the Participant and a Beneficiary. Life expectancy or joint life expectancy shall be determined as of the calendar year in which payment begins and in the manner described in Section 6.4.

(iii) **Other Annuity**. A distribution in the form of a nontransferable annuity selected by the Participant. The terms of the annuity must comply with the installment distribution requirements and limitations of this plan.

(iv) **Direct Rollover to Another Plan**. At the election of the distributee, an eligible rollover distribution shall be transferred to the trustee or custodian of an eligible retirement plan for the benefit of the distributee.

(A) **Eligible Rollover Distribution**. An eligible rollover distribution is a distribution of any portion of the balance to the credit of a distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent that the distribution is required under Code Section 401(a)(9); any hardship distribution; a permissible withdrawal under Code Section 414(w)(2); and any other distribution that is reasonably expected to total less than $200 during a year.

(B) **Eligible Retirement Plan**. An eligible retirement plan is an individual retirement account or annuity described in Code Section 408(a), 408A, or 408(b), an annuity plan described in Code Section 403(a), an annuity contract described in Code Section 403(b), or a qualified trust described in Code Section 401(a), that accepts the distributee's eligible rollover distribution. An eligible retirement plan also includes an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. For any portion of a distribution deemed to be an eligible rollover distribution for a Beneficiary who is not a Spouse, an eligible retirement plan is an individual retirement account or annuity described in Code Section 408(a), 408A, or 408(b) that is established for the purpose of receiving the distribution on behalf of the designated Beneficiary and which is treated as an inherited IRA within the meaning of Code Section 408(d)(3)(C).

(C) **Distributee**. A distributee includes the Participant, the Participant's surviving Spouse, the Participant's Spouse or former Spouse who is an alternate payee under a EDRO, and for distributions after December 31, 2006, a Beneficiary who is not a Spouse.

(v) **Plan-to-Plan Transfer from Plan**. With the consent of the University and applicable Funding Agents, a Participant may elect to transfer the Participant's Elective Contributions account directly to another Code Section 403(b) plan of the Participant's employer or former employer. The receiving plan must impose distribution restrictions on the amounts transferred that are not less stringent than those imposed under this plan.

(vi) **Permissive Service Credit Transfers**. If a Participant is also a participant in a defined benefit governmental plan (as defined in Code Section 414(d)) that accepts plan-to-plan transfers with respect to the Participant, then the Participant may elect to have any portion of the Participant's Elective Contributions account under this plan transferred to the defined benefit governmental plan. A transfer under this section may be made before the occurrence of an event that permits distribution under Section 6.1; provided that the transferred assets are used only to:

(A) **Service Credits/Repayment**. Purchase additional service credits (as defined in Code Section 415(n)(3)(A)) under the governmental defined benefit plan or repay contributions and earnings related to a previous forfeiture of service credits under the governmental defined benefit plan and Code Section 415(k)(3); and

(B) **Continuation of Interest**. If the plan-to-plan transfer does not constitute a complete transfer of the Participant's interest in this plan, the plan receiving the transfer shall treat the amount transferred as a continuation of a pro rata portion of the Participant's interest in this plan.

(b) **Combination; When Irrevocable**. A Participant may elect a combination of the distribution methods described above either in a single, initial election or by making an initial election and one or more subsequent elections; provided, however, that each election shall be irrevocable when payment begins or should begin. Notwithstanding the preceding sentence, an elected annual amount of installment payments may be changed as of the beginning of a Plan Year.

6.4 Required Distribution Rules.

This section generally states the requirements of Code Section 401(a)(9) and Regulations and shall take precedence over any other provision of this plan that permits payment at a later time or in a smaller amount; however, nothing in this section authorizes any form of distribution not otherwise permitted under the terms of this plan or the Participant's Funding Vehicle. A distribution shall be determined and made in accordance with Code Section 401(a)(9) and Regulations, including the minimum incidental benefit requirement under Code Section 401(a)(9)(G) and in accordance with Code Section 403(b) and Regulations. For purposes of this section, each separate Funding Vehicle is treated as an individual retirement account so that distributions can be made from any of the Funding Vehicles and are not required to be made on a proportionate basis. Therefore, distributions shall be made in accordance with the provisions of Regulations Section 1.408-8, except as provided in Regulations Section 1.403(b)-6(e).

(a) **Time of Distribution**.

(i) **Required Beginning Date**. Unless the Participant requests an earlier distribution, distribution to the Participant shall begin not later than the Participant's Required Beginning Date. "Required Beginning Date" means the April 1 following the calendar year in which the Participant attains age 70 1/2, or, if later, following the calendar year in which the Participant's employment terminates.

(ii) **Death Before Required Beginning Date**. If the Participant dies before the Required Beginning Date, distribution to the Participant's Beneficiary shall be made when elected but not later than the times specified below. An election made under (A) or (B) below must be made no later than September 30 of the calendar year in which distribution would be required to begin under (A) or (B) or, if earlier, the September 30 of the calendar year that includes the fifth anniversary of the Participant's (or if applicable, the Spouse's) death. The election must be irrevocable.

(A) **Spouse**. If the Spouse is the only Designated Beneficiary, the Spouse may elect to begin distributions on or before the last day of the calendar year in which the Participant would have attained age 70 1/2 or, if later, the last day of the calendar year following the calendar year in which the Participant died. If the Spouse dies before distributions are required to begin, distribution shall be made under (B) or (C) as though the Spouse were the Participant. If the Spouse dies after distributions are required to begin, distribution shall be made under (iii) as though the Spouse were the Participant.

(B) **Other Beneficiary**. If benefits are to be paid to a Designated Beneficiary other than the Spouse, the Beneficiary may elect to begin distributions on or before the last day of the calendar year following the calendar year in which the Participant died.

(C) **Five Year Rule**. If an election is not made to begin distributions under (A) or (B) above or if there is no Designated Beneficiary as of September 30 of the calendar year following the year of the Participant's death, distribution of the Participant's entire interest must be completed by the last day of the calendar year that includes the fifth anniversary of the Participant's death.

(D) **Installment Method**. If distributions are made under (A) or (B) above and the installment method is elected by the Spouse or other Beneficiary, the applicable life expectancy, as of the calendar year in which distribution begins, or other installment period and the amount of each installment, shall be determined under Sections 6.3 and (b) below.

(iii) **Death After Required Beginning Date**. If the Participant dies after the Required Beginning Date, any unpaid amount must be distributed at least as rapidly as provided in (b)(ii) below.

(b) **Minimum Distribution Amount**. Unless the nonforfeitable balance in the Participant's accounts is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Participant's Required Beginning Date, the minimum amount that must be distributed for each distribution calendar year ("Minimum Distribution") shall be determined in accordance with the following provisions. If the nonforfeitable balance in the Participant's accounts is distributed in the form of an annuity purchased from an insurance company, distributions from the annuity contract shall be made in accordance with the provisions of Regulations Section 1.401(a)(9)-6.

(i) **Lifetime**. During the Participant's lifetime, the Minimum Distribution is the lesser of (A) or (B) below. Minimum Distributions determined in accordance with this provision will begin when required under (a)(i) above and continue through the calendar year that includes the Participant's date of death.

(A) **Uniform Lifetime Table**. The quotient obtained by dividing the nonforfeitable balance in the Participant's accounts by the distribution period in the Uniform Lifetime Table set forth in Regulations Section 1.401(a)(9)-9 based on the Participant's age at the birthday during the calendar year for which the distribution is made.

(B) **Spouse is Beneficiary**. If the Participant's Spouse is the only Designated Beneficiary, the quotient obtained by dividing the nonforfeitable balance in the Participant's accounts by the number in the Joint and Last Survivor Table set forth in Regulations Section 1.401(a)(9)-9 based on the age of the Participant and Spouse at their birthdates during the calendar year for which the distribution is made.

(ii) **Death After Required Beginning Date**.

(A) **Designated Beneficiary**. If the Participant dies on or after the Required Beginning Date and there is a Designated Beneficiary, the Minimum Distribution for each calendar year after the year of the Participant's death shall be the quotient obtained by dividing the nonforfeitable balance in the Participant's accounts by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's Designated Beneficiary, determined in accordance with the following.

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

(2) **Designated Beneficiary's Life Expectancy**.

(a) **Spouse is Beneficiary**. If the Participant's Spouse is the only Designated Beneficiary, the remaining life expectancy of the Spouse is calculated for each calendar year after the year of the Participant's death using the Spouse's age as of the Spouse's birthday in that year. For calendar years after the year of the Spouse's death, the remaining life expectancy of the Spouse is calculated using the age of the Spouse in the year of death, reduced by one for each subsequent year.

(b) **Other Beneficiary**. If the Designated Beneficiary is not the Participant's Spouse, the Designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(B) **No Designated Beneficiary**. If the Participant dies on or after the Required Beginning Date and there is no Designated Beneficiary as of September 30 of the calendar year following the year of the Participant's death, the Minimum Distribution for each calendar year after the year of the Participant's death shall be the quotient obtained by dividing the nonforfeitable balance in the Participant's accounts by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(iii) **Death Before Required Beginning Date**. If the Participant dies before the Required Beginning Date and there is a Designated Beneficiary, the Minimum Distribution for each calendar year shall be the quotient obtained by dividing the nonforfeitable balance in the Participant's accounts by the remaining life expectancy of the Participant's Designated Beneficiary, determined under (ii)(A)(2) above. Minimum Distributions determined in accordance with this provision will begin when required under (a)(ii) above.

(c) **Definitions**.

(i) **Designated Beneficiary**. "Designated Beneficiary" means the individual who is designated as the Beneficiary under Section 6.7 and is the designated beneficiary under Code Section 401(a)(9) and Regulations Section 1.401(a)(9)-4.

(ii) **Distribution Calendar Year**. A distribution calendar year is a calendar year for which a Minimum Distribution is required. For Minimum Distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to (a) above.

(iii) **Life Expectancy**. Life expectancy is the life expectancy determined from the Single Life Expectancy Table in Regulations Section 1.401(a)(9)-9.

(iv) **Account Balance/Valuation Calendar Year**. The value of the nonforfeitable balance in the Participant's accounts shall be determined as of the last valuation date within the calendar year preceding the calendar year for which the distribution is made (the "Valuation Calendar Year"). The nonforfeitable balance in the Participant's accounts shall be increased by the amount of any University contributions or forfeitures allocated to the Participant's accounts as of any later date in the Valuation Calendar Year and reduced by any amounts charged against such accounts as of any later date during the Valuation Calendar Year. For purposes of the preceding sentence, University contributions that are not actually made to this plan during the Valuation Calendar Year may be excluded. The nonforfeitable balance in the Participant's accounts includes any amounts rolled over or transferred to this plan either in the Valuation Calendar Year or the calendar year for which the distribution is made if distributed or transferred in the Valuation Calendar Year.

6.5 Time of Distribution.

(a) **Early Distribution**. Subject to (b), (c), and (d) below, at the election of a Participant, the Participant's benefits shall be distributed as soon as administratively feasible following the date of the distribution event or on any later elected payment date. Notwithstanding the preceding sentence, if a Participant's benefits are $1,000 or less and the Participant's employment terminates for any reason other than death, the Participant's benefits shall be distributed as soon as administratively feasible following the end of the Plan Year in which the Participant's employment terminates, unless the Participant elects earlier payment.

(b) **Normal Distribution Date**. Unless the Participant is eligible to elect an early distribution under (a) above or the Participant elects to defer payment, distribution due to termination of employment for any reason other than death may be elected as soon as administratively feasible after the earlier of the date the Participant attains age 55 or completes 30 Years of Service. The failure of the Participant to make an election shall be deemed an election to defer payment to a later date. However, a Participant may not elect, or be deemed to elect, to defer distribution to a date later than the applicable date in (c) below.

(c) **Required Distribution**. If not made under (a) or (b), distribution to a Participant shall begin not later than the Participant's Required Beginning Date.

(d) **EDRO**. Distribution to an alternate payee under an EDRO will be paid to the alternate payee at the time specified in the order, whether or not the Participant has attained age 55 and even though the Participant continues to be an Employee.

6.6 Election of Method and Time of Distribution.

(a) **Permitted Elections**. To the extent permitted under this article, the Participant or other recipient may elect the method and time of distribution.

(b) **Required Consent**. Except as specified in (iii) below, if the distributive event occurs prior to the date the Participant attains age 62, for any reason other than death, plan termination, or pursuant to a EDRO, distribution shall not be made without the Participant's consent. The consent shall be given by an election of the method and time of distribution. An election of distribution shall be made within the 180-day period ending on the Benefit Starting Date.

(i) **Notice**. The Participant shall be notified of the right to elect an immediate distribution and when consent is required, the right to defer distribution until the date distribution would otherwise be made under (d) below. The written notice shall provide an explanation of the material features of the available methods of distribution and a description of the consequences of failing to defer the distribution. The notice shall be provided at least 30 days and not more than 180 days before the Benefit Starting Date.

(ii) **Benefit Starting Date**. "Benefit Starting Date" means the first day of the first period for which an amount is distributable in any form. Generally, the Benefit Starting Date is the date on which distribution is due when all conditions and requirements for distribution have been met.

(iii) **Small Balance Exception**. The Participant's consent is not required with respect to a distribution when the nonforfeitable balance of the Participant's accounts is $1,000 or less.

(iv) **Waiver of Notice Period**. A distribution may commence less than 30 days after the notice required under (i) above is given, provided:

(A) **Right to 30-day Period**. The Funding Agent clearly informs the Participant that the Participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option); and

(B) **Election**. The Participant, after receiving the notice, affirmatively elects a distribution.

(c) **Election Requirements**.

(i) **Time**. The election shall be made not later than the date distribution begins or, if earlier, the date when distribution must begin. An election may be revoked or changed before distribution begins.

(ii) **Form**. An election shall be made in a form acceptable to the University and the Funding Agent.

(iii) **Other Conditions**. An election shall become void upon the death of the Participant prior to the date the distribution is paid to the Participant.

(d) **Failure to Elect**. Failure to elect a distribution shall be deemed an election to defer distribution to a later date. If an election is not received, the nonforfeitable balance of the Participant's accounts will be distributed at the time and in the manner determined under Section 6.4.

(e) **Additional Information**. The University or the Funding Agent may require additional election, application or information forms required by law or deemed necessary or appropriate by the University or the Funding Agent in connection with any distribution.

(f) **Lost Recipient**. If a Person entitled to a payment cannot be located or if a distribution has been made but the recipient for any reason does not cash the distribution check, the Participant's entire account under this plan shall be forfeited as of the date the University certifies that the Person cannot be located and/or payment cannot be made to the Person. The nonforfeitable balance in the Participant's accounts shall be restored to the Participant's account if the Person entitled to the payment submits a written election of method of payment.

6.7 Determination of Beneficiary.

A Participant's Beneficiary and successor Beneficiaries are determined under this Section 6.7. The determination of a Designated Beneficiary under Section 6.4 is not only determined under this section but also is subject to and determined under Code Section 401(a)(9) and Regulations. A Participant may designate or change a Beneficiary by filing a signed designation with the Funding Agent in a form approved by the Funding Agent. The Participant's Will is not effective for this purpose.

(a) **Beneficiary**. "Beneficiary" means the Person designated by the Participant, or determined under this section, to receive the Participant's benefits from this plan after the Participant's death. The rules of this section apply to a designation by the Participant and in the absence of a valid designation or upon the failure of a designation by the Participant.

(b) **Successor Beneficiaries**. One or more successor Beneficiaries may be designated by the Participant or determined under this section.

(c) **Married Participant; Spousal Consent**. The Beneficiary of a married Participant shall be the Spouse unless the Spouse consents to designation of a Beneficiary other than the Spouse. If a married Participant designates or changes a Beneficiary other than the Spouse without the Spouse's consent, the designation will be void. A consent that permits further designations without consent is void unless the consent expressly permits such designations without additional spousal consent. A consent may limit a distribution to a specific Beneficiary and/or to a specific method of distribution.

(i) **Consent**. Consent by the Spouse must be voluntary and must acknowledge and accept the consequences of the designation of a Beneficiary other than the Spouse. Consent by the Spouse is irrevocable. The consent and acknowledgment must be witnessed by an individual designated by the University or the Funding Agent or by a notary public. If the Spouse cannot be located or if any of the other exceptions set forth in Regulations issued under Code Section 417 apply, a consent is not required.

(ii) **Spouse**. Effective June 26, 2013, "Spouse" means the individual to whom the Participant is lawfully married under the laws of the domestic or foreign jurisdiction where the ceremony was performed. A former Spouse shall not be a Spouse or surviving Spouse except to the extent designated in a EDRO.

(iii) **Successors**. Spousal consent is not required for the designation or determination under this section of successor Beneficiaries to the Spouse.

(iv) **Change of Marital Status**. An existing Beneficiary designation by a Participant will be void upon the Participant's subsequent marriage or remarriage unless the new spouse consents to the designation.

(d) **Default Determination**. If a Participant fails to designate a Beneficiary, or if there is no Beneficiary or successor at the Participant's death or at any later payment date for the reason specified in (e) below or for any other reason, the Beneficiary shall be the surviving Spouse at the time of the Participant's death and the Spouse's estate with respect to any amount remaining undistributed at the subsequent death of the Spouse. If the Participant is not survived by a Spouse, the Beneficiary for each distribution shall be the members of the first of the following classes with a living member on the date of distribution:

(i) **Children**. The Participant's children, including those by adoption, dividing the distribution equally among the Participant's children with the living issue of any deceased child taking their parent's share by right of representation;

(ii) **Parents**. The Participant's parents, dividing the distribution equally if both parents are living;

(iii) **Brothers and Sisters**. The Participant's brothers and sisters, dividing the distribution equally among the Participant's living brothers and sisters.

(e) **Death of Beneficiary**. If distribution to one Beneficiary is pending or has begun and the Beneficiary dies before complete distribution, the remaining amount shall be paid to the successor Beneficiary designated by the Participant or, if no successor Beneficiary has been designated, to the Beneficiary determined under (d) above. If distribution is pending or has begun to more than one Beneficiary, distribution shall continue to the survivor or survivors of them, and any amount remaining upon the death of the last survivor shall be paid to the successor Beneficiary designated by the Participant or, if no successor Beneficiary has been designated, to the Beneficiary determined under (d) above. Survivors shall include the issue of any deceased child who shall take the deceased child's share by right of representation.

(f) **No Surviving Beneficiary**. If a deceased Participant has no surviving Beneficiary or successor Beneficiaries as designated by the Participant or as determined under (d) above on the date of the Participant's death, or on any subsequent date on which a distribution is payable, the remaining balance shall be paid to the Participant's estate, if then under the active administration applicable probate or similar laws, or if not, to those Persons who would then take the Participant's personal property under the laws of the Participant's state of residence then in force, and in the proportions provided by those laws, as though the Participant had died at that time.

(g) **Alternate Payee**. An alternate payee awarded an independent benefit under this plan shall be considered a Participant for purposes of determining the alternate payee's Beneficiary under this section.

(h) **Beneficiary Treated as Predeceased**. A Beneficiary may disclaim all or any portion of the Beneficiary's interest in any payments from this plan. If a disclaimer is presented to the University, the disclaimer shall be recognized and the Beneficiary shall be treated as having predeceased the Participant as to the portion disclaimed. If a Beneficiary is convicted of murdering the Participant, the Beneficiary shall be treated as having predeceased the Participant.

(i) **Determination**. The University shall apply the rules of this section to determine the proper Persons to whom payment should be made. The decision of the University shall be final and binding on all Persons.

6.8 Facility of Payment.

A payment under this section fully discharges the University and each Funding Agent from all future liability with respect to that payment.

(a) **Incapacity**. If a recipient entitled to a payment is legally, physically, or mentally incapable of receiving or acknowledging payment, the Funding Agent may direct the payment to the recipient; or, for the benefit of the recipient, to the recipient's legal representative or any other Person who is legally entitled to receive payments on behalf of the recipient under the laws of the state in which the recipient resides; or to a custodian for the recipient under any applicable uniform transfers to minors act.

(b) **Legal Representative**. There shall be no requirement to commence probate proceedings or to secure the appointment of a legal representative.

(c) **Determination**. The University and each Funding Agent may act upon affidavits in making any determinations. In relying upon the affidavits or having made a reasonable effort to locate any person entitled to payment, the University and each Funding Agent are authorized to direct payment to a successor Beneficiary or another recipient. A person omitted from payment has no rights on account of payments under this Section 6.8.

6.9 Loans.

Upon the request of a Participant, the Funding Agent shall loan the Participant the requested amount. The loan shall be made or refused on the terms and conditions agreed to by the University and the Funding Agent. Loans shall be available on a reasonably equivalent basis, but the Funding Agent may take into account a Participant's credit rating, financial need, and ability to repay the loan. Loans shall be available only from a Participant's Elective Contributions account. A Participant may have a maximum of five loans outstanding at any point in time. No loan may be made if the Participant has defaulted on a loan and has not repaid the defaulted loan in full.

(a) **Separate Investment**. The loan shall be a separate investment of the Participant's account as of the date of the loan. Interest on the loan and repayments of principal shall be credited directly to the Participant's account. With the consent of the Funding Agent, the proceeds of the loan may be taken from and repayments shall be credited to more than one of the Participant's separate accounts.

(b) **Fees and Charges**. Special fees and charges resulting from the loan shall be charged to the Participant's account.

(c) **Promissory Note**. The loan shall be documented by a written promissory note providing for at least equal quarterly payments of principal and interest with no prepayment penalty.

(i) **Interest Rate**. The loan shall bear a reasonable rate of interest which shall be the prevailing rate charged by lenders for a loan of a similar type. Notwithstanding the previous sentence, in accordance with Section 207 of the Servicemembers Civil Relief Act ("SCRA"), if a Participant on a leave of absence for military service (as defined by the SCRA) requests it in accordance with the notice requirements of the SCRA, the interest rate charged on a loan during the leave of absence shall be limited to 6% unless otherwise authorized by a court. This limitation applies only to loans taken before the Participant enters military service.

(ii) **Term of Loan**. The term of the loan shall not exceed five years unless the loan is used to acquire or construct the Participant's principal residence. The term of a loan used to acquire or construct the Participant's principal residence shall not exceed twenty years. A loan shall have a stated maturity date.

(d) **Amount**. All outstanding loans to the Participant shall not exceed the lesser of $50,000 or one-half of the nonforfeitable interest in the plan. The $50,000 limit shall be reduced by the excess of the highest outstanding principal balance of all loans to the Participant, under this plan and all qualified retirement plans of the University during the one-year period ending on the day before the date of the new loan, over the outstanding balance of all prior loans to the Participant on the date of the new loan.

(e) **Security**. The loan shall be adequately secured. The Participant shall execute a security agreement within 90 days before the effective date of the loan or renegotiation, extension, renewal, or other revision of an existing loan. The security agreement shall grant to the Funding Agent, for the benefit of this plan, a continuing security interest in the nonforfeitable balance of the Participant's account. Upon payment in full of principal and interest on the loan, the security interest shall terminate.

(i) **Security Interest**. The security interest shall not exceed 50% of the nonforfeitable balance of the Participant's accounts.

(ii) **Alternate Security**. With the Funding Agent's consent, the Participant may provide additional or alternative security to secure repayment of the loan.

(f) **Payment**. The loan payments shall be paid directly by the Participant to the Funding Agent in accordance with the terms of the promissory note. A Participant may prepay the loan in full at any time without penalty.

(g) **Default.** Upon default, the entire loan shall be due. The security interest may not be foreclosed until distribution would be permitted under Article VI. At that time, the Funding Agent may exercise its right of setoff and equitably charge the Participant's benefit balance by reducing it by the unpaid balance of the loan.

(h) **Early Due Date**. If all or a part of the loan is outstanding on the date the Participant's employment terminates, the loan shall be due and payable. Unless paid, the remaining balance of the loan and all accrued and unpaid interest shall be deducted from the nonforfeitable balance of the Participant's accounts before the first distribution is made.

(i) **Suspension of Loan Payments**. If permitted by the Funding Agent, loan payments shall be suspended for a period that a Participant is on a leave of absence either without compensation or at a level of compensation that is less than the amount of the installment payments required under the terms of the loan.

(i) **Length of Suspension**.

(A) **Military Leave of Absence**. If a Participant is performing service in the uniformed services (as defined in Chapter 43 of Title 38 of the United States Code), whether or not Qualified Military Service, loan payments shall be suspended until the end of the leave of absence.

(B) **General Leave of Absence**. For all other leaves of absence, loan payments shall be suspended for the period of the leave of absence, but not longer than one year.

(ii) **Payments on Resumption**. The installment payments due at the end of the suspension must be at least equal to, and as frequent as, those required under the original terms of the loan. If installment payments are not increased on resumption of payment, the Participant must repay the entire remaining balance of the loan on the due date specified in (iii) below.

(iii) **Due Date**. The loan, including accrued interest, must be repaid no later than the latest date permitted under (c)(ii) above, plus the period of suspension permitted under (i)(A) above, if applicable.

VII. ADMINISTRATION OF PLAN

7.1 Duties, Powers, and Responsibilities of the University.

(a) **Required**. Except to the extent properly delegated, the University is responsible for:

(i) **Contributions**. Paying, ceasing, or suspending contributions (including additional contributions if necessary to correct an error in allocation, vesting, or distribution of a Participant's interest);

(ii) **Agent for Service of Process**. Serving as the agent for service of process;

(iii) **Amendment**. Amending this plan where required or appropriate;

(iv) **Funding Agents**. Selecting the Funding Agents;

(v) **Plan Interpretation**. In its discretion, interpreting all provisions of this instrument (including resolving an inconsistency or ambiguity or correcting an error or an omission);

(vi) **Participant Rights; Limits**. Determining the rights of Participants and Beneficiaries under the terms of this plan; be responsible for determining that this plan complies with all limitations under the Code and Regulations;

(vii) **Allocations**. Determining which Participants are entitled to a share of University contributions and other allocations for a Plan Year, the amount of each eligible Participant's compensation for all plan purposes, the Plan Year, and the amount and disposition of any excess Annual Addition;

(viii) **Errors in Participants' Accounts**. Correcting (to the extent possible, by making adjustments to the accounts) an error, including (but not limited to) errors in allocations of contributions or investment experience, or in determination of vesting or distribution of a Participant's interest;

(ix) **Claims and Elections**. Establishing or approving the manner of making an election, designation, application, claim for benefits, and review of claims;

(x) **EDRO Determination**. Establishing procedures for determining whether or not a domestic relations order is an EDRO, notifying the Participant and any alternate payee of the determination, and administering distributions pursuant to an EDRO;

(xi) **Administration Information**. Obtaining to the extent reasonably possible all information necessary for the proper administration of this plan;

(xii) **Recordkeeping**. Taking reasonable steps to assure establishment and maintenance by each Funding Agent of all records necessary and appropriate for the proper administration of this plan;

(xiii) **Reporting and Disclosure**. Preparing and (i) filing required annual and periodic reports; and (ii) distributing disclosure documents including (but not limited to) a summary plan description, an explanation to recipients of payments eligible for rollover treatment, required benefit statements, and required notices to employees;

(xiv) **Penalties; Excise Taxes**. Reporting and paying (but not from plan assets) any penalty tax or excise taxes resulting from acts or omissions by the University and imposed on this plan or on the University (but not such taxes imposed on any Participant) on the proper tax form designated by the Internal Revenue Service;

(xv) **Advisers**. Employing attorneys, actuaries, accountants, clerical employees, agents, or other Persons who are necessary for operation, administration, and management of this plan; and

(xvi) **Nondiscrimination**. Applying all rules, policies, procedures, and other acts without discrimination among Participants.

(b) **Discretionary**. Except to the extent properly delegated, the University may exercise the following responsibilities:

(i) **Alternate Administrator**. Designating a person other than the University as an administrator;

(ii) **Investment Adviser**. If appropriate, appoint one or more investment advisers to render advice or make recommendations with respect to any or all plan assets subject to:

(A) **Functions**. The function of an investment adviser shall be limited to those specified services and duties for which the investment adviser is engaged; and

(B) **Acknowledgement**. When appropriate, a prospective investment adviser must acknowledge in writing that it is a fiduciary with respect to this plan;

(iii) **Payment of Administrative Expenses**. Paying administrative expenses incurred in the operation, administration, management, and control of this plan. Other than expenses for which a Participant is responsible, these expenses are the obligation of the plan unless paid by the University.

(iv) **Expenses, Fees, and Charges**. Presenting to the Funding Agent for payment (if not paid by the University) or reimbursement (if advanced by the University) all reasonable and necessary expenses, fees and charges, including fees for attorneys, actuaries, accountants, clerical employees, agents, or other persons, incurred in connection with the administration, management, or operation of this plan;

(v) **Plan Termination**. Revoking this instrument and terminating this plan to the extent permitted under Code Section 403(b); and

(vi) **Mergers; Divisions**. Merging this plan with another 403(b) plan or dividing this plan into multiple plans.

(c) **Other**. The University also shall have and exercise all other powers and duties necessary or appropriate under this plan.

7.2 Delegation of Administrative Duties.

The powers and duties of the University set forth in Section 7.1 may be delegated to one or more Funding Agents or to another party.

(a) **In Writing**. The written delegation must specify (i) the date of the action and the effective date of the delegation; (ii) the responsibility delegated; (iii) the name, office, or other reference of each party to whom the responsibility is delegated; and (iv) if a responsibility is delegated to more than one party, the allocation of the responsibility among the parties.

(b) **Acceptance of Responsibility**. The delegation must be communicated to the party to whom the responsibility is assigned, and written acceptance of the responsibility must be made by the party. A party retains the responsibility until the party resigns or rejects the responsibility in writing, or the University takes a superseding action.

(c) **Conflict**. If a party's powers or actions conflict with those of the University, the powers of and actions of the University will control.

7.3 Interrelationship of Parties; Discretionary Authority.

An individual or entity may serve in more than one capacity with respect to this plan.

(a) **Performance of Duties**. Each party must act in accordance with this plan. Each party is responsible for the proper exercise of its responsibilities.

(b) **Reliance on Others**. Each party may rely upon the action of another party and is not required to inquire into the propriety of any action.

(c) **Discretionary Authority of Parties**. Each party has full discretionary authority in the exercise of the powers, duties, and responsibilities allocated or delegated to that party by or under this instrument. Any determination made by the party in a fiduciary capacity will be given deference upon judicial review and shall be overturned only if arbitrary or capricious.

7.4 Compensation; Indemnification.

An employee who is compensated on a full-time basis by the University shall not receive compensation from this plan. The University shall indemnify and hold harmless each member of the Board of Trustees and each employee to whom fiduciary duties or other responsibilities for the operation and administration of this plan and trust have been assigned or delegated, from any and all claims, losses, damages, expenses, and liabilities arising from any action or failure to act with respect to any matter related to this plan and trust. Indemnification shall not apply if the action or inaction is due to gross negligence or willful misconduct. The University may purchase and maintain liability insurance covering the University and any other individual or entity against claims, losses, damages, expenses, and liabilities arising from the performance or failure to perform any power, duty, or responsibility with respect to this plan and trust.

7.5 Benefit Applications; Appeal Procedures.

The following benefit application and appeal procedures must be fully and timely completed as a condition precedent to the initiation of any legal proceeding asserting a claim for benefits under this plan by or on behalf of a Participant.

(a) **Application for Benefits**. The applicable Funding Agent will process an application for benefits by a Participant or Beneficiary and provide written notification of the determination to the Participant or Beneficiary not later than 90 days after receipt of the application unless the University determines that special circumstances require an extension of time for processing the application.

(b) **Notification of Adverse Determination for Application**. Notification of an adverse determination shall be written in a manner that can be understood by the Participant or Beneficiary and shall include: (i) the specific reasons for the denial; (ii) specific reference to pertinent plan provisions on which the denial is based; (iii) a statement outlining additional material or information necessary to enable approval of the claim and the reasons why such material is necessary; and (iv) an explanation of the appeal procedures.

(c) **Appeal**. Any Participant or Beneficiary asserting entitlement to a benefit different from the benefit approved by the Funding Agent in response to the application for payment, or who has received an adverse determination from the Funding Agent, whether relating to the amount, form of payment or time of payment, may, within 60 days after notice of the determination, file a written appeal for a full and fair review by the University.

(d) **Final Decision**. The University shall render a final determination and provide written notification to the Participant or Beneficiary within 60 days after receipt of the appeal, unless the University determines that circumstances require an extension of time for processing the appeal.

(e) **Notification of Adverse Determination on Appeal**. Notification of an adverse determination on appeal shall be written in a manner that can be understood by the Participant or Beneficiary and shall include: (i) the specific reasons for the denial; (ii) specific reference to pertinent plan provisions on which the denial is based; (iii) a statement of the Participant's or Beneficiary's right to reasonable access to, and copies of, all documents, records and information relevant to the claim at no cost; and (iv) an explanation of the additional appeal procedures, if any are available.

(f) **Extensions**. If the response time in (a) or (d) is extended, written notice of the extension must be provided within the original response period and the extension cannot be longer than the original response period – i.e., 90 or 60 days. Notice of the extension must specify the circumstances requiring the extension and the date by which the University or the Funding Agent expects to complete the determination.

(g) **Authorized Representative; Hearings**. A Participant or Beneficiary may designate an authorized representative to act on behalf of, or with, the Participant or Beneficiary at all stages of an appeal. There shall be no right to a hearing or other presentation before the University or its committee. The University may, in its sole discretion, require a hearing or other presentation if deemed necessary for full and fair review and adjudication of the claim.

7.6 Participant's Responsibilities.

All requests for action of any kind by a Participant or Beneficiary under this plan must be in writing, executed by the Participant or Beneficiary, and are subject to any other plan rules applicable to any specific type of request and any requirements of the Funding Agent.

7.7 Electronic Administration.

Notwithstanding any requirement set forth in this plan that certain transactions, notices, elections, consents and disclosures be evidenced in the form of written documentation, documentation for such transactions, notices, elections, consents or disclosures may be provided or obtained through electronic media to the extent consistent with applicable regulations and other guidance.

7.8 University Action.

An action required to be taken by the University may be taken by its Board of Trustees or by an officer or employee authorized to act on behalf of the University.

VIII. AMENDMENT AND TERMINATION

8.1 Amendment.

The University, by action of its Board of Trustees, or by action of a person so authorized by the resolution of the Board, may amend the plan at any time and from time to time. No amendment of the plan shall have the effect of changing the rights, duties, and liabilities of any Funding Agent without its written consent. Also, no amendment shall divest a Participant or Beneficiary of amounts held under annuity contracts or custodial accounts accrued prior to the amendment. Any modification to a collective bargaining agreement that affects the terms of this plan shall be treated as an amendment to this plan to the extent it is not implemented by a separate amendment.

8.2 Termination.

The University, by action of its Board of Trustees, may terminate the plan at any time. After such termination, no employee shall become a Participant, and no further contributions shall be made.

8.3 Effect of Termination or Partial Termination.

(a) **Nonforfeitability**. Upon termination or partial termination of this plan, accounts of affected Participants shall be nonforfeitable.

(b) **Distribution**. Upon complete termination of this plan, the University shall direct the Funding Agent to make distributions to affected Participants under Article VI except as specified below.

(i) **Alternative 403(b) Plan**. If the University or Related Employer makes contributions to another Code Section 403(b) plan during the period beginning on the date of the termination of this plan and ending 12 months after all distributions have been made from the plan, the Participant's account may not be distributed after plan termination unless less than 2% of the Employees who are Participants as of the date of the plan termination are eligible to participate in the other Code Section 403(b) plan during the period beginning 12 months prior to the date of termination and ending 12 months after all assets have been distributed.

(ii) **Missing Participants**. If a Participant cannot be located or efforts to communicate with the Participant fail to secure an election by the Participant, the University shall direct the Funding Agent to distribute the Participant's account under (A) or (B) below, as applicable.

(A) **Another 403(b) Plan**. The Participant's account shall be transferred to any other Code Section 403(b) plan maintained by the University or Related Employer.

(B) **Purchase Annuity Contract**. If another Code Section 403(b) plan is not maintained by the University or Related Employer, an annuity contract shall be purchased with the Participant's account. The annuity contract shall conform to the terms and limitations of this plan.

(C) **Other Remedies**. If the methods under (A) or (B) are not available or feasible for any reason, the University, in its discretion, shall direct the Funding Agent to transfer the Participant's account to (1) the trustee or custodian of an individual retirement account designated by the University, (2) an interest-bearing federally insured bank account established by the University in the name of the Participant, or (3) a state unclaimed property fund in the state of the recipient's last known address. In determining the appropriate course of action for a particular account, the University may consider differing factors such as the amount of the distribution, the expense involved, the University's ability to establish an individual retirement account, and any other factors the University reasonably concludes are relevant.

8.4 Plan Merger or Transfer.

A Funding Agent may accept a direct transfer or assets from another Code Section 403(b) plan or this plan may be merged or consolidated, or its assets and liabilities may be transferred, in whole or in part, to another Code Section 403(b) plan if the following conditions are satisfied.

(a) **Preservation of Account Balance**. The Participant's account balance after the transfer would be equal to or greater than the account balance the Participant would have been entitled to receive immediately before the merger, consolidation, or transfer.

(b) **Preservation of Distribution Restrictions**. The transferee plan provides that, to the extent any transferred amounts are subject to any distribution restrictions under Regulations Section 1.403(b)-6, the amounts transferred will remain subject to the distribution limitations after the transfer.

(c) **Authorization**. The University authorizes the merger, consolidation, division, or transfer.

8.5 Successor Employer.

If the University is dissolved, merged, consolidated, restructured, or reorganized, or if the assets or control of the University are transferred, this plan may be continued by the successor, and in that event, the successor will be substituted for the University.

IX. GENERAL PROVISIONS

9.1 No Diversion.

The plan is established and must be administered for the exclusive benefit of Participants and their Beneficiaries. The assets of the plan shall be applied for the exclusive purpose of providing benefits to Participants and Beneficiaries and defraying reasonable expenses of administering the plan. No part of the assets of the plan may be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and payment of reasonable expenses. Notwithstanding the foregoing, if any contribution or portion thereof is made by the University by a mistake of fact, the applicable Funding Agent shall, upon written request of the University within one year after the payment of the contribution to the Funding Agent, return such contribution or portion thereof to the University as soon as possible.

9.2 No Assignment or Alienation.

Except with respect to an EDRO, a lawful levy or collection demand by the Internal Revenue Service or the United States Government resulting from an unpaid tax assessment against the Participant, Beneficiary, or alternate payee under a EDRO or expressly permitted by this plan or required by law, the interest of a Participant or Beneficiary shall not be subject to voluntary or involuntary assignment, conveyance, transfer, anticipation, pledge, alienation, sale, encumbrance, or charge, whether voluntarily or involuntarily or directly or indirectly, by the Participant, Beneficiary or alternate payee and shall not provide collateral or security for a debt of the Participant or Beneficiary or be subject to attachment, garnishment, execution, assignment, levy or another form of judicial or administrative process or to the claim of a creditor of the Participant or Beneficiary, through legal process or otherwise. If a Participant, Beneficiary or alternate payee attempts to assign, transfer, or dispose of any such right, or if an attempt is made to subject any such right to such process, such process or disposition shall be null and void.

9.3 Benefits Payable by Funding Vehicles.

All benefits to which persons become entitled hereunder shall be provided only out of the Participant's annuity contracts or custodial accounts and only to the extent of the value of the annuity contracts or custodial accounts. No benefits are provided by the University under the plan except those expressly described herein.

9.4 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 the University, and nothing contained in this plan will be construed as a commitment on the part of the University to continue the employment or the rate of compensation of any person for any period. All employees of the University will remain subject to discharge to the same extent as if the plan had never been in effect.

9.5 No Interest in University Assets.

Nothing in this plan shall be construed to give an Employee, Participant, or Beneficiary an interest in the assets or the business affairs of the University, or the right to examine the books and records of the University. A Participant's rights are solely those granted by this instrument.

9.6 Claims of Other Persons.

No provisions in this plan will be construed as giving any Participant or any other person, firm, or corporation any legal or equitable rights against the University, its officers, employees, or directors, except for the rights that are specifically provided for in this plan or created in accordance with the terms and conditions of this plan.

9.7 Contracts - Incorporation by Reference.

The terms of the contracts between the Funding Agents and the University and/or the Participants and any certificates issued through a Funding Agent are part of the plan as if fully set forth in the plan document and the provisions of each are incorporated by reference into the plan. In cases where there is any inconsistency or ambiguity between the terms of the plan and terms of the contracts, the terms of the plan control.

9.8 Compliance With Laws.

Each Employee's participation is subject to all federal and state laws and regulations that impose requirements upon the University, the Funding Agents or the Employee. This plan shall be interpreted, administered, and managed in compliance with the Code, and applicable regulations. To the extent not preempted by federal law, this plan shall also be interpreted, administered, and managed in compliance with the laws of the State of Michigan.

9.9 Construction.

The singular includes the plural, and the plural includes the singular, unless the context clearly indicates the contrary. Capitalized terms have the meaning specified in this plan. If a term is not defined, the term has the general, accepted meaning of the term. Any period of time described in this plan consists of consecutive days, months, or years, as appropriate.

9.10 Severability.

If any provision of this plan is invalid, unenforceable, or disqualified under applicable state law, the Code, or applicable regulations, for any period of time, the remaining provisions shall remain in effect.

The University has executed this instrument this ______ day of November, 2016.

FERRIS STATE UNIVERSITY

By___________________________________

Its________________________________

15008717-3

SCHEDULE A

FUNDING AGENTS/FUNDING VEHICLES

The Funding Agents designated by the University to accept contributions on or after December 1, 2016, are:

Teachers Insurance and Annuity Association of America (TIAA)
Fidelity

The following is a list of Funding Agents who were approved to accept contributions prior to July 1, 2016:

AXA Equitable
Lincoln Financial
Mass Mutual
MEAFS
Valic