

**NEVADA SYSTEM OF HIGHER EDUCATION
DEFINED CONTRIBUTION
RETIREMENT PLAN
ALTERNATIVE**



**RESTATEMENT EFFECTIVE
JANUARY 1, 2008**

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Article 1: Definitions

- 1.1 **Accumulation Account** means the separate account(s) established for each Participant. The current value of a Participant's Accumulation Account includes all Plan Contributions, less expense charges, and reflects credited investment experience.
- 1.2 **Annual Additions** means the sum of the following amounts credited to a Participant's Accumulation Account during the limitation year: (a) Plan Contributions; (b) forfeitures, if any; and (c) individual medical account amounts described in sections 415(c)(2) and 419A(f)(2) of the Code, if any.
- 1.3 **Beneficiary(ies)** means the individual, institution, trustee, or estate designated by the Participant to be the Beneficiary in writing to the Fund Sponsor or the Plan Administrator. If a Participant fails to designate a Beneficiary, the Participant's estate will be designated the Beneficiary by default.
- 1.4 **Board** means the Nevada System of Higher Education (formerly "University and Community College System of Nevada"), Board of Regents.
- 1.5 **Code** means the Internal Revenue Code of 1986, as amended.
- 1.6 **Compensation** means the basic annual earnings (Regular Salary) of a Participant under the terms of his or her contract, excluding any supplementary letter of appointment or secondary appointment.

"Regular Salary" includes:

- (a) Base pay, which is the monthly rate of pay excluding all fringe benefits.
- (b) Payment for extra duty assignments if it is the standard practice of the Institution to include such pay in the employment contract or official job description for the calendar or academic year in which it is paid and such pay is specifically included in the Employee's employment contract or official job description.

"Regular Salary" does not include payment for overtime, terminal leave, bonus or secondary employment, overload salary, summer salary, vacation payoff, early retirement incentive payments, and payments directly from workers' compensation.

In addition to other applicable limitations stated in the Plan, and notwithstanding any other provision of the Plan to the contrary, the annual Compensation of each employee taken into account under the Plan shall not exceed the limitation set forth in section 401(a)(17) of the Code.

Notwithstanding the above, employees who became Participants in the Plan before the first day of the Plan Year beginning on or after January 1, 1996 will not be subject to the OBRA '93 annual Compensation limit. Employees who became Plan Participants prior January 1, 1996, shall be subject to the maximum permissible dollar limitation permitted by the Tax Reform Act of 1986 and adjusted subject to the maximum permissible dollar limitation permitted by the Internal Revenue Service.

- 1.7 **Discretionary Contributions** means contributions made under the Plan by the Institution pursuant to Section 4.2 hereof, in a discretionary amount determined annually by the Board.
- 1.8 **Discretionary Eligible Employee** means an Eligible Employee who is named in Appendix A hereto as eligible to receive an allocation of Discretionary Contributions.
- 1.9 **Eligible Employee** means any professional employee of the Institution who is employed on an “A” or “B” contract of no less than half-time equivalent; however, the term Eligible Employee does not include a person who has accrued retirement benefits under the Nevada Public Employee Retirement System (PERS), or whose employment is incidental to his or her educational program.

The term Eligible Employee does not include any employee who is a leased employee within the meaning of Code section 414(n)(2).

- 1.10 **Fund Sponsor** means an insurance, variable annuity or investment company that provides Funding Vehicles available to Participants under this Plan and is specifically approved by the Institution for use under this Plan.
- 1.11 **Funding Vehicles** means the annuity contracts or custodial accounts that satisfy the requirements of Code section 401(f) issued for funding accrued benefits under this Plan and specifically approved by the Institution for use under this Plan.
- 1.12 **Institution** means the Nevada System of Higher Education (formerly “University and Community College System of Nevada” (UCCSN)) and includes the following entities:
- (a) Nevada System of Higher Education System Administration and other “special units”
 - (b) College of Southern Nevada
 - (c) Desert Research Institute
 - (d) Great Basin College
 - (e) Nevada State College
 - (f) Truckee Meadows Community College
 - (g) University of Nevada, Las Vegas
 - (h) University of Nevada, Reno
 - (i) Western Nevada College
- 1.13 **Institution Plan Contributions** means contributions made by the Institution under this Plan.
- 1.14 **Normal Retirement Age** means the date on which the Participant has attained:
- (a) age 65 and completed at least 5 years of service with the Institution, or

- (b) age 60 and completed at least 10 years of service with the Institution, or
 - (c) any age and completed at least 30 years of service with the Institution.
- 1.15 **Participant** means any Eligible Employee of the Institution participating in this Plan.
- 1.16 **Participant Plan Contributions** means contributions made by the Participant under this Plan. Participant Plan Contributions are designated as being picked up by the Institution in lieu of contributions by the Participant, in accordance with Code section 414(h)(2). The pick up amounts cannot be received directly by the Participant and are required to be made.
- 1.17 **Plan** means the Institution's Defined Contribution Retirement Plan Alternative as set forth in this document and as amended from time to time.
- 1.18 **Plan Contributions** mean contributions made under the Plan by the Participant and by the Institution, including Retirement Plan Contributions pursuant to Section 4.1 of the Plan and Discretionary Contributions pursuant to Section 4.2 of the Plan.
- 1.19 **Plan Entry Date** means the effective date of the appointment for an administrative and/or academic faculty member, or the date on which an Employee first completes an Hour of Service (as defined under Labor Regulations section 2530.200b-2, incorporated herein by reference) for the Institution during the current period of employment for all other Employees.
- 1.20 **Plan Year** means January 1 through December 31.
- 1.21 **Retirement Plan Contributions** means contributions made to the Plan by the Institution pursuant to Section 4.1 hereof.

Article II: Establishment of Plan

- 2.1 *Establishment of Plan.* The Board of Regents of the Nevada System of Higher Education (formerly “University and Community College System of Nevada” (UCCSN)) established the Plan effective January 1, 1970. This Plan document sets forth the provisions of this profit sharing plan which satisfies the requirements of Code section 401(a). The Plan was restated as of January 1, 2008. Plan Contributions are invested, at the direction of each Participant, in one or more of the approved Funding Vehicles available to Participants under the Plan. Plan Contributions shall be held for the exclusive benefit of Participants.

This Plan is intended to provide a retirement plan alternative to Social Security for all Eligible Employees as set forth in the Omnibus Budget Reconciliation Act of 1990 (OBRA) and to satisfy the requirements under Treasury Regulations section 31.3121(b)(7)-2.

Article III: Eligibility for Participation

- 3.1 **Eligibility.** An Eligible Employee must, as a condition of employment begin participation in this Plan on the Plan Entry Date following the date on which he or she becomes an Eligible Employee at the Institution.
- 3.2 **Notification.** The Institution will notify an Eligible Employee when he or she has completed the requirements necessary to become a Participant. An Eligible Employee who complies with the requirements and becomes a Participant is entitled to the benefits and is bound by all the terms, provisions, and conditions of this Plan, including any amendments that, from time to time, may be adopted, and including the terms, provisions and conditions of any Funding Vehicle(s) to which Plan Contributions for the Participant have been applied.
- 3.3 **Enrollment in Plan.** To participate in this Plan, an Eligible Employee must complete the necessary enrollment form(s) and return them to the Institution. An employee who has been notified that he or she is eligible to participate but who fails to return the enrollment forms will be automatically enrolled in a default Fund Sponsor's Funding Vehicle, as determined from time to time based on recommendations by the Institution's Retirement Plan Advisory Committee, as approved by the Institution's Chancellor.
- 3.4 **Re-employment.** A former employee who is re-employed by the Institution will be eligible to participate upon meeting the requirements stated in Section 3.1. A former employee who satisfied these requirements before termination of employment will be eligible to begin participation immediately after re-employment provided the former employee is an Eligible Employee.
- 3.5 **Termination of Participation.** A Participant will continue to be eligible for the Plan until one of the following conditions occur:
- (a) His or her contributions under the Plan are terminated;
 - (b) The Plan is terminated;
 - (c) He or she terminated employment and is later rehired in a class of Employee not eligible for participation in the Plan, such Employee shall become an inactive Participant in this Plan and shall be eligible for participation in the Nevada Public Employees' Retirement system (PERS). Thereafter such Employee shall be ineligible for active participation in this Plan. If an Eligible Employee is reclassified to a class of Employee not eligible for participation in the Plan without an interruption of employment, such Employee shall continue as a Participant in this Plan.

Article IV: Plan Contributions

4.1 **Plan Contributions.** Plan Contributions will be made as a percentage of Compensation for Eligible Employees who have satisfied the requirements of Article III, in accordance with the schedule below:

By the <u>Institution</u>	Picked Up By the <u>Institution for the Participant</u>
10.5%*	10.5%*

* The contribution percentages will be adjusted automatically as such percentages are authorized pursuant to Nevada Revised Statute 286.808.

Institution Plan Contributions are considered to be credited to Participants' Accumulation Account(s) no later than the last day of the Plan Year for which the Plan Contributions are made, whereas Participant Plan Contributions (picked up by the Institution for the Participant) will be forwarded to the Fund Sponsor as soon as it is administratively feasible for the Institution to segregate contributions, but in any event within the time required by law.

Subject to the limitations of Section 4.9 hereof, Plan Contributions made hereunder on behalf of a Participant who has entered into a phased retirement agreement with the entity by whom he is employed within the Institution shall be based upon the Compensation he would have received had he continued to work in a full-time status for the Institution, as described below; provided that:

- (a) The phased retirement agreement is approved by the president of such entity; and
- (b) The Participant has attained Normal Retirement Age; and
- (c) The Participant works half-time or more, but less than full-time, according to the regular schedule established by the Participant's employer for his position; and
- (d) The Participant's employment ends on or before the fifth anniversary of the date on which the phased retirement agreement became effective.

The phased retirement agreement may not be changed without specific written endorsement of the campus president and written approval of the Chancellor of the Institution.

For purposes of this Section 4.1, "Compensation he would have received had he continued to work in a full time status for the Institution" means an amount equal to the base salary such Participant actually received during the last contract year of his full-time employment, adjusted to include increases to offset higher costs of living provided to similarly situated employees of the same employer, and any merit award to the Participant.

4.2 **Discretionary Contributions.** Discretionary Contributions shall be made annually in amounts determined each year by the Board, which may be a flat dollar amount for each Discretionary Eligible Employee, or may be another amount determined by the Board,

which shall be allocated among Discretionary Eligible Employees on a per capita basis. Discretionary Contributions for any Plan Year shall be allocated to the Accumulation Account of each Discretionary Eligible Employee who is employed on June 30 of that year.

Discretionary Contributions shall be credited to a Discretionary Contributions subaccount of the Participant's Accumulation Account(s) no later than the last day of the Plan Year for which the Discretionary Contributions are made.

- 4.3 ***When Contributions Are Made.*** Retirement Plan Contributions will begin when the Institution has determined that the Participant has met or will meet the requirements of Article III. Any part of a year's Plan Contributions not contributed before this determination will be included in contributions made for that year after the determination. Plan Contributions will be forwarded to the Funding Vehicle(s) in accordance with the procedures established by the Institution. Institution Plan Contributions will be forwarded to the Funding Vehicles at least annually. Participant Plan Contributions (picked up by the Institution for the Participant) will be forwarded by the Institution to the Fund Sponsor as soon as it is administratively feasible for the Institution to segregate contributions, but in any event within the time required by law.
- 4.4 ***Allocation of Contributions.*** A Participant may allocate Plan Contributions to the Funding Vehicle(s) in any whole-number percentages that equal 100 percent. A Participant may change his or her allocation of future contributions to the Funding Vehicle(s) at any time. Retirement Plan Contributions and any Discretionary Contributions shall be credited to separate subaccounts by the Fund Sponsors.
- 4.5 ***Leave of Absence.*** During a paid leave of absence, Plan Contributions will continue to be made for a Participant on the basis of Compensation then being paid by the Institution. No Plan Contributions will be made during an unpaid leave of absence.
- 4.6 ***Transfer of Funds from Another Plan.*** The Fund Sponsor shall not accept contributions that are transferred directly from any other non-Institution plan. Transfers between approved Fund Sponsors shall be governed by Section 5.2.
- 4.7 ***Acceptance of Rollover Contributions.*** The Fund Sponsor will not accept any rollover distributions from any non-Institution plan.
- 4.8 ***Uniformed Services.*** Notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Code.
- 4.9 ***Maximum Plan Contributions.*** Notwithstanding anything contained in this Plan to the contrary, the total Annual Additions made for any Participant for any year will not exceed the amount permitted under section 415(c) of the Code, as increased as permitted by Code section 415(d) to reflect cost-of-living adjustments. The applicable limitations of Code section 415 are hereby incorporated by reference.

For the purpose of calculating the limits of Code section 415, compensation means a Participant's earned income, wages, salaries, and fees for professional services and other amounts received for personal services actually rendered in the course of employment with the employer maintaining the Plan. Compensation shall include any elective

deferrals (as defined in Code section 402(g)(3)) and any amount which is contributed or deferred by the Institution at the election of the Participant and which is not includible in the gross income of the Participant by reason of Code sections 125, 132(f)(4) or 457.

If the Code section 415(c) limitations are exceeded because the Participant is also participating in another Plan required to be aggregated with this Plan for Code section 415, then the extent to which annual contributions under this Plan will be reduced, as compared with the extent to which annual benefits or contributions under any other plans will be reduced, will be determined by the Institutions in a manner as to maximize the aggregate benefits payable to the Participant from all plans. If the reduction is under this Plan, the Institution will advise affected Participants of any additional limitation on their annual contributions required by this paragraph.

Article V: Funding Vehicles

- 5.1 ***Funding Vehicles.*** Retirement Plan Contributions are invested as directed by Participants in one or more Funding Vehicles available to Participants under this Plan, as approved by the Institution.

The Institution's current selection of Fund Sponsors and Funding Vehicles is not intended to limit future additions or deletions of Fund Sponsors and Funding Vehicles. Any additional accounts offered by a Fund Sponsor will automatically be made available to Participants in accordance with the procedures established by the Institution and the Fund Sponsor if approved. A current up-to-date list of Fund Sponsors and Funding Vehicles will be on file and maintained by the Institution Chancellor's office.

- 5.2 ***Fund Transfers.*** Subject to a Funding Vehicle's rules for transfers and in accordance with the provisions of the Code for maintaining the tax deferral of the Accumulation Account(s), a Participant may transfer funds accumulated under the Plan among the Plan's approved Funding Vehicles to the extent permitted by the Funding Vehicles. Any transfer of funds between approved Fund Sponsors will be executed only upon written request of the Participant.
- 5.3 ***Investment of Discretionary Contributions.*** Discretionary Contributions are invested in the investment vehicle elected by the Discretionary Eligible Employee, subject to rules established by the Plan Administrator.

Article VI: Vesting

- 6.1 ***Plan Contributions.*** Plan Contributions shall be fully vested and nonforfeitable when such Plan Contributions are made.

Article VII: Benefits

7.1 Retirement Benefits.

- (a) A Participant or his or her Beneficiary shall be eligible to receive a distribution of retirement benefits from the Plan under the following circumstances, subject to the provisions of this Article VII:
 - (i) termination of employment of Participant;
 - (ii) attainment of age 65, or effective July 1, 2008, attainment of age 59 ½, whether or not Participant is still employed; or
 - (iii) death of Participant.
- (b) A Participant who is eligible to receive a distribution under subsection (a) above may elect to receive retirement benefits in an amount equal to the Participant's Accumulation Account, including Plan Contributions and earnings credited thereon as of the date of application for benefits is received, under any of the forms of benefit as offered by the Fund Sponsors under the Funding Vehicles selected by the Participant, as provided below:
 - (i) Single life annuities as provided under the Funding Vehicle contract.
 - (ii) Joint and survivor annuities as provided under the Funding Vehicle contract.
 - (iii) Single lump sum cash withdrawals (to the extent the Funding Vehicle permits and subject to the limitations in Section 7.2).
 - (iv) Fixed Period Annuities, as permitted by the Funding Vehicle contract.
 - (v) Such other annuity and custodial account benefits and withdrawal options as provided under the Funding Vehicle contract.

However, Institution Plan Contributions, except as a required minimum distribution under Code section 401(a)(9), and/or interest distribution, must be annuitized for any Participant who has completed 5 or more years of participation and elects to begin receipt of such Contributions prior to reaching age 55.

7.2 Cash Withdrawals.

- (a) A single lump sum cash withdrawal of both the Institution Plan Contributions (employer) and the Participant Plan Contributions (picked up by the Institution for the Participant) is available only to Participants who terminate employment with less than 5 years of participation in this Plan.
- (b) A single lump sum cash withdrawal of Participant Plan Contributions and earnings thereon is available to all Participants upon termination of employment.

- (c) A single lump sum cash withdrawal of Institution Plan Contributions and earnings thereon is available only to Participants who have terminated from active employment with the Institution and who are age 55 or older.
 - (d) In-service cash withdrawals of both Institution Plan Contributions and Participant Plan Contributions are permitted when a Participant attains age 65, or effective July 1, 2008 when a Participant attains age 59 ½, whether or not the Participant is still employed.
- 7.3 **Survivor Benefits.** If a Participant dies before the start of retirement benefit payments, the full current value of the Accumulation Account(s) is payable to the Beneficiary(ies) under the options offered by the Funding Vehicles. Distribution of survivor benefits is subject to the required minimum distribution rules set forth in Code section 401(a)(9) and Section 7.7.
- 7.4 **Financial Hardship Withdrawals.** No portion of a Participant's Accumulation Account(s) shall be available for hardship withdrawal prior to termination of employment.
- 7.5 **Loans.** This Plan does not permit loans.
- 7.6 **Application for Benefits.** Procedures for receipt of benefits are initiated by writing directly to the Fund Sponsor. Benefits will be payable by the Fund Sponsor upon receipt of a satisfactorily completed application for benefits and supporting documents. The necessary forms will be provided to the Participant, the surviving spouse, or the Beneficiary(ies) by the Fund Sponsor.
- 7.7 **Minimum Distribution Requirements.** The requirements of this Section 7.7 shall apply to any distribution of a Participant's vested Accumulation Account(s) and will take precedence over any inconsistent provisions of this Plan. Distributions in all cases will be made in accordance with Code section 401(a)(9) and the Treasury Regulations promulgated thereunder, including the minimum distribution incidental benefit requirement of section 1.401(a)(9)-2 of the Treasury Regulations. It is the Fund Sponsors' responsibility to make distribution notification according to this Section 7.7.
- (a) 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. The required beginning date is April 1 following the calendar year in which the Participant attains age 70 ½ or, if later, April 1 following the calendar year in which the Participant retires.
 - (b) Distribution may only be made over the life of the Participant, the lives of the Participant and a designated Beneficiary, or over a period not extending beyond the life expectancy of the Participant or life expectancy of the Participant and a designated Beneficiary. Life expectancies may not be redetermined more frequently than annually.
 - (c) Upon the death of the Participant, the following distribution provisions apply:
 - (i) If the Participant dies after distribution of his or her vested Accumulation Account has begun, the remaining portion of the vested Accumulation Account must continue to be distributed at least as rapidly as under the

method of distribution being used as of the date of the Participant's death;

- (ii) If the Participant dies before distribution of his or her vested Accumulation Account has begun, distribution of the Participant's entire vested Accumulation Account shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death, except as follows:
 - (1) If any portion of the Participant's vested Accumulation Account is payable to a designated Beneficiary, distributions made be made over the life of such designated Beneficiary or over a period not extending beyond the life expectancy of such Beneficiary commencing no later than December 31 of the calendar year immediately following the calendar year in which the Participant died; or
 - (2) If the sole designated Beneficiary the Participant's surviving spouse, the date distributions are required to begin in accordance with (1) above must not be earlier than the later of December 31 of the calendar year immediately following the calendar year in which the Participant died or December 31 of the calendar year in which the Participant would have attained age 70 ½.

7.8 **Direct Rollovers.** This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

For this Section 7.8, the following definitions apply:

- (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: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code section 401(a)(9); any hardship distribution of elective deferrals, as described in Code section 401(k)(2)(B)(i)(IV); and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).
- (b) **Eligible retirement plan:** An eligible retirement plan is an individual retirement account described in Code section 408(a), an individual retirement annuity described in section 408(b) of the Code, a qualified retirement plan described in Code section 401(a) or 403(a), an annuity contract described in Code section 403(b), or an eligible deferred compensation plan described in Code section 457(b) (which is maintained by an eligible employer described in Code section

457(e)(1)(A) that accepts the distributee's eligible rollover distribution. However, effective for distributions made on or after July 1, 2008, in case of an eligible rollover distribution to a nonspouse Beneficiary, an eligible retirement plan is only an individual retirement account described in Code section 408(a) or individual retirement annuity described in Code section 408(b) that is treated as an inherited IRA in accordance with the provisions of Code section 402(c)(11).

- (c) Distributee: A distributee includes an employee or former employee or a designated Beneficiary. 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 relation 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.

Article VIII: Administration

- 8.1 **Plan Administrator.** The Institution, located at Nevada System of Higher Education System Administration Office, 5550 West Flamingo Road, Suite C-1, Las Vegas, Nevada, 89103, is the administrator of this Plan and has designated the Chancellor, who may delegate specific responsibilities, to be responsible for enrolling Participants, sending Plan Contributions for each Participant to the Fund Sponsors, and for performing other duties required for the operation of the Plan.
- 8.2 **Authority of the Institution.** The Institution has all the power and authority expressly conferred upon it herein and further shall have discretionary and final authority to determine all questions concerning eligibility and contributions under the Plan, to interpret and construe all terms of the Plan, including any uncertain terms, and to determine any disputes arising under and all questions concerning administration of the Plan. Any determination made by the Institution shall be given deference, if it is subject to judicial review, and shall be overturned only if it is arbitrary or capricious. In exercising these powers and authority, the Institution will always exercise good faith, apply standards of uniform application, and refrain from arbitrary action. The Institution may employ attorney, agents, and accountant as it finds necessary or advisable to assist it in carrying out its duties. The Institution, by action of its Board, may designate a person or persons other than the Institution to carry out any of its powers, authority, or responsibilities. Any delegation will be set forth in writing. Moreover, to the extent power or responsibilities are assumed by Fund Sponsors, the Institution will be indemnified.
- 8.3 **Action of the Institution.** Any act authorized, permitted, or required to be taken by the Institution under the Plan, which has not been delegated in accordance with Section 8.2, may be taken by a majority of the members of the Board, either by vote at a meeting, or in writing without a meeting. All notices, advice, directions, certifications, approvals, and instructions required or authorized to be given by the Institution under the Plan will be in writing and signed by either (a) a majority of the members of the Board, or by any member or members as may be designated by an instrument in writing signed by all members, as having authority to execute the documents on its behalf, or (b) a person who becomes authorized to act for the Institution in accordance with the provisions of Section 8.2. Any action taken by the Institution that is authorized, permitted, or required under the Plan and is in accordance with Funding Vehicles contractual obligations are final and binding upon the Institution, and all persons who have or who claim an interest under the Plan, and all third parties dealing with the Institution.
- 8.4 **Indemnification.** The Institution will satisfy any liability actually and reasonably incurred by any person to whom any power, authority or responsibility of the Institution is delegated pursuant to Section 8.2 (other than the Fund Sponsors). These liabilities include expenses, attorney's fees, judgments, fines, and amounts paid in connection with any threatened, pending or completed action suit or proceeding related to the exercise (or failure to exercise) of this authority. This is in addition to whatever right of indemnification exists under the articles of incorporation, regulations or by-laws of the Institution, under any provision of law, or under any other agreement.
- 8.5 **No Reversion.** Under no circumstances or conditions will any Plan Contributions of the Institution revert to, be paid to, or inure to the benefit of, directly or indirectly, the

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

- 8.6 **Statements.** The Institution will determine the total amount of contributions to be made for each Participant from time to time on the basis of its records and in accordance with the provisions of this Article. When each contribution payment is made by the Institution, the Institution will prepare a statement showing the name of each Participant and the portion of the payment that is made for him or her, and will deliver the statement to the appropriate Fund Sponsors with the contributions payment. Any determination by the Institution, evidenced by a statement delivered to the Fund Sponsors, is final and binding on all Participants, their Beneficiaries or contingent annuitants, or any other person or persons claiming an interest in or derived from the contribution's payment.
- 8.7 **Reporting.** Records for each Participant under this Plan are maintained on the basis of the Plan Year. The Fund Sponsors will send each Participant a report summarizing the status of his or her Accumulations Account(s) as of the last day of each calendar quarter within 45 days of the end of the quarter. Similar reports or illustrations may be obtained by a Participant upon termination of employment or at any other time by writing directly to the Fund Sponsors.
- 8.8 **Plan Qualification.** Any modification or amendment of the Plan may be made retroactive, as necessary or appropriate, to establish and maintain a "qualified plan" pursuant to section 401 or the Code and regulations thereunder, and exempt status of the trust fund under section 501 of the Code.

Article IX: Amendment and Termination

9.1 ***Amendment and Termination.*** While it is expected that this Plan will continue indefinitely, the Institution Chancellor shall reserve the right to amend, otherwise modify, or terminate the Plan, or to discontinue any further contributions or payments under the Plan. In the event of a termination of the Plan or complete discontinuance of Plan Contributions, the Institution will notify all Participants of the termination and take steps as deemed necessary to comply with applicable law. As of the date of complete or partial termination, all Accumulation Accounts will become nonforfeitable to the extent that benefits are accrued.

9.2 ***Limitation.*** Notwithstanding the provisions of Section 9.1, the following condition and limitations apply:

No amendments will be made which will operate to recapture for the Institution any contributions previously made under this Plan. However, Plan Contributions made based on a mistake of fact may be returned to the Institution within one year of the date on which the Plan Contribution was made. Also, Plan Contributions made in contemplation of approval by the Internal Revenue Service may be returned to the Institution if the Internal Revenue Service fails to approve the Plan.

Article X: Miscellaneous

- 10.1 ***Plan Non-Contractual.*** Nothing in this Plan will be construed as a commitment of agreement on the part of any person to continue his or her employment with the Institution, and nothing in this Plan will be construed as a commitment on the part of the Institution to continue the employment or the rate of compensation of any person for any period, and all employees of the Institution will remain subject to discharge to the same extent as if the Plan had never been put into effect.
- 10.2 ***Claims of Other Persons.*** The provisions of the Plan will not be construed as giving any Participant or any other person, firm, or corporation, any legal or equitable right against the Institution, its officers, employees, or directors, except the rights as specifically provided for in this Plan or created in accordance with the terms and provisions of this Plan.
- 10.3 ***Merger, Consolidation, or Transfers of Plan Assets.*** In the event of a merger or consolidation with, or transfer of assets to, another plan, each Participant will receive immediately after such action a benefit under the plan that is equal to or greater than the benefit he or she would have received immediately before a merger, consolidation, or transfer of assets or liabilities.
- 10.4 ***Non-Alienation of Retirement Rights or Benefits.*** No benefit under the Plan may, at any time, be subject in any manner to alienation, encumbrance, the claims of creditors or legal process to the fullest extent permitted by law. No person will have power in any manner to transfer, assign, alienate, or in any way encumber his or her benefits under the Plan, or any part thereof, and any attempt to do so will be void and no effect. However this Plan will comply with any judgment, decree or order which established the rights of another person to all or a portion of a Participant's benefit under this Plan to the extent that it is a "qualified domestic relations order" under section 414(p) of the Code.

Employer Identification Number: F88-60000-22

Plan Number: 001

(Signature of Plan Administrator)

APPENDIX “A”

DISCRETIONARY ELIGIBLE EMPLOYEES

Dr. Carol C. Harter
President Emeritus, University of Nevada Las Vegas

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