

ARIZONA BOARD OF REGENTS
OPTIONAL RETIREMENT PLAN
(THIRD AMENDMENT AND RESTATEMENT)

Effective July 1, 1997

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ARTICLE I

ESTABLISHMENT OF PLAN

1.1 History. The Arizona Board of Regents (the "Board"), a body corporate created under Article 2, Chapter 13, Title 15, Arizona Revised Statutes (A.R.S. sections 15-1621, et seq.), adopted the Arizona Board of Regents Optional Retirement Plan (the "Plan"), effective as of July 1, 1986. On April 2, 1991, the Board amended and restated the Plan in its entirety, effective July 1, 1989, to incorporate all prior amendments, and to comply with applicable changes required by the Tax Reform Act of 1986 and any other laws or regulations affecting the Plan. The Board then amended and restated the Plan in its entirety for a second time, effective July 1, 1995, to incorporate all prior amendments, to comply with the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) and to permit the funding of benefits under the Plan through one or more trusts maintained under the Plan. Thereafter, on January 23, 1997, September 28, 1998 and August 24, 2001, the Board adopted amendments to the Plan. The Board now amends and restates the Plan for a third time, effective July 1, 1997, to incorporate all prior amendments, and to comply with applicable changes required by the Uruguay Round Agreements Act of 1994 ("GATT"), the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), the Small Business Job Protection Act of 1996 ("SBJPA"), the Taxpayer Relief Act of 1997 ("TRA '97"), the Internal Revenue Service Restructuring and Reform Act of 1998 ("RRA '98") and the Community Renewal Tax Relief Act of 2000 ("CRA") (collectively referred to as "GUST").

1.2 Purpose. The Board has established the Plan as an optional retirement plan to the Arizona State Retirement System (A.R.S. Title 38, Chapter, 5, Article 2, sections 38-711, et seq.) under which qualified annuity contracts and one or more trusts providing retirement and death benefits may be purchased or provided for eligible Employees. The purpose of the Plan is to allow eligible Employees who elect to participate herein to contribute a percentage of their Compensation to the Plan on a pre-tax basis and to permit contributions by the Employers on behalf of participating Employees to supplement their retirement.

1.3 Intention. It is the intention of the Board that the Plan hereinafter set forth be the optional retirement program referred to in A.R.S. section 15-1628 and that the Plan meet all applicable requirements of such section and be qualified and exempt under section 401(a) of the Code. The Plan shall be construed so as to give full force and effect to this intention. It is the further intention of the Board that the mandatory Employee Contributions to the Plan be designated as picked up by the Employers as hereafter provided in order that such mandatory Employee Contributions will not be included in the Employees' gross income for federal income tax purposes as provided by section 414(h)(2) of the Code.

1.4 Application. This amendment and restatement does not create a new plan. The amount, form, and right to benefits payable to an Employee (or any person claiming benefits through an Employee) who retired or was separated from

service prior to the Effective Date of this amendment and restatement, shall be determined under the applicable provisions of the Plan as it was constituted at the time of such Employee's retirement or separation. This amendment and restatement shall not operate, or be construed to operate, to affect adversely any rights vested or guaranteed by the Plan in effect before July 1, 1997, or to divest any Employee of such rights. The rights of any Employee who terminated employment prior to July 1, 1997, shall be governed by the terms of the Plan then in effect except as the Plan may have been amended retroactive to a prior date by this amendment and restatement as set forth in Section 2.8 or in any other provision of this Plan. If a person is employed or reemployed on or after July 1, 1997, and performs an hour of service with an Employer on or after July 1, 1997, the rights of such Employee shall be governed by the terms of this Plan as amended and restated herein.

ARTICLE II

DEFINITIONS

2.1 Application of Definitions. Unless otherwise required by context, the terms used herein shall have the meanings set forth in the following sections of this Article. The masculine gender, when used herein, shall include the feminine and, unless context indicates otherwise, the singular shall include the plural and the plural the singular.

2.2 Beneficiary. "Beneficiary" means the person or persons designated by the Participant to receive benefits payable under the Plan and the Contract or Trust in the event of the Participant's death. The person or persons named in the beneficiary designation form under the Participant's Contract shall be the Participant's Beneficiary under this Plan with respect to any death benefits payable under the Contract. The person or persons named in the beneficiary designation on such form as may be prescribed by the Trustee of a Trust created under this Plan and in which a Participant's benefits are held shall be the Participant's Beneficiary under this Plan with respect to any death benefits payable under such Trust. The term "Designated Beneficiary" shall include any individual designated by the Participant as his Beneficiary.

2.3 Board. "Board" means the Arizona Board of Regents, a body corporate created under Article 2, Chapter 13, Title 15, Arizona Revised Statutes (A.R.S. sections 15-1621, et seq.).

2.4 Code. "Code" means the Internal Revenue Code of 1986, as amended from time to time.

2.5 Compensation.

(a) "Compensation" means the remuneration paid to an Employee as his base wage or salary, including bonuses and overtime paid, but excluding living or other allowances, premium payments, compensation in kind, payments made to any employee pension or welfare benefit plan, or any other special or unusual form of compensation. Notwithstanding the foregoing, the Board hereby elects to include as Compensation any amount which is contributed by an Employer pursuant to a salary reduction agreement between the Employer and an Employee and which is not includable in the gross income of an Employee under sections 125, 403(b) or 414(h)(2) of the Code or amounts deferred under an eligible deferred compensation plan within the meaning of section 457(b) of the Code.

(b) Any reference in this Plan to the term "Compensation" shall be to the definition contained in this Section 2.5, unless such reference specifically utilizes a different definition of compensation.

(c) Except as provided in subsection 2.5(d), during any one Plan Year, the Plan shall take into account only the first \$235,840 or such larger amount as the Commissioner of Internal Revenue may prescribe (which was the maximum amount of Compensation allowed to be taken into account under the Plan as in effect on July 1, 1993) of a Participant's Compensation for all purposes under this Plan, including, without limitation, determining benefits, contributions and allocations under this Plan.

(d) Except in the case of an eligible participant (as hereinafter defined in this subsection 2.5(d)), in addition to other applicable limitations set forth in this Plan, and notwithstanding any of the provisions of this Plan to the contrary, for Plan Years beginning on or after July 1, 1996, the annual compensation of each Employee taken into account under this Plan shall not exceed \$150,000, as adjusted by the Commissioner of Internal Revenue for increases in the cost of living in accordance with section 401(a)(17)(B) of the Code. For purposes of this subsection 2.5(d), an "eligible participant", to whom the limitations of this subsection 2.5(d) do not apply, is an individual who first became a participant in the Plan during any Plan Year beginning before the Plan Year commencing July 1, 1996.

(e) The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which Compensation is determined (the "determination period") beginning in such calendar year. If the determination period consists of fewer than twelve (12) months, the annual Compensation limits set forth in this section 2.5 will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12).

2.6 Computation Period. "Computation Period" means the period for determining an Employee's vesting service. For purposes of determining an Employee's vesting service under the Plan, the Computation Period shall be the twelve (12) month period beginning on an Employee's Employment Date (or Reemployment Date, as the case may be) and ending on the anniversary thereof, and each twelve (12) month period thereafter.

2.7 Contract. "Contract" or "Contracts" shall mean a group contract or an allocated, nontransferable, individual contract, which are fixed, variable, or combination fixed and variable annuity contracts purchased by the Employer on behalf of the Participant as provided in Article VI and issued by an Insurance Company for the benefit of a Participant under which individual accounts shall be maintained. Contract shall not mean an insurance contract on a Participant's life. Benefits under this Plan shall be based, in part, upon account balances under the Contracts and shall be valued not less frequently than annually. Any amounts provided in the nature of dividends or credits shall not be distributed to the Participant and shall be credited to the individual accounts in the Contract.

2.8 Effective Date. The Effective Date of the Plan as originally constituted was July 1, 1986. Other than as may be set forth in this Plan, the Effective

Date of this Plan, as amended and restated herein, means July 1, 1997, although all provisions contained in this plan to comply with GUST shall have either an earlier or later effective date that coincides with the date such provisions are required to be effective as provided under applicable law of GUST.

2.9 Employee.

(a) The term "Employee" means:

(i) All persons employed by the Board in accordance with the conditions of faculty service, the conditions of administrative service, or the conditions of professional service; and

(ii) Any other person employed by the institutions under the jurisdiction of the Board who are approved by the Board to be treated as Employees hereunder and eligible to participate herein.

(b) The term 'Employee' does not include:

(i) A person engaged to work for less than five (5) months, or effective July 1, 2002 twenty (20) weeks, per year or for less than twenty (20) hours per week; provided that if the employment continues beyond the period of five (5) months, or effective July 1, 2002 twenty (20) weeks, or should commence for twenty (20) hours per week or more, the person shall be treated as an Employee as of the beginning of the next successive payroll period;

(ii) Any person not required to pay tax under the Federal Income Contributions Act, Chapter 21, Subtitle C, Title 26, United States Code (Section 3101, et seq., of the Code);

(iii) A person who is employed in postgraduate training in an approved medical residency training program of an Employer; and

(iv) Cooperative extension employees with Federal appointment.

(c) The term "Employee" shall also include any leased employee deemed to be an employee of an Employer as provided in sections 414(n) or (o) of the Code. A leased employee within the meaning of section 414(n)(2) of the Code shall not be eligible to participate in this Plan.

2.10 Employee Contribution. "Employee Contribution" means all amounts deducted from a Participant's Compensation as required by Article IV hereof, which amounts are remitted by the Employers to the Contracts or the Trusts described in Article VI hereof, and which are designated as picked up by the Employers.

2.11 Employer. "Employer" or "Employers" means the employing unit(s) under the jurisdiction of the Board which employ the Employees electing to participate under the Plan.

2.12 Employer Contribution. "Employer Contribution" means the contributions by the Employers as required by Article IV hereof.

2.13 Employer Contribution Account. "Employer Contribution Account" means the account established under Section 5.1 in the name of an individual Participant to which is credited Employer Contributions during the period prior to the date the Participant completes five (5) Years of Service.

2.14 Employment Date. "Employment Date" means the date on which an Employee is initially appointed by an Employer.

2.15 Insurance Company. "Insurance Company" means the companies approved by the Board to maintain the Contracts providing retirement benefits under this Plan.

2.16 Participant. "Participant" means any Employee who has irrevocably elected to participate in this Plan as provided in Article III.

2.17 Plan. "Plan" means the Arizona Board of Regents Optional Retirement Plan (Third Amendment and Restatement).

2.18 Plan Year. "Plan Year" means the twelve (12) consecutive month period beginning on July 1 and ending on June 30.

2.19 Reemployment Date; Military Leave. "Reemployment Date" means the date following an Employee's termination of employment with all Employers on which the Employee is reappointed by an Employer. Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to reemployment of qualified military service will be provided in accordance with section 414(u)(4) of the Code.

2.20 Retirement Date. "Retirement Date" means the date on which a Participant terminates Employment with all Employers. "Normal Retirement Date" means the date on which a Participant attains age sixty-five (65) while employed by any Employer. For all purposes under this Plan, a Participant must terminate employment with all Employers to be entitled to payment of any benefits under this Plan. The determination of whether a Participant has terminated employment with all Employers shall be based on all the facts and circumstances in connection with such termination (e.g., the existence of a written or oral arrangement providing for the Employee's reemployment at some date in the future will be evidence that termination of employment has not occurred, etc.). Such a determination shall be made by the Board (or its delegate) in its sole and absolute discretion, which shall be binding on

the affected Participant. In no event shall a Participant be considered as having terminated employment if, as such date of termination, the Participant has entered into an express or implied contract (whether written or oral) for reemployment of the Participant with any Employer at some future date.

2.21 Trust. "Trust" means the Arizona Board of Regents Optional Retirement Plan Trust, dated as of July 1, 1995, under which Fidelity Management Trust Company is serving as Trustee, that certain Trust Agreement, dated as of January 1, 2001, under which Vanguard Fiduciary Trust Company is serving as Trustee, and such other trusts as may be hereafter established by the Board under this Plan.

2.22 Trustee. "Trustee" means Fidelity Management Trust Company, who shall serve as Trustee under the Arizona Board of Regents Optional Retirement Plan Trust, established effective as of July 1, 1995, Vanguard Fiduciary Trust Company, who shall serve as Trustee under that certain Trust Agreement, established effective as of January 1, 2001, and such other Trustees as may hereafter be appointed by the Board to serve as Trustee under one or more Trusts established under this Plan.

2.23 Valuation Date. "Valuation Date" means the last day of each pay period of the Employer or, if elected by an Employer, the last day of each calendar month. Each Insurance Company and Trustee shall value, at least annually on the last day of each Plan Year, all amounts held by such Insurance Company or such Trustee under the Contracts or the Trust maintained by such Insurance Company or Trustee for on behalf of Participants hereunder.

2.24 Year of Service.

(a) "Year of Service" means, for purposes of determining an Employee's vesting service, a Computation Period in which the Employee is continuously employed and is participating under this Plan.

(b) In determining an Employee's continuous employment, any Employee who is under contract with an Employer for no less than an academic year shall be treated as continuously employed for the entire Plan Year in which such person's contract is included.

(c) Any eligible Employee who is a member of the Arizona State Retirement System ("ASRS") at the time the Employee elects to participate in this Plan shall leave the funds in his or her retirement account on deposit with ASRS during his continuous employment with an Employer and those years of member service in the ASRS shall count as years of service under this Plan. Notwithstanding the foregoing, as provided by § 27 of Chapter 327 of the 1999 Arizona Session Laws, beginning January 1, 1999 through December 31, 2000, an Employee who transferred from ASRS to this Plan and who was required to leave in ASRS the contributions that were made before the transfer may withdraw the Employee's contributions to ASRS and an amount equal to the Employer contributions paid to

ASRS on behalf of the Employee plus interest as determined by the ASRS board if the Employee satisfies any one of the following conditions:

(i) The Employee has terminated employment by retirement or death; or

(ii) The Employee has attained his or her normal retirement date as defined in A.R.S. § 38-711.

In addition, beginning January 1, 1999 through December 31, 2000, the Employee may elect to transfer to this Plan the lump sum value of the refunded contributions and interest as determined pursuant to § 27 of Chapter 327 of the 1999 Arizona Session Laws. The transfer shall be credited under this Plan in equal amounts as attributed to Employee contributions and Employer contributions.

(d) In determining an Employee's Years of Service, each Employer shall have the power to interpret this Section and apply it to its Employees or certain classes of Employees, including the power to remedy possible ambiguities, inconsistencies or omissions and establish policies regarding leaves of absence; provided, however, that all interpretations and decisions shall be made in good faith and applied, insofar as is practicable, in a uniform and nondiscriminatory manner to all Employees similarly situated, and when so made or, applied shall be binding upon all Employees.

ARTICLE III

ELIGIBILITY

3.1 Conditions of Eligibility.

(a) Any Employee participating in this Plan as of June 30, 1997 shall continue to participate in the Plan. An Employee described in this subsection 3.1(a) shall not be required to make any elections to participate in this Plan nor may such Employee elect not to participate in this Plan.

(b) Any other Employee employed by an Employer on or after July 1, 1997 shall become eligible to participate in the Plan as of the Employee's Employment Date.

3.2 Reemployment of Persons Eligible To Participate. If an Employee was eligible to participate prior to terminating his service with an Employer, and such Employee is subsequently reemployed by an Employer and is then eligible to participate hereunder, he shall again be eligible to participate in the Plan as of his Reemployment Date; provided that in no event shall an individual's reinstatement as a Participant under this Article result in the duplication of benefits provided under the Plan.

3.3 Commencement of Participation. An Employee who does not automatically continue participation in this Plan under subsection 3.1(a) shall elect to participate in either the Arizona State Retirement Plan (A.R.S. Title 38, Chapter, 5, Article 2, sections 38-711, et sec.) or this Plan. The election shall be made in writing and filed with the Arizona State Retirement System and the disbursing officer of the Employee's Employer within thirty (30) days after notice in writing to the Employee of his eligibility to participate hereunder, and shall become effective on the first day of the pay period following such election. Such election shall become irrevocable when made and shall continue through the duration of the Employee's employment with his Employer. Such election shall constitute a waiver of all benefits provided by the Arizona State Retirement System or the Arizona State Retirement Plan, except such benefits as are expressly provided by law. If an Employee fails to make an election as provided under this Section, he shall be deemed to have elected participation in the Arizona State Retirement Plan and shall waive all benefits provided under this Plan, except such benefits as are expressly provided by law.

3.4 Cessation of Participation. An Employee shall not be an active Participant in the Plan nor continue to participate in the Plan, and shall not be entitled to accrue any benefits or make any contribution hereunder, if:

(a) He is retired or separated from employment with all Employers; or

(b) His employment is reclassified so that he is no longer an Employee as that term is defined in Section 2.9 of this Plan.

ARTICLE IV

EMPLOYER AND EMPLOYEE CONTRIBUTIONS

4.1 Funding. The Plan shall be funded by Employer Contributions and Employee Contributions.

4.2 Mandatory Employee Contributions. Upon electing to participate in this Plan, a Participant shall be deemed to have authorized his Employer to deduct from his Compensation, prior to its payment, seven percent (7%) of his Compensation (or such other amount required by A.R.S. section 15-1628C), as a contribution to the Plan, which shall be credited to the Participant's Contract or deposited in the, Trust, as the case may be. The amount of Employee Contributions hereunder shall be picked up by the Participant's Employer and shall be made by the Participant's Employer in lieu of the contributions required by the Participant. However, although the Employee Contributions shall be picked up by the Participant's Employer, the Employee's Compensation shall be reduced by the amount of picked up contributions. The Participant shall not have the option to receive the picked up contributions directly and such contributions shall be paid by the Employer directly to the Insurance Company or to the Trustee as provided in Section 5.4.

4.3 Employer Contributions. Each Employer shall contribute to the Plan on behalf of each Participant employed by such Employer an amount equal to seven percent (7%) of the Participant's Compensation as required by A.R.S. section 15-1628C.

4.4 Changes or Suspension of Employee Contributions. A Participant may not change or suspend his Employee Contributions once the Employee has elected to participate hereunder.

ARTICLE V

MAINTENANCE OF ACCOUNTS

5.1 Creation of Accounts. During the period prior to the date a Participant completes five (5) Years of Service (if the Participant is not fully vested on his Employment Date as provided in subsection 7.2(b)), each Employer shall maintain in trust on behalf of each Participant who is an Employee of such Employer an Employer Contribution Account to which is credited all Employer Contributions made on behalf of a Participant prior to the date the Participant completes five (5) Years of Service. Each Employer Contribution Account shall be maintained in the name of the Participant to whom it concerns and shall be maintained solely for accounting purposes and shall not require the segregation of assets of the Employer, except as provided in Section 6.1 and unless otherwise required by law. If a Participant transfers employment from one Employer to another Employer at such time as an Employer Contribution Account is maintained for such Participant, the previous Employer shall transfer the Participant's Employer Contribution Account to the new Employer who shall then maintain the Employer Contribution Account on behalf of such Participant.

5.2 Adjustment to Account. The Employer shall allocate to the Participant's Employer Contribution Account the Employer Contributions made since the immediately preceding pay period. Effective as of each Valuation Date the Employer shall credit to the Participant's Employer Contribution Account an amount of interest equal to the rate of earnings earned since the most recent Valuation Date by the fund in which the Participant's Employer Contribution Account is invested.

5.3 Application of Forfeitures. If a Participant terminates his Employment with all Employers for reasons other than death when he is not fully vested as provided under Section 7.2, the Participant shall immediately forfeit the entire amount of his Employer Contribution Account.

5.4 Payments to Insurance Company or Trustee. As soon as practicable after each pay period, the Employer shall pay to an Insurance Company or a Trustee, as directed by the Participants, the Employee Contributions plus, if the Participant is fully vested as provided under Section 7.2, the Employer Contributions on behalf of such Participant for such pay period, which amounts shall be credited to the Contract maintained on behalf of such Participant or under the Trust in which the Participant's benefits are maintained. As soon as practicable after the Participant has completed five (5) Years of Service, the Employer shall transfer to the Insurance Company or Trustee the Participant's Employer Contribution Account (valued as of the most recent Valuation Date preceding the date of transfer), which amount shall be credited to the Contract maintained on behalf of such Participant or under the Trust in which the Participant's benefits are maintained and thereafter the Participant shall have no Employer Contribution Account under this Plan and benefits provided under this Plan shall be provided exclusively through the Contract or the Trust, as the case may be.

5.5 Maximum Additions.

(a) The, "limitation year" for purposes of determining the limitations of section 415(c) of the Code with respect to the Plan shall be the Plan Year.

(b) Any provisions of this Plan to the contrary notwithstanding, the sum of the annual additions on behalf of a Participant in any limitation year under this Plan and under any other defined contribution plan maintained by the Board or an Employer shall not exceed the lesser of \$30,000 (or such larger amount prescribed by the United States Secretary of the Treasury as provided under Section 415(d) of the Code) or twenty-five percent (25%) of the Participant's compensation for such limitation year. An annual addition shall be deemed to be credited on behalf of a Participant for a particular limitation year if it is allocated under the terms of such defined contribution plan as of any date within such limitation year. Treasury Regulations § 1.415-6(b)(7) shall govern determination of the time at which an annual addition is credited on behalf of a Participant. The term "compensation" as used in this Section 5.5 shall mean the Participant's earned income, wages, salaries, fees for professional services and other amounts received for personal services actually rendered in the course of employment with the Participant's Employer. The term "compensation" shall not include:

(i) Employer contributions to a plan of deferred compensation to the extent the contributions are not included in the gross income of the Participant for the taxable year in which contributed, on behalf of a Participant to a simplified employee pension plan described in section 408(k) of the Code and any distributions from a plan of deferred compensation, regardless of whether such amounts are includible in the gross income of the employee when distributed.

(ii) Other amounts which receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includible in the gross income of the Participant), or contributions made by the Participant's Employer (whether or not under a salary reduction agreement) towards the purchase of an annuity contract described in section 403(b) of the Code (whether or not the contributions are excludible from the gross income of the Participant).

(c) In determining the annual additions credited to a Participant under any defined contribution plan maintained by the Board, the term "annual additions" shall have the same meaning set forth in Treasury Regulation § 1.415-6(b), and this Section 5.5 shall be construed and interpreted in accordance with Treasury Regulation § 1.415-6, insofar as such regulation may be applicable. Subject to the foregoing, the "annual additions" on behalf of a Participant in any limitation year shall be the sum of:

(i) The amount of Employer Contributions on behalf of a Participant under Section 4.3, the amount of Employee Contributions by a Participant under Section 4.2 and any Employer Contributions

allocated to the Participant under any other defined contribution plan maintained by the Board or the Employer and any forfeitures (including any income attributable to such forfeitures) allocated to the Participant under any defined contribution plan maintained by the Board or the Employer; plus

(ii) Any non-deductible contribution made by a Participant under any defined contribution plan maintained by the Board or the Employer.

(d) In the event the annual additions on behalf of a Participant exceeds the limitations set forth in subsection 5.5(b) above, the Board shall dispose of such excess amounts as follows:

(i) First, the Board shall return to the Participant any non-deductible contributions made by him.

(ii) Second, the Board shall establish a suspense account which conforms to the provisions of Treasury Regulation § 1.415-6(b)(6) regarding excess annual additions, and the amount held in such suspense account shall be allocated as either Employee or Employer Contributions for the benefit of the Participant in the next limitation year and before any further Employee or Employer Contributions are made which would constitute annual additions under section 415 of the Code; such suspense account and allocations shall be made in the same manner as provided for Employee and Employer Contributions hereunder, and the amount so allocated shall reduce the amount of the Employee or Employer Contributions for the limitation year in which such allocation is made.

(e) In addition to other limitations set forth in this Plan and notwithstanding any other provisions of this Plan, the annual additions under this Plan (and all other defined contribution plans required to be aggregated with this Plan under the provisions of section 415 of the Code) shall not increase to an amount in excess of the amount permitted (when considered in conjunction with all other aggregated plans of the Board or the Employer) under section 415 of the Code as amended by GUST.

(f) This Section 5.5 shall be construed and applied so as to comply at all times with section 415 of the Code and Treasury Regulation § 1.415-1, et seq. Any other provisions of this Plan to the contrary notwithstanding, in no event shall a Participant's benefit payable under this Plan alone, or under this Plan and any other plan with which this Plan is aggregated under the provisions of section 415 of the Code, or under this Plan and any other defined contribution plan maintained by the Board or the Employer exceed for any limitation year the applicable limitations of section 415 of the Code and any applicable regulations issued thereunder.

ARTICLE VI

ANNUITY CONTRACTS AND TRUST FUNDS

6.1 Fund. Prior to the date a Participant completes five (5) Years of Service, each Employer shall retain its Employer Contributions on behalf of the Participant employed by such Employer in trust in a separate fund for the exclusive benefit of such Participants. The benefits, and all interest, earnings and other credits pertaining thereto, shall be exempt from state, county and municipal taxes, shall not be subject to execution or attachment and shall not be assignable.

6.2 Annuity Contracts. On the date a Participant elects to participate hereunder, such Participant may apply for one or more Contracts issued by any Insurance Company approved by the Board to maintain qualified annuity contracts providing retirement benefits under this Plan. Each Contract shall be a qualified non-transferable annuity contract as described in sections 401(f), 401(g), 403(a) and 404(a)(2) of the Code and all provisions of said Contract shall be subject to the terms of this Plan (specifically, without limitation, Section 5.5 (relating to maximum additions under section 415 of the Code) and Section 8.4 (relating to minimum distributions under section 401(a)(9) of the Code)) and all applicable provisions of section 401(a) of the Code. Employee Contributions and Employer Contributions shall be transferred by the Employer to the Insurance Company maintaining the Contract on behalf of the Participant as provided in Section 5.4.

6.3 Contract Owner. Each Contract shall designate the Participant as sole owner, with rights reserved to the Participant to exercise any right or option contained therein. Each Participant shall complete the necessary application forms as provided by the Insurance Company in order to establish the Contract to fund benefits under this Plan. Each such Contract issued under this Plan is for the sole purpose of providing retirement or death benefits. The Participant may not sell, assign, transfer, discount or pledge as collateral for a loan or as security for the performance of an obligation or for any other purpose his interest in the Contract to any person other than the Insurance Company insuring such Contract.

6.4 Trust. On the date a Participant elects to participate hereunder, such Participant may, in addition to or in lieu of applying for one or more Contracts as described in Section 6.2 of this Plan, direct the Employer to transfer all or any portion of Employee Contributions and Employer Contributions (either immediately or upon the Participant completing five (5) Years of Service as provided in Section 5.4 of the Plan) to one or more Trusts entered into between the Board and one or more Trustees to provide benefits to Participants under this Plan. Each Trust shall be maintained under this Plan and shall be subject to the terms and conditions of this Plan. All or a portion of the Employee Contributions and Employer Contributions shall be transferred by the Employer to the Trustee on behalf of the Participant as provided in Section 5.4.

6.5 Direction by Participants. Each Participant shall direct the Employer as to the net amount of Employee Contributions and Employer Contributions which shall be transferred to any one or more Insurance Companies or any one or more Trusts as provided in Sections 6.2 through 6.4 of this Plan. Each Employer and the Board shall be relieved of any liability to the Participant with respect to such Employee Contributions and, Employer Contributions once transferred to an Insurance Company or a Trustee as provided herein. Upon such transfer, the Participant shall look solely to the Insurance Company or the Trustee for the investment and reinvestment of such funds and the provisions of retirement or other benefits as provided under this Plan and neither the Board nor any Employer shall have any liability or responsibility therefore.

6.6 Portability of Insurance Contracts.

(a) Unless otherwise provided under the terms of a Contract which has been approved by the Board, the Insurance Company will permit the Participants under the Plan to elect, once each year, to transfer some or all of the funds in the Contracts to one or more other Contracts maintained by an Insurance Company approved by the Board for providing benefits under the Plan or to one or more Trustees of Trusts maintained under the Plan. Unless otherwise provided under the terms of a Contract which has been approved by the Board, the Insurance Company will permit the Participants under the Plan to elect, once each year, to transfer funds from one or more other Contracts maintained by Insurance Companies approved by the Board for providing benefits under the Plan or funds from one or more trusts maintained under the Plan to the Contracts maintained by the Insurance Company. The Insurance Company shall permit a Participant to continue to direct contributions to the Contract from which the funds were transferred or cease directing any future contributions to such Contract.

(b) The Contracts shall provide that Participants shall have the right, once each year, to suspend contributions to a Contract and direct contributions to another Contract or Trust.

(c) The Insurance Company shall permit Participants to transfer the funds which have been deposited under a Contract to an optional retirement program maintained by an educational institution in another state with whom the Participant is then employed; provided that such other optional retirement program is also qualified under section 401(a) of the Code and offers nontransferable annuity contracts described in sections 401(f), 401(g), 403(a) and 404(a)(2) of the Code; and further provided that the annuity contracts under such other program do not contain any provision for cash surrender or loans. Such transfer of the funds that have been deposited under the Contract shall be effectuated by either a transfer of the Contract or the transfer of the funds deposited under the Contract to an annuity contract maintained by another insurance company providing benefits under the other program.

(d) All transfers of funds or modifications to the contributions or benefits provided under the Contracts shall be made by the Insurance Companies without cost or fee to the Participant or the Plan, other than costs or fees approved in advance by the Board or reasonable administrative costs charged by the Insurance Companies. The Insurance Companies may establish reasonable procedures to effectuate the provisions of this Section 6.6; provided that such procedures comply with the provisions contained in this Section 6.6 and do not conflict with any terms of the Plan or any procedures which may be established by the Board.

6.7 Portability of Trust.

(a) The Trustee of a Trust will permit the Participants under the Plan to elect, once each year, to transfer some or all of the funds in the Trust to one or more Trustees of other Trusts maintained under this Plan or to one or more Contracts maintained by an Insurance Company approved by the Board for providing benefits under this Plan. The Trustee of a Trust will permit the Participants under the Plan to elect, once each year, to transfer funds from one or more other Trusts maintained under this Plan or funds from one or more Contracts maintained by an Insurance Company approved by the Board for providing benefits under the Plan to the Trustee of such Trust. The Trustee shall permit a Participant to continue to direct contributions to the Trust from which the funds were transferred or cease directing any future contributions to such Trust.

(b) A Trustee shall permit Participants, once each year, to suspend contributions to the Trust and to direct contributions to another Trust or Contract.

(c) A Trustee shall permit Participants to transfer the funds which have been deposited under the Trust to an optional retirement program maintained by an educational institution in another state with whom the Participant is then employed; provided that such other optional retirement program is also qualified under section 401(a) of the Code and either provides benefits through a trust arrangement or offers nontransferable annuity contracts described in sections 401(f), 401(g), 403(a) and 404(a)(2) of the Code; and further provided that such trust or annuity contracts under such other program do not contain any provisions for loans.

(d) All transfer of funds or modifications to the contributions or benefits provided under a Trust shall be made by the Trustee without cost or fee to the Participant or the Plan, other than costs or fees approved in advance by the Board. The Trustee may establish reasonable procedures to effectuate the provisions of this Section 6.7; provided that such procedures comply with the provisions contained in this Section 6.7 and do not conflict with any terms of the Plan or any procedures which may be established by the Board.

6.8 Transfers to Plan. Any Participant, with the Board's (or its agent's) written consent and after filing with the Board the form prescribed by the Board for such purpose, may contribute cash to the Plan if the contribution is a "eligible

rollover contribution" (as defined in section 12.2(a) of this Plan) which the Code permits an employee to transfer either directly or indirectly from one qualified plan to another qualified plan. Before accepting the rollover contribution, the Board (or its agent) may require the Participant to furnish satisfactory evidence that the proposed transfer is in fact an "eligible rollover contribution" which the Code permits the Participant to make to a qualified plan. On the date the Participant elects to make such eligible rollover contribution to this Plan, such Participant may apply for one or more Contracts (under the procedures prescribed by section 6.2 of this Plan) to which all or any portion of the eligible rollover contribution will be transferred or shall direct that all or any portion of such eligible rollover contribution be transferred to one or more Trusts maintained under the Plan. The eligible rollover contribution transferred to such Contract or Trust and the benefits held therein shall be subject to all the provisions of this Plan as any other Employee Contributions made to a Contract or Trust maintained pursuant to this Plan (including, without limitation, rules restricting and requiring distributions under this Plan).

ARTICLE VII

VESTING

7.1 Employee Contributions.

(a) Amounts attributable to Employee Contributions which are picked up by the Employer, and are transferred to the Contract maintained on behalf of the Participant or a Trust under which the Participant's benefits are maintained, shall at all times be nonforfeitable.

(b) After a participant terminates service, with the Employer and is fully vested in his Employer Contribution Account, he may withdraw any or all of the Employee Contribution Account without forfeiting his Employer Contribution Account. Any withdrawals from the Employer Contribution Account will be made in accordance with Section 7.2(c), Section 8.4 and A.R.S. section 15-1628G.

7.2 Employer Contributions.

(a) Except as provided in subsections 7.2(b) and (c) and Section 7.4 below, a Participant's vested, nonforfeitable right to all or a portion of the balance of his Employer Contribution Account or any Employer Contributions transferred to a Contract or Trust shall be based on his whole and fractional Years of Service, in accordance with the following vesting schedule:

<u>Years of Service</u>	<u>Vested Percentage</u>	<u>Forfeited Percentage</u>
Less than 5	0%	100%
5 or more	100%	0%

(b) If, on the Participant's Employment Date or Reemployment Date (as the case may be), the Participant is the owner of a contract which the Employer determines is a contract maintained under a defined contribution retirement program of a college, university or higher education organization located in a state other than Arizona, such Participant shall have a nonforfeitable right to one hundred percent (100%) of his Employer Contribution Account without regard to completing any Years of Service under this Plan. This paragraph shall apply regardless of the insurance company or other provider of the contract owned by the Participant under the other state defined contribution retirement program. Upon entry into the Plan, such Participant may select to transfer the benefits under such other contract to any Insurance Company or Trustee as permitted under Section 6.8 of the Plan.

(c) Notwithstanding the foregoing provisions of subsections 7.2(a) and (b), if a Participant terminates service after he is fully vested in his Employer Contribution Account and such Account has been paid to the Insurance Company or Trustee as provided in Section 5.4, the Participant shall be required to

receive the amounts held in the Contract or Trust attributable to Employer Contributions (and any earnings thereon) in any form permitted under this Plan.

7.3 Termination of Service; Reinstatement.

(a) If a Participant who is not otherwise vested under subsection 7.2(b) terminates service for any reason (other than death) prior to completing five (5) Years of Service, the Participant shall forfeit his entire Employer Contribution Account. If a Participant establishes a Reemployment Date and has not commenced receiving benefits under a Contract or Trust or withdrawn all or any portion of his contributions to such Contract or Trust, the Participant shall continue to vest on the schedule contained in Section 7.2; provided that the Employer shall not reinstate the Participant's Employer Contribution Account nor shall the Employer credit the Participant with service during the period of the Participant's absence from employment.

(b) If a Participant terminates service after completing five (5) Years of Service and later reparticipates under the Plan and has not commenced receiving benefits under his Contract or withdrawn all or any portion of his contributions to such Contract or Trust, the Participant shall be fully vested in his Employer Contributions Account and shall not be required to again complete five (5) Years of Service for vesting.

7.4 Vesting on Normal Retirement Date or Death. If a Participant retires under this Plan on or after his Normal Retirement Date, a Participant shall have a nonforfeitable right to one hundred percent (100%) of his Employer Contribution Account. If a Participant's Employment is terminated because of death, his Beneficiary shall have a nonforfeitable right to one hundred percent (100%) of the deceased Participant's Employer Contribution Account.

ARTICLE VIII

TIME OF RETIREMENT AND PLAN BENEFITS

8.1 Time of Retirement. A Participant shall retire under this Plan on his Retirement Date. At any time thereafter, the Participant may commence receiving benefits as provided under this Plan.

8.2 Benefits Subject to Distribution; Time of Distribution. Except as provided in Section 8.3 (relating to death benefits), a Participant's benefits under this Plan shall be provided exclusively through the Participant's Contract or the Trust under which the Participant's benefits are maintained. A Participant shall be entitled to no other benefits under this Plan. Notwithstanding anything to the contrary in this Plan, Contract or Trust, benefits shall commence no later than the April 1 following the later of the calendar year in which the Participant (i) terminates his employment with the Employer, or (ii) attains age seventy and one-half (70-1/2).

8.3 Death Benefits. In addition to any benefits provided under the Contracts or a Trust, if a Participant dies when an Employer is maintaining an Employer Contribution Account on behalf of such Participant, the entire value of the Participant's Employer Contribution Account, valued as of the Valuation Date immediately following the Participant's death shall, at the option of the Participant's Beneficiary, shall be (i) transferred by the Employer to the Insurance Company maintaining the Contract on behalf of the deceased Participant (and paid as a death benefit under the terms of the Contract); (ii) transferred by the employer to the Trustee of the Trust under which the Participant's benefits are maintained; (iii) paid by the Employer directly to the Participant's Beneficiary, in a single lump sum distribution; or (iv) any combination of the foregoing.

8.4 Form of Plan Benefits and Minimum Distributions. Other than as provided in Section 8.2 and this Section 8.4, distribution of a Participant's benefits shall be governed by the Contract maintained on behalf of the Participant or the Trust under which the Participant's benefits are maintained (on the distribution form prescribed by the Trustee or its affiliates thereunder). In no event shall the Board or any Employer be obligated or required to see to the proper application or distribution of such benefits. Notwithstanding anything to the contrary in any Contract maintained on behalf of the Participant or under any Trust under which the Participant's benefits are maintained, the following minimum distribution rules shall apply to all distributions under such Contracts or Trusts and distribution of the death benefit under Section 8.3.

(a) Distribution of benefits to a Participant shall be distributed under the Contracts or Trusts either (i) over a period not exceeding the life of the Participant or over the lives of the Participant and his Designated Beneficiary; or (ii) over a period not extending beyond the life expectancy of the Participant or the life expectancy of the Participant and his Designated Beneficiary.

(b) Upon the death of the Participant, the following distribution provisions shall take effect.

(i) If the Participant dies, after distribution of his or her interest has commenced, the remaining portion of such interest will continue to be distributed at least as rapidly as under the method of distribution being used prior to the Participant's death.

(ii) If the Participant dies before distribution of his or her interest commences, the Participant's entire interest will be distributed no later than five (5) years after the Participant's death except to the extent that an election is made to receive distributions in accordance with (A) or (B) below:

(A) If any portion of the Participant's interest is payable to a Designated Beneficiary, distributions may be made in substantially equal installments over the life expectancy of the Designated Beneficiary (or over a period not extending beyond the life expectancy of such Beneficiary) commencing on or before December 31 of the calendar year immediately following the calendar year in which the Participant died; or

(B) If the Designated Beneficiary is the Participant's surviving spouse, the date distributions are required to begin in accordance with (A) above shall not be earlier than the December 31 of the calendar year in which the Participant would have attained age seventy and one-half (70-1/2), and, if the spouse dies before payments begin, subsequent distributions shall be made as if the spouse had been the Participant.

(iii) For purposes of this subsection 8.4(b), any amount paid to a child of the Participant will be treated as if it had been paid to the surviving spouse if such amount will become payable to the surviving spouse when the child reaches the age of majority.

(c) If amounts are to be distributed to a Participant or his Beneficiary in other than a lump sum, then the amount to be distributed each year must be at least an amount equal to the quotient obtained by dividing the Participant's entire interest by the lesser of (i) the applicable life expectancy of the Participant or his Beneficiary or the joint and last survivor expectancy of the Participant and his Designated Beneficiary, or (ii) if the participant's spouse is not the designated beneficiary the applicable divisor determined from the table set forth in Q&A-4 of Proposed Treasury Regulation § 1.401(a)(9)-2, or any successor Proposed or Final Treasury Regulation. Life expectancy and joint and last survivor expectancy are computed by the use of return multiples contained in Tables V and VI of Treasury Regulation § 1.72-9. For purposes of this computation, a Participant's and his spouse's

life expectancy shall be recalculated annually; however, the life expectancy of a non-spouse Beneficiary may not be recalculated. If the Participant's spouse is not the Designated Beneficiary, the method of distribution selected must assure that at least fifty percent (50%) of the present value of the amount available for distribution is paid within the life expectancy of the Participant.

(d) In all cases, distribution of the Participant's interest in the Contract and Trust maintained pursuant to the Plan shall comply with the minimum distribution rules of Section 401(a)(9) of the Code, and the regulations thereunder, including the incidental death benefit requirements of Proposed Treasury Regulation § 1.401(a)(9)-2.

(e) Notwithstanding the foregoing provisions of this Article VIII, with respect to distributions under the Plan made on or after January 1, 2001 (the "Transition Date"), for calendar years beginning on or after January 1, 2001, the Plan will apply the minimum distribution requirement of section 401(a)(9) of the Code in accordance with the regulations under section 401(a)(9) that were proposed on January 17, 2001, (the "2001 Proposed Regulations"). If the total amount of required minimum distributions made to a Participant for 2001 prior to the Transition Date are equal to or greater than the amount of required minimum distributions determined under the 2001 Proposed Regulations, then no additional distributions are required for such Participant for 2001 on or after the Transition Date. If the total amount of required minimum distributions made to a Participant for 2001 prior to the Transition Date are less than the amount determined under the 2001 Proposed Regulations, then the amount of required minimum distributions for 2001 on or after the Transition Date will be determined so that the total amount of required minimum distributions for 2001 is the amount determined under the 2001 Proposed Regulations. This Section 8.4(e) shall continue in effect until the last calendar year beginning before the effective date of final regulations under section 401(a)(9) or such other date as may be published by the Internal Revenue Service.

ARTICLE IX

ADMINISTRATION OF THE PLAN

9.1 Board as Administrator. To facilitate administration of the Plan, the Plan shall be administered by the Board.

9.2 Board Procedure. The Board shall hold such meetings and establish such rules and procedures as may be necessary to enable it to discharge its duties hereunder. A majority of the members of the Board shall constitute a quorum. Action by the Board may be taken at a meeting by a vote of a majority of those present or without a meeting by unanimous consent in writing of all members.

9.3 Board's Powers and Duties

(a) The Board shall have all powers necessary or proper to administer the Plan and to discharge its duties under the Plan, including, but not limited to, the following powers:

(i) To make and enforce such rules and regulations as it may deem necessary or proper for the orderly and efficient administration of the Plan;

(ii) To construe and interpret the Plan and to decide any and all matters arising hereunder, including the power to remedy possible ambiguities, inconsistencies or omissions; provided, however, that all such interpretations and decisions shall be made in good faith and applied, insofar as is practicable, in a uniform and nondiscriminatory manner to all Employees similarly situated, and when so made or applied shall be binding upon all Employees and their Beneficiaries;

(iii) To compute the value of Employer Contribution Account balances and nonforfeitable percentages thereof which are payable to any Participant or Beneficiary in accordance with the provisions of the Plan;

(iv) To authorize disbursements from the Plan:

(v) To prepare and distribute information explaining the Plan; and

(vi) To appoint or employ persons to assist in the administration of the Plan, including attorneys, actuaries and accountants.

(b) The Board may from time to time allocate to one (1) or more of its members, employees or agents (and may delegate to any other person or

organization, including any Employer) any of its powers, duties and responsibilities with respect to the operation and administration of the Plan and may employ, and authorize any person to whom any of its responsibilities have been delegated to employ, persons to render advice with regard to any responsibility held hereunder.

ARTICLE X

LOANS AND WITHDRAWALS; EXCLUSIVE BENEFIT

10.1 Loans and Withdrawals.

(a) Participant loans and withdrawals from amounts attributable to Employer Contributions are not permitted either under the Plan or from any Contracts or Trusts maintained on behalf of the Participants. While employed by any Employer under this Plan, Participant loans and withdrawals from amounts attributable to Employee Contributions are not permitted either under the Plan or from any Contracts maintained on behalf of the Participants or under any Trust under which the Participant's benefits are maintained.

(b) Following a Participant's Retirement Date, loans may be made to a Participant from amounts attributable to Employee Contributions under any Contracts maintained on behalf of such Participant or under any Trust under which the Participant's benefits are maintained under such uniform terms and conditions as any Insurance Company or Trustee may offer loans under such Contracts. Any such loans shall be secured by the Participant's interest in such Contract or Trust.

10.2 Exclusive Benefit. All assets in the Participant's Employer Contribution Accounts, Contracts or Trusts under which the Participant's benefits are maintained including any interest allocated thereto, shall be retained by the Employer, Insurance Company or Trustee for the exclusive benefit of Participants and their Beneficiaries, and shall be used exclusively to pay benefits to such persons.

10.3 Return of Mistaken Contributions. The Employers contribute to this Plan on the condition their contributions are not due to a mistake of fact. An Insurance Company or a Trustee, upon written request from an Employer, must return to the Employer the amount of the Employer's contribution made by the Employer by mistake of fact. An Insurance Company or a Trustee will not return any portion of an Employer's contribution under the provisions of this Section 10.3 paragraph more than one year after the Employer made the contribution by mistake of fact. An Insurance Company or a Trustee will not increase the amount of the Employer contribution returnable under this Section 10.3 for any earnings attributable to the contribution, but an Insurance Company or a Trustee will decrease the Employer contribution returnable for any losses attributable to it. An Insurance Company or a Trustee may require the Employer to furnish it whatever evidence the Insurance Company or Trustee deems necessary to enable the Insurance Company or Trustee to confirm the amount the Employer has requested be returned is properly returnable under the principles set forth or incorporated within Internal Revenue Service Revenue Ruling 91-4.

ARTICLE XI

AMENDMENT OR TERMINATION

11.1 Right to Amend or Terminate. The Board hopes and expects to continue the Plan indefinitely. Nevertheless, the Board reserves the right to terminate or partially terminate or to suspend, or completely discontinue Employer Contributions under the Plan with respect to Employees. In addition, the Board may amend or modify the Plan from time to time, and may make any such amendments or modifications retroactively, provided that no such action shall adversely affect Participants to the extent of their vested or accrued benefits. Notwithstanding the foregoing, any modification or amendment of the Plan may be made 'retroactively, if necessary or appropriate to qualify or, maintain the Plan as one meeting the applicable requirements of the Code and the regulations that are or may be issued thereunder.

11.2 Full Vesting Upon Termination. Upon complete or partial termination of the Plan, and after receipt of notice from the Internal Revenue Service that such termination does not adversely affect the Plan's qualified status under the Code, where such approval may: be necessary or appropriate, the Employer Contribution Accounts of all Participants affected thereby shall become fully vested.

ARTICLE XII

ELIGIBLE ROLLOVER DISTRIBUTIONS

12.1 Election. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Article, a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

12.2 Definitions.

(a) Eligible rollover distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; (ii) any distribution to the extent such distribution is required under section 401(a)(9) of the Code; (iii) the portion of any distribution that is not includible in gross income; (iv) any hardship distribution described in section 401(k)(2)(B)(i)(IV); and (v) any other distribution(s) 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 described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(c) Distributee. A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

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

12.3 Commencement of Distributions. An eligible rollover distribution may commence less than 30 days after the notice required under section 402(f) of the Code is given, provided that:

(a) The plan clearly informs the distributee that the distributee has a right to a period of at least 30 days after receiving the notice to consider the

decision of whether or not to elect a direct rollover (and, if applicable, a particular distribution option), and

(b) The distributee, after receiving the notice, affirmatively elects a distribution.

ARTICLE XIII

GENERAL PROVISIONS

13.1 No Guarantee of Employment. Neither the Plan nor any provisions contained in the Plan shall be construed to be a contract between the Board and an Employee, or to be a consideration for, or an inducement for, the employment of any Employee. Nothing contained in the Plan shall be deemed to give any Employee the right to be retained in the service of any Employer or to interfere with the right of such Employer to discharge or to terminate the service of any Employee at any time, without regard to the effect such discharge or termination may have on any rights under the Plan.

13.2 Payments to Minors and Incompetents. If a Participant or Beneficiary, entitled to receive any benefits hereunder is a minor or is determined by the Insurance Company maintaining the Contract(s) providing benefits to the Participant under this Plan or the Trustee of a Trust under which the Participant's benefits are maintained, in its sole discretion, or is adjudged to be legally incapable of giving valid receipt and discharge for Plan benefits, the Insurance Company or Trustee may pay the benefits to the duly appointed guardian or conservator of such person or to retain such benefits in the Contract or Trust for the benefit of such person until distribution can be made to a duly appointed guardian or conservator or is ordered to be made by a court of competent jurisdiction. Such payment shall, to the extent made, discharge the Board, the Insurance Company and Trust of any liability for such payment under the Plan, Contract or Trust.

13.3 Nonalienation of Benefits.

(a) The Board has created this Plan to provide retirement security and protection to Plan Participants, their Beneficiaries, and persons claiming benefits through them. Except as provided in subsection 13.3(b) below, no interest in or benefit payable under the Plan or any Contract or Trust shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge; and any action by way of anticipating, alienating, selling, transferring, assigning, pledging, encumbering or charging the same shall be void and of no effect; nor shall any interest in or benefit payable under the Plan or any Contract or Trust be in any way subject to any legal or equitable process, including, but not limited to, garnishment, attachment, levy or seizure or to the lien of any person; nor shall any such interest or benefit be in any manner subject to the debts, obligations, contracts, engagements, liabilities or torts of any person entitled to payment of such benefits. Should any Participant or Beneficiary become bankrupt or attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge any interest or benefit provided under the Plan or any Contract or Trust, or should any attempt be made by any person to attach, garnish, levy or seize any interest or benefit provided pursuant to the Plan or any Contract or Trust to a Participant, Beneficiary or other person claiming benefits hereunder, then the Board, Insurance Company maintaining such Contract or Trustee of the Trust shall have authority to hold such interest or

benefit and apply it to or for the benefit of such person or his spouse, children or other dependents, or any of them, as the Board or such Insurance Company or Trustee, in its discretion, shall determine to be appropriate. This provision shall be construed to provide each Participant, Beneficiary or other person claiming any interest or benefit through the Plan or any Contract or Trust with the maximum protection against alienation, encumbrance and any legal and equitable process, including, but not limited to, attachment, garnishment, levy, seizure or other lien, afforded his interest in the Plan or any Contract or Trust (and the benefits provided thereunder) by law and any applicable regulations.

(b) This Section 13.3 shall also apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a Participant pursuant to a domestic relations order, unless such order is determined by the Board to be a "qualified domestic relations order" as defined in section 414(p) of the Code, or any domestic relations order entered before January 1, 1985. This Plan specifically permits distribution to an alternate payee under a qualified domestic relations order at any time, irrespective of whether the Participant has attained his earliest retirement age (as defined under section 414(p) of the Code) under the Plan. A distribution to an alternate payee prior to the Participant's attainment of the earliest retirement age is available only if: (i) the order specifies distribution at that time or permits an agreement between the Plan and the alternate payee to authorize an earlier distribution; and (ii) if the present value of the alternate payee's benefits under the Plan exceeds \$5,000, the alternate payee consents in writing to such distribution. Nothing in this Section shall permit a Participant a right to receive distribution at a time otherwise not permitted under the Plan nor shall it permit the alternate payee to receive a form of payment not permitted under Section 8.4 of the Plan.

13.4 Right to Plan Assets. No Employee or Beneficiary shall have any right to, or interest in, any assets of the Plan upon termination of his employment or otherwise, except as provided under this Plan or any Contract or Trust, and then only to the extent of the benefits payable under the Plan or any Contract or Trust to such Employee or Beneficiary out of the assets of the Plan or any Contract or Trust. All benefits provided for in this Plan or any Contract or Trust shall be provided solely from the assets of the Participant's Employer Contribution Accounts and the Contracts maintained by the Insurance Companies on behalf of Participants or the Trusts under which the Participants' benefits are maintained, and no Employee shall have recourse against the Board with respect to any benefit not provided through the assets of the Plan or any Contract or Trust.

13.5 Benefits Provided Under Plan, Contracts and Trusts. The benefits provided under the Plan, Contracts and Trusts as provided herein are based solely on the values of the amounts in the Contracts or Trusts and the value of the Employer Contribution Account, if applicable, as of the date benefits are to commence. Neither the Board nor any Employer guarantees the payment of any benefit or the amount of any benefit; further, neither the Board nor any Employer guarantees any rate of return

on the amounts invested in the Contracts or Trusts or Employer Contribution Accounts on behalf of the Participants.

13.6 Unknown Whereabouts. It shall be the affirmative duty of each Participant to inform the Board of his current post office address and the address of his Beneficiary. Each Participant and Beneficiary acknowledges that failure to inform the Board of his current post office address may result in late payment of benefits or loss of benefits through any applicable escheat laws.

13.7 Construction. The Plan shall be construed, enforced and administered according to the laws of the State of Arizona and shall in all cases be subject to the provisions of A.R.S. section 15-1628. In case any provision of the Plan is held to be illegal or invalid for any reason, it shall not affect the remaining provisions of the Plan, but the Plan shall be construed and enforced as if such illegal or invalid provision had not been included therein.

IN WITNESS WHEREOF, the Board has caused this Plan to be signed and acknowledged by its duly authorized officer.

Dated this 1st day of May, 2002.

ARIZONA BOARD OF REGENTS

By Linda J. Blessing
Linda J. Blessing
Executive Director

**EGTRRA
AMENDMENT TO THE
ARIZONA BOARD OF REGENTS
OPTIONAL RETIREMENT PLAN
(THIRD AMENDMENT AND RESTATEMENT)**

**ARTICLE I.
PREAMBLE**

- 1.1 Adoption and effective date of amendment. This amendment of the plan is adopted to reflect certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"). This amendment is intended as good faith compliance with the requirements of EGTRRA and is to be construed in accordance with EGTRRA and guidance issued thereunder. Except as otherwise provided, this amendment shall be effective as of the first day of the first plan year beginning after December 31, 2001.
- 1.2 Supersession of inconsistent provisions. This amendment shall supersede the provisions of the plan to the extent those provisions are inconsistent with the provisions of this amendment.

**ARTICLE II.
INCREASE IN COMPENSATION LIMIT**

Increase in Compensation Limit. The annual compensation of each participant taken into account in determining allocations for any plan year beginning after December 31, 2001, shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. Annual compensation means compensation during the plan year or such other consecutive 12-month period over which compensation is otherwise determined under the plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. The annual compensation limit set forth in this Article II shall not reduce the compensation that can be taken into account for an "eligible participant" (as defined in subsection 2.5(d) of the plan document) below the compensation limits otherwise set forth in section 2.5 of the plan document applicable to an eligible participant.

**ARTICLE III.
LIMITATIONS ON CONTRIBUTIONS (IRC SECTION 415 LIMITS)**

- 3.1 Effective date. This Section shall be effective for limitation years beginning after December 31, 2001.
- 3.2 Maximum annual addition. Except to the extent permitted under Section 414(v) of the Code, if applicable, the annual addition that may be contributed or allocated to a participant's account under the plan for any limitation year shall not exceed the lesser of:
 - a. \$40,000, as adjusted for increases in the cost-of-living under Section 415(d) of the Code, or
 - b. 100 percent of the participant's compensation, within the meaning of Section 415(c)(3) of the Code, for the limitation year.

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

**ARTICLE IV.
DIRECT ROLLOVERS**

- 4.1 Effective date. This Article shall apply to distributions made after December 31, 2001.
- 4.2 Modification of definition of eligible retirement plan. For purposes of the direct rollover provisions of the plan, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or

former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Code.

- 4.3 Modification of definition of eligible rollover distribution to exclude hardship distributions. For purposes of the direct rollover provisions of the plan, any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the distributee may not elect to have any portion of such a distribution paid directly to an eligible retirement plan.
- 4.4 Modification of definition of eligible rollover distribution to include after-tax employee contributions. For purposes of the direct rollover provisions in the plan, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

**ARTICLE V.
ROLLOVERS FROM OTHER PLANS**

Rollovers from other plans. The employer, operationally and on a nondiscriminatory basis, may limit the source of rollover contributions that may be accepted by this plan.

This amendment has been executed this 1st day of May, 2002.

Name of Employer: Arizona Board of Regents

By: Linda J. Blessing
Linda J. Blessing, Executive Director

Name of Plan: Arizona Board of Regents Optional Retirement Plan (Third Amendment and Restatement)

MINIMUM DISTRIBUTION REQUIREMENTS
SECOND AMENDMENT TO THE
ARIZONA BOARD OF REGENTS
OPTIONAL RETIREMENT PLAN
(THIRD AMENDMENT AND RESTATEMENT)

**ARTICLE I
GENERAL RULES**

- 1.1. Effective Date. The provisions of this Amendment will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- 1.2. Coordination with Minimum Distribution Requirements Previously in Effect. If the effective date of this Amendment is earlier than calendar years beginning with the 2003 calendar year, required minimum distributions for 2002 under this Amendment will be determined as follows. If the total amount of 2002 required minimum distributions under the Plan made to the distributee prior to the effective date of this Amendment equals or exceeds the required minimum distributions determined under this Amendment, then no additional distributions will be required to be made for 2002 on or after such date to the distributee. If the total amount of 2002 required minimum distributions under the Plan made to the distributee prior to the effective date of this Amendment is less than the amount determined under this Amendment, then required minimum distributions for 2002 on and after such date will be determined so that the total amount of required minimum distributions for 2002 made to the distributee will be the amount determined under this Amendment.
- 1.3. Precedence. The requirements of this Amendment will take precedence over any inconsistent provisions of the Plan.
- 1.4. Requirements of Treasury Regulations Incorporated. All distributions required under this Amendment will be determined and made in accordance with the Treasury regulations under Section 401(a)(9) of the Internal Revenue Code.
- 1.5. TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this Amendment, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.

**ARTICLE II
TIME AND MANNER OF DISTRIBUTION**

- 2.1. Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.
- 2.2. Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
 - (a) If the Participant's surviving spouse is the Participant's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
 - (b) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
 - (c) If there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
 - (d) If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 2.2, other than Section 2.2(a), will apply as if the surviving spouse were the Participant.

For purposes of this Section 2.2 and Article IV, unless Section 2.2(d) applies, distributions are considered to begin on the Participant's required beginning date. If Section 2.2(d) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 2.2(a). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 2.2(a)), the date distributions are considered to begin is the date distributions actually commence.

- 2.3. Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Articles 3 and 4 of this Amendment. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations.

ARTICLE III REQUIRED MINIMUM DISTRIBUTIONS DURING PARTICIPANT'S LIFETIME

- 3.1. Amount of Required Minimum Distribution For Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:
- (a) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations using the Participant's age as of the Participant's birthday in the distribution calendar year, or
 - (b) if the Participant's sole designated beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.
- 3.2. Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Article 3 beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

ARTICLE IV REQUIRED MINIMUM DISTRIBUTIONS AFTER PARTICIPANT'S DEATH

- 4.1. Death On or After Date Distributions Begin.
- (a) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated beneficiary, determined as follows:
 - (1) 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) If the Participant's surviving spouse is the Participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
 - (3) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.
 - (b) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
- 4.2. Death Before Date Distributions Begin.
- (a) Participant Survived by Designated Beneficiary. If the Participant dies before the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated beneficiary, determined as provided in Section 4.1.

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

(c) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 2.2(a), this Section 4.2 will apply as if the surviving spouse were the Participant.

ARTICLE V DEFINITIONS

- 5.1. Designated beneficiary. The individual who is designated as the Beneficiary under the Plan and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.
- 5.2. Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 2.2. The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.
- 5.3. Life expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.
- 5.4. Participant's account balance. The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.
- 5.5. Required beginning date. The date specified in the Plan when distributions under Section 401(a)(9) of the Internal Revenue Code are required to begin.

This second amendment has been executed this 29 day of April, 2003.

Name of Plan: Arizona Board of Regents Optional Retirement Plan (Third Amendment and Restatement)

Name of Employer: Arizona Board of Regents

By: Linda J. Blessing
Linda J. Blessing, Executive Director

**THIRD AMENDMENT
TO
ARIZONA BOARD OF REGENTS
OPTIONAL RETIREMENT PLAN
(THIRD AMENDMENT AND RESTATEMENT)**

WHEREAS, the Arizona Board of Regents (the "Board"), a body corporate created under Article 2, Chapter 13, Title 15, Arizona Revised Statutes (A.R.S. sections 15-1621, et seq.), adopted in amended and restated form, the Arizona Board of Regents Optional Retirement Plan (Third Amendment and Restatement) (the "Plan"), effective July 1, 1997, to provide retirement benefits to certain employees of the Board and Universities; and

WHEREAS, the Board is authorized, pursuant to Section 11.1 of the Plan, to adopt amendments to the Plan; and

NOW, THEREFORE, pursuant to the authority granted in Section 11.1 of the Plan, the following amendments are adopted, effective as hereafter provided:

1. Paragraph (a) of Section 2.5, Compensation, of Article II,

DEFINITIONS, is amended in its entirety, effective July 1, 2001, to read as follows:

“(a) ‘Compensation’ means the remuneration paid to an Employee as his base wage or salary, including bonuses and overtime paid, but excluding living or other allowances, premium payments, compensation in kind, payments made to any employee pension or welfare benefit plan, or any other special or unusual form of compensation. Notwithstanding the foregoing, the Board hereby elects to include as Compensation any amount which is contributed by an Employer pursuant to a salary reduction agreement between the Employer and an Employee and which is not includable in the gross income of an Employee under sections 125, 132(f)(4), 403(b) or 414(h)(2) of the Code or amounts deferred under an eligible deferred compensation plan within the meaning of section 457(b) of the Code.”

2. Paragraph (b) of Section 5.5, Maximum Additions, of Article V, MAINTENANCE OF ACCOUNTS, is amended in its entirety, effective July 1, 1998, to read as follows:

"(b) Any provisions of this Plan to the contrary notwithstanding, the sum of the annual additions on behalf of a Participant in any limitation year under this Plan and under any other defined contribution plan maintained by the Board or an Employer shall not exceed the lesser of \$30,000 (or such larger amount prescribed by the United States Secretary of the Treasury as provided under Section 415(d) of the Code) or twenty-five percent (25%) of the Participant's compensation for such limitation year. An annual addition shall be deemed to be credited on behalf of a Participant for a particular limitation year if it is allocated under the terms of such defined contribution plan as of any date within such limitation year. Treasury Regulations § 1.415-6(b)(7) shall govern determination of the time at which an annual addition is credited on behalf of a Participant. The term 'compensation' as used in this Section 5.5 shall mean the Participant's earned income, wages, salaries, fees for professional services and other amounts received for personal services actually rendered in the course of employment with the Participant's Employer. The term "compensation" shall not include:

(i) Employer contributions to a plan of deferred compensation to the extent the contributions are not included in the gross income of the Participant for the taxable year in which contributed, on behalf of a Participant to a simplified employee pension plan described in section 408(k) of the Code and any distributions from a plan of deferred compensation, regardless of whether such amounts are includible in the gross income of the employee when distributed.

(ii) Other amounts which receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includible in the gross income of the Participant), or contributions made by the Participant's Employer (whether or not under a salary reduction agreement) towards the purchase of an annuity

contract described in section 403(b) of the Code (whether or not the contributions are excludible from the gross income of the Participant).

Notwithstanding the foregoing, the term 'compensation' shall include:

(iii) any elective deferrals (as defined in section 402(g)(3) of the Code);

(iv) any amount which is contributed or deferred by an Employer at the election of a Participant and which is not includible in the gross income of the Employee by reason of section 125 or 457 of the Code; and

(v) effective July 1, 2001, any amount which is contributed or deferred by an Employer at the election of a Participant and which is not includible in the gross income of the Participant by reason of section 132(f)(4) of the Code."

3. Paragraph (b) of Section 7.2, Employer Contributions, of Article VII,

VESTING, is amended in its entirety, effective January 1, 2003, to read as follows:

"(b) If, on the Participant's Employment Date or Reemployment Date (as the case may be), the Participant is the owner of a contract which the Employer determines is a contract maintained under a defined contribution or defined benefit retirement program of a college, university or higher education organization located in a state other than Arizona or a similar type retirement plan of a college, university or higher education organization located in any country other than the United States, such Participant shall have a nonforfeitable right to one hundred percent (100%) of his Employer Contribution Account without regard to completing any Years of Service under this Plan. This paragraph shall apply regardless of the insurance company or other provider of the contract owned by the Participant under the other state defined contribution retirement program. Upon entry into the Plan, such Participant may select to transfer the benefits under such other contract to any Insurance Company or Trustee as permitted under Section 6.8 of the Plan. The Participant shall submit such evidence as the Board may require to make a determination that the Participant is entitled to full vesting under this Paragraph 7.2(b)."

4. Nothing in this Third Amendment shall be construed to adversely affect the rights of any Participant to any benefit provided under the Plan or to decrease any accrued benefit under the Plan, except to the extent permitted under the Code or necessary to maintain the Plan as one qualified under Section 401(a) of the Code.

IN WITNESS WHEREOF, the Board has caused this Third Amendment to be executed by its duly authorized officer this 29 day of April, 2003.

ARIZONA BOARD OF REGENTS

By Linda J. Blessing
Linda J. Blessing, Executive Director

**FOURTH AMENDMENT
TO
ARIZONA BOARD OF REGENTS
OPTIONAL RETIREMENT PLAN
(THIRD AMENDMENT AND RESTATEMENT)**

WHEREAS, the Arizona Board of Regents (the "Board"), a body corporate created under Article 2, Chapter 13, Title 15, Arizona Revised Statutes (A.R.S. sections 15-1621, et seq.), adopted in amended and restated form, the Arizona Board of Regents Optional Retirement Plan (Third Amendment and Restatement) (the "Plan"), effective July 1, 1997, to provide retirement benefits to certain employees of the Board and Universities; and

WHEREAS, the Board is authorized, pursuant to Section 11.1 of the Plan, to adopt amendments to the Plan; and

NOW, THEREFORE, pursuant to the authority granted in Section 11.1 of the Plan, the following amendments are adopted, effective as hereafter provided:

1. Paragraph (c) of Section 2.9, Employee, of Article II, DEFINITIONS, is amended in its entirety, effective July 1, 1997, to read as follows:

“(c) The term ‘Employee’ shall also include any leased employee deemed to be an employee of an Employer as provided in sections 414(n) or (o) of the Code. A leased employee within the meaning of section 414(n)(2) of the Code shall not be eligible to participate in this Plan. As provided in section 414(n)(2) of the Code, ‘leased employee’ means an individual (who otherwise is not an Employee of the Employer) who, pursuant to an agreement between the Employer and any other person, has performed services for the Employer (or for the Employer and any persons related to the Employer within the meaning of section 144(a)(3) of the Code) on a substantially full time basis for at least one year and who performs such services under primary direction or control of the Employer within the meaning of section 414(n)(2) of the Code.”

2 Nothing in this Fourth Amendment shall be construed to adversely affect the rights of any Participant to any benefit provided under the Plan or to decrease any accrued benefit under the Plan, except to the extent permitted under the Code or necessary to maintain the Plan as one qualified under Section 401(a) of the Code.

IN WITNESS WHEREOF, the Board has caused this Fourth Amendment to be executed by its duly authorized officer this 29 day of APRIL, 2004.

ARIZONA BOARD OF REGENTS

By Linda J. Blessing
Linda J. Blessing, Executive Director

**FIFTH AMENDMENT
TO
ARIZONA BOARD OF REGENTS
OPTIONAL RETIREMENT PLAN
(THIRD AMENDMENT AND RESTATEMENT)**

WHEREAS, the Arizona Board of Regents (the "Board"), a body corporate created under Article 2, Chapter 13, Title 15, Arizona Revised Statutes (A.R.S. sections 15-1621, et seq.), adopted in amended and restated form, the Arizona Board of Regents Optional Retirement Plan (Third Amendment and Restatement) (the "Plan"), effective July 1, 1997, to provide retirement benefits to certain employees of the Board and Universities; and

WHEREAS, the Board is authorized, pursuant to Section 11.1 of the Plan, to adopt amendments to the Plan; and

NOW, THEREFORE, pursuant to the authority granted in Section 11.1 of the Plan, the following amendments are adopted, effective as hereafter provided:

1. Section 2.20, Retirement Date, of Article II, DEFINITIONS, is amended in its entirety, effective July 1, 2003, to read as follows:

"2.20 Retirement Date.

(a) "Retirement Date" means the date on which a Participant terminates Employment with all Employers.

(b) "Normal Retirement Date" means the earlier of: (i) the date on which a Participant attains age sixty-five (65) while employed by any Employer; or (ii) the day before the Participant's death, with respect to any Participant who dies while employed by any Employer.

(c) For all purposes under this Plan, a Participant must terminate employment with all Employers to be entitled to payment of any benefits under this Plan. The determination of whether a Participant has terminated employment with all Employers shall be based on all the facts and

circumstances in connection with such termination (e.g., the existence of a written or oral arrangement providing for the Employee's reemployment at some date in the future will be evidence that termination of employment has not occurred, etc.). Such a determination shall be made by the Board (or its delegate) in its sole and absolute discretion, which shall be binding on the affected Participant. In no event shall a Participant be considered as having terminated employment if, as such date of termination, the Participant has entered into an express or implied contract (whether written or oral) for reemployment of the Participant with any Employer at some future date."

2. Nothing in this Fifth Amendment shall be construed to adversely affect the rights of any Participant to any benefit provided under the Plan or to decrease any accrued benefit under the Plan, except to the extent permitted under the Code or necessary to maintain the Plan as one qualified under Section 401(a) of the Code.

IN WITNESS WHEREOF, the Board has caused this Fifth Amendment to be executed by its duly authorized officer this 28 day of June, 2004.

ARIZONA BOARD OF REGENTS

By Ann de J. Keleny
Executive Director

**SIXTH AMENDMENT
TO
ARIZONA BOARD OF REGENTS
OPTIONAL RETIREMENT PLAN
(THIRD AMENDMENT AND RESTATEMENT)**

WHEREAS, the Arizona Board of Regents (the "Board"), a body corporate created under the Arizona Constitution, Article 11, adopted in amended and restated form the Arizona Board of Regents Optional Retirement Plan (Third Amendment and Restatement) (the "Plan"), effective July 1, 1997, to provide retirement benefits to certain employees of the Board and Universities; and

WHEREAS, the Board is authorized, pursuant to Section 11.1 of the Plan, to adopt amendments to the Plan; and

NOW, THEREFORE, pursuant to the authority granted in Section 11.1 of the Plan, the following amendments are adopted, effective as hereafter provided:

1. Section 2.20, Retirement Date, of Article II, DEFINITIONS, is amended in its entirety, effective July 1, 2005, to read as follows:

"2.20 Retirement Date.

(a) 'Retirement Date' means the date on which a Participant terminates Employment with all Employers.

(b) 'Normal Retirement Date' means the earlier of: (i) the date on which a Participant attains age sixty-five (65) while employed by any Employer; or (ii) the day before the Participant's death, with respect to any Participant who dies while employed by any Employer and who, prior to death, would have attained his or her normal retirement date as defined in the Arizona Revised Statutes governing the Arizona State Retirement System (currently, A.R.S. § 38-711(27)).

(c) For all purposes under this Plan, a Participant must terminate employment with all Employers to be entitled to payment of any benefits under this Plan. The determination of whether a Participant has terminated

employment with all Employers shall be based on all the facts and circumstances in connection with such termination (e.g., the existence of a written or oral arrangement providing for the Employee's reemployment at some date in the future will be evidence that termination of employment has not occurred, etc.). Such a determination shall be made by the Board (or its delegate) in its sole and absolute discretion, which shall be binding on the affected Participant. In no event shall a Participant be considered as having terminated employment if, as such date of termination, the Participant has entered into an express or implied contract (whether written or oral) for reemployment of the Participant with any Employer at some future date."

2. Nothing in this Sixth Amendment shall be construed to adversely affect the rights of any Participant to any benefit provided under the Plan or to decrease any accrued benefit under the Plan, except to the extent permitted under the Code or necessary to maintain the Plan as one qualified under Section 401(a) of the Code.

IN WITNESS WHEREOF, the Board has caused this Sixth Amendment to be executed by its duly authorized officer this 4th day of December, 2006.

ARIZONA BOARD OF REGENTS

By Joel Sideman
Executive Director

**SEVENTH AMENDMENT
TO
ARIZONA BOARD OF REGENTS
OPTIONAL RETIREMENT PLAN
(THIRD AMENDMENT AND RESTATEMENT)**

WHEREAS, the Arizona Board of Regents (the "Board"), a body corporate created under Article 2, Chapter 13, Title 15, Arizona Revised Statutes (A.R.S. sections 15-1621, et seq.), adopted in amended and restated form the Arizona Board of Regents Optional Retirement Plan (Third Amendment and Restatement) (the "Plan"), effective July 1, 1997, to provide retirement benefits to certain employees of the Board and Universities; and

WHEREAS, the Board is authorized, pursuant to Section 11.1 of the Plan, to adopt amendments to the Plan; and

NOW, THEREFORE, pursuant to the authority granted in Section 11.1 of the Plan, the following amendments are adopted, effective as hereafter provided:

1. Paragraph (c) of Section 2.20, Retirement Date, of Article II, DEFINITIONS, is amended in its entirety, effective July 1, 2008, to read as follows:

"(c) For all purposes under this Plan and except as provided in paragraph (b) of Section 8.1 (dealing with phased retirement), a Participant must terminate employment with all Employers to be entitled to payment of any benefits under this Plan. The determination of whether a Participant has terminated employment with all Employers shall be based on all the facts and circumstances in connection with such termination (e.g., the existence of a written or oral arrangement providing for the Employee's reemployment at some date in the future will be evidence that termination of employment has not occurred, etc.). Such a determination shall be made by the Board (or its delegate) in its sole and absolute discretion, which shall be binding on the affected Participant. In no event shall a Participant be considered

as having terminated employment if, as such date of termination, the Participant has entered into an express or implied contract (whether written or oral) for reemployment of the Participant with any Employer at some future date.”

2. Paragraph (b) of Section 7.2, Employer Contributions, of Article VII,

VESTING, is amended in its entirety, effective July 1, 2008, to read as follows:

“(b) If, on the Participant's Employment Date or Reemployment Date (as the case may be), the Participant is the owner of a contract which the Employer determines is a contract maintained under a defined contribution or defined benefit retirement program of (i) a college, university, higher education organization or research organization located anywhere in the United States, (ii) a similar type retirement plan of a college, university or higher education organization located in any country or territory other than the United States, or (iii) the Arizona State University Foundation, the Northern Arizona University Foundation, or the University of Arizona Foundation, such Participant shall have a nonforfeitable right to one hundred percent (100%) of his Employer Contribution Account without regard to completing any Years of Service under this Plan. This paragraph shall apply regardless of the insurance company or other provider of the contract owned by the Participant under the other retirement program. Upon entry into the Plan, such Participant may select to transfer the benefits under such other contract to any Insurance Company or Trustee as permitted under Section 6.8 of the Plan. The Participant shall submit such evidence as the Board may require to make a determination that the Participant is entitled to full vesting under this Paragraph 7.2(b).”

3. Section 8.1, Time of Retirement, of Article VIII, TIME OF

RETIREMENT AND PLAN BENEFITS, is amended in its entirety, effective July 1, 2008, to read as follows:

“8.1 Time of Retirement; Phased Retirement.

(a) A Participant shall retire under the Plan on his Retirement Date. At any time thereafter, the Participant may commence receiving benefits as provided under this Plan.

(b) In addition to the foregoing, a Participant may participate in a phased retirement program maintained by an Employer and

commence receiving benefits as provided under this Plan, provided that all of the following conditions are met:

(i) The Participant has attained age sixty-two (62) while employed by any Employer;

(ii) The Participant is fully vested in his or her Employer Contribution Account, as provided under Article VII of this Plan; and

(iii) The Participant has entered into a written agreement with his or her Employer setting forth the Participant's eligibility and the terms and conditions of the Participant's phased retirement commencing at age sixty-two (62) or thereafter."

4. Section 10.1, Loans and Withdrawals, of Article X, LOANS AND WITHDRAWALS; EXCLUSIVE BENEFIT, is amended adding a new paragraph (c), effective July 1, 2008, to read as follows:

" (c) Notwithstanding the foregoing paragraphs (a) and (b) of this Section 10.1, a Participant may commence receiving benefits under a phased retirement program as provided in paragraph (b) of Section 8.1, while employed by an Employer."

5. Nothing in this Seventh Amendment shall be construed to adversely affect the rights of any Participant to any benefit provided under the Plan or to decrease any accrued benefit under the Plan, except to the extent permitted under the Code or necessary to maintain the Plan as one qualified under Section 401(a) of the Code.

IN WITNESS WHEREOF, the Board has caused this Seventh Amendment to be executed by its duly authorized officer this 11th day of December, 2007.

ARIZONA BOARD OF REGENTS

By Jed Sideman
Executive Director