ST. LOUIS UNIVERSITY
RETIREMENT PLAN

As Amended and Restated
Effective January 1, 2012
SAINT LOUIS UNIVERSITY RETIREMENT PLAN

WHEREAS, Saint Louis University ("University") previously adopted the Saint Louis University Retirement Plan ("Plan"); and

WHEREAS, the University retained the right to amend the Plan pursuant to Section 15.1 thereof; and

WHEREAS, the University desires, except as otherwise provided, to amend and restate the Plan in its entirety effective January 1, 2012;

NOW, THEREFORE, effective January 1, 2012, unless specified otherwise in the Plan, the Plan is amended in its entirety to read as follows:
# TABLE OF CONTENTS

## SECTION 1 - PLAN
1.1 Name and Type of Plan ........................................... 1
1.2 Effective Date of This Document ................................. 1

## SECTION 2 - DEFINITIONS
2.1 Annuity Plan ....................................................... 1
2.2 Board .................................................................. 1
2.3 Break In Service .................................................... 1
2.4 Code .................................................................. 1
2.5 Compensation ....................................................... 1
2.6 Controlled Group .................................................... 2
2.7 CREF .................................................................. 2
2.8 Designated Financial Institution ................................. 2
2.9 Employee ............................................................ 2
2.10 Employment Year .................................................. 2
2.11 Five Percent Owner ............................................... 2
2.12 Hours Of Employment ............................................ 3
2.13 Normal Retirement Date ......................................... 3
2.14 Participant .......................................................... 3
2.15 Plan Administrator ................................................ 3
2.16 Plan Year ........................................................... 4
2.17 Qualified Plan ...................................................... 4
2.18 Retirement Committee .......................................... 4
2.19 TIAA ................................................................ 4
2.20 University .......................................................... 4
2.21 Year Of Service .................................................... 4

## SECTION 3 - ELIGIBILITY
3.1 Prior Participants .................................................... 4
3.2 New Participants .................................................... 4
3.3 Reemployed Participants ......................................... 4
3.4 Cessation Of Participation ........................................ 4

## SECTION 4 - CONTRIBUTIONS
4.1 Cessation of University Base Contributions ................. 4
4.2 University Matching Contributions ............................ 5
4.3 Return of Contributions ........................................... 5
4.4 Loans .................................................................. 6

## SECTION 5 - ACTUAL CONTRIBUTION PERCENTAGE TEST
.................................................................. 6

## SECTION 6 - ACCOUNTS AND INVESTMENTS
6.1 Accounts and Subaccounts ........................................ 6
6.2 Investment of Nonvested University Contributions ....... 6
6.3 Investment of Vested University Contributions ............................................. 6
6.4 Investment Transfers .............................................................................. 7
6.5 Valuation ................................................................................................. 7

SECTION 7 - RETIREMENT ............................................................................ 7
7.1 Normal Retirement Benefit ..................................................................... 7
7.2 Required Minimum Distributions ............................................................ 7
7.3 Required Beginning Date ......................................................................... 11

SECTION 8 - DISABILITY BENEFITS ............................................................ 11
8.1 Disability Retirement Benefit ................................................................... 11
8.2 Determination Of Disability .................................................................... 11

SECTION 9 - DISTRIBUTIONS AT TERMINATION OF EMPLOYMENT (VESTING) .. 11
9.1 Termination Benefits ............................................................................. 11
9.2 Determination Of Vested Portion ............................................................ 11
9.3 Forfeitures .............................................................................................. 12

SECTION 10 - PAYMENT OF BENEFITS ....................................................... 12
10.1 Timing and Manner of Payments ............................................................ 12
10.2 Normal Form of Benefits ..................................................................... 12
10.3 Optional Forms of Benefits .................................................................. 12
10.4 Spousal Consent ................................................................................... 12
10.5 Distribution Notice ................................................................................ 13
10.6 Withdrawal After Age 59½ ................................................................... 13

SECTION 11 - DEATH BENEFITS ................................................................. 13
11.1 Distributions Upon Death ..................................................................... 13
11.2 Death Benefit ......................................................................................... 13
11.3 Distribution To Spouse or Beneficiary ................................................... 14
11.4 Spousal Consent to Designation of Alternate Beneficiary .................... 14

SECTION 12 - LEAVES OF ABSENCE AND TRANSFERS ......................... 14
12.1 Military Leave Of Absence .................................................................. 14
12.2 Transfers .............................................................................................. 15
12.3 Death During Qualified Military Service ................................................. 16

SECTION 13 - ADMINISTRATION ................................................................. 16
13.1 Plan Administrator .............................................................................. 16
13.2 Construction ......................................................................................... 17
13.3 Decisions And Delegation ................................................................... 17
13.4 Duties Of The Plan Administrator ........................................................ 17
13.5 Records Of The Plan Administrator ...................................................... 17
13.6 Expenses .............................................................................................. 17

SECTION 14 - CLAIM PROCEDURE ............................................................... 17
14.1 Claim ................................................................................................... 17
14.2 Claim Decision ..................................................................................... 18
14.3 Request For Review ............................................................................. 18
SECTION 15 - AMENDMENT AND TERMINATION ............................................................... 20
  15.1 Amendment ........................................................................................................ 20
  15.2 Termination; Discontinuance Of Contributions .................................................. 20

SECTION 16 - MISCELLANEOUS ............................................................................... 20
  16.1 Participants' Rights ............................................................................................. 20
  16.2 Spendthrift Clause ............................................................................................. 20
  16.3 Delegation Of Authority By the University ........................................................ 21
  16.4 Distributions To Minors ..................................................................................... 21
  16.5 Construction Of Plan ........................................................................................ 21
  16.6 Gender, Number And Headings ...................................................................... 21
  16.7 Separability Of Provisions ................................................................................. 21
  16.8 Diversion Of Assets .......................................................................................... 21
  16.9 Service Of Process ............................................................................................ 21
  16.10 Merger ................................................................................................................ 21
  16.11 Benefit Limitation ............................................................................................ 21
  16.12 Commencement Of Benefits ........................................................................... 22
  16.13 Qualified Domestic Relations Order ............................................................... 23
  16.14 Written Explanation Of Rollover Treatment .................................................... 25
  16.15 Leased Employees ............................................................................................ 25
  16.16 Application of Benefits ................................................................................... 26
  16.17 Special Distribution Option ........................................................................... 26
  16.18 Limitations On Special Distribution Option .................................................... 27
  16.19 Waiver Of 30-Day Period ................................................................................. 27
  16.20 Acquisition of New Entity ................................................................................ 28
  16.21 Acceptance of Rollovers .................................................................................. 28

SECTION 17 - TOP-HEAVY DEFINITIONS ................................................................. 28
  17.1 Accrued Benefits ............................................................................................... 28
  17.2 Beneficiaries ...................................................................................................... 28
  17.3 Determination Date ............................................................................................ 28
  17.4 Former Key Employee ....................................................................................... 28
  17.5 Key Employee ................................................................................................... 28
  17.6 Non-Key Employee .......................................................................................... 29
  17.7 Permissive Aggregation Group ........................................................................ 29
  17.8 Required Aggregation Group ........................................................................... 29
  17.9 Top-Heavy Compensation ............................................................................... 29
  17.10 Top-Heavy Group ......................................................................................... 29

SECTION 18 - TOP-HEAVY RULES .......................................................................... 30
  18.1 Special Top-Heavy Rules .................................................................................. 30
  18.2 Minimum Allocation if Plan is part of Top-Heavy Group .................................. 30
  18.3 Modification of Top-Heavy Rules ................................................................... 31
SAINT LOUIS UNIVERSITY RETIREMENT PLAN

SECTION 1 - PLAN

1.1 **Name and Type of Plan.** This Plan shall be known as the “Saint Louis University Retirement Plan.” The Plan will be considered a profit sharing plan even though contributions are not dependent on profits. The Plan is a “church plan,” as defined in Section 414(e) of the Code. The Plan is also a safe harbor plan described in Section 401(m)(11) of the Code.

1.2 **Effective Date of This Document.** This amended and restated Plan document shall apply to any Plan Participant who has an Hour of Employment on or after January 1, 2012. The rights and benefits of former Employees and Participants who do not have an Hour of Employment on or after January 1, 2012 shall be governed by prior Plan documents as in effect during the applicable time.

SECTION 2 - DEFINITIONS

2.1 **Annuity Plan.** “Annuity Plan” means the Saint Louis University 403(b) Annuity Plan, which has the same requirements as this Plan for eligibility to participate.

2.2 **Board.** “Board” means the board of trustees of the University.

2.3 **Break In Service.** “Break in Service” means an Employment Year in which a person completes 500 or fewer Hours of Employment.

2.4 **Code.** “Code” means the Internal Revenue Code of 1986, as amended.

2.5 **Compensation.** “Compensation” means the lesser of $250,000 (or such other amount as prescribed by Section 401(a)(17) of the Code) or the gross amount received by an Employee during the Plan Year for services rendered as a Participant. Such amount shall include salary, commissions, wages, overtime pay, bonuses, amounts deferred under Section 457(b) of the Code and amounts contributed through a salary reduction arrangement to the Annuity Plan or pursuant to a cafeteria plan which meets the requirements of Section 125 of the Code or a qualified parking arrangement which meets the requirements of Section 132(f)(4) of the Code, but shall not include severance pay or University contributions under Sections 4.1 and 4.2 of this Plan or University contributions to or benefits under any other Qualified Plan.

In addition, Compensation shall not include any other amounts paid after an individual’s termination of employment; provided that, to the extent that the following amounts are otherwise included in the definition of Compensation and are paid no later than the later of the date which is 2½ months after termination of employment or the end of the Plan Year that includes the date of termination of employment, such amounts paid after an Employee’s termination of employment shall be deemed Compensation: regular pay, including compensation for services during regular working hours, overtime, shift differential, commissions, bonuses or other similar payments; payment for unused accrued sick, vacation or other leave, but only if the Employee would have been able to use the leave if employment had continued; and payment received pursuant to a nonqualified, unfunded deferred compensation plan sponsored by the University, but only if the Employee would have received the payment at the same time if employment had continued and only to the extent the payment is includible in the Employee’s gross income.
The exclusions provided for in this Section 2.5 with respect to post-employment payments shall not apply to payments to an individual who does not currently perform services for the University by reason of qualified military service, to the extent such payments do not exceed the Compensation such individual would have received from the University if he or she had continued to perform services for the University.

2.6 **Controlled Group.** "Controlled Group" means the University and all other entities required to be aggregated with the University under Sections 414(b), (c), or (m) of the Code or regulations issued pursuant to Section 414(o) of the Code. For purposes of Section 16.11, in determining which entities shall be aggregated under Section 414(b) or (c) of the Code, the modifications made by Section 415(h) of the Code shall be applied.

2.7 **CREF.** "CREF" means the College Retirement Equities Fund.

2.8 **Designated Financial Institution.** "Designated Financial Institution" means TIAA, CREF or any other financial institution or insurance company approved by the University to hold Plan contributions and qualified under Code Section 401(f) to hold Qualified Plan assets. Each such Designated Financial Institution shall be considered the Plan’s custodian with respect to those Plan assets held by such Designated Financial Institution.

2.9 **Employee.** "Employee" means any person classified as an employee by the University other than housestaff, a part-time extraordinary faculty member, an individual described in Section 3121(b)(10) of the Code whose employment is incidental to his education (e.g., a graduate trainee, student worker or college work student), or a member of a collective bargaining unit for which either

(a) a separate retirement plan has been established pursuant to collective bargaining negotiations, or

(b) no separate plan has been established after collective bargaining which has included discussion of retirement benefits, unless such collective bargaining provided for coverage under this Plan.

Employee shall not include an individual who is deemed to be an independent contractor, as determined by the Plan Administrator in its sole discretion, or a Leased Employee within the meaning of Section 414(n) of the Code. If an individual is classified as an independent contractor or Leased Employee, such individual will be deemed to be in an ineligible class of employees for purposes of the Plan, even if the individual is determined to be a common law employee pursuant to a government audit or litigation.

2.10 **Employment Year.** "Employment Year" means each 12 month period commencing on the date an Employee first completes an Hour of Employment and each annual anniversary of such date.

2.11 **Five Percent Owner.** "Five Percent Owner" means any person who owns (or is considered as owning within the meaning of Section 318 of the Code) more than five percent of the outstanding stock of any corporation in the Controlled Group or stock possessing more than five percent of the total combined voting power of all stock of any corporation in the Controlled Group.
or who owns more than five percent of the capital or profits interest of any unincorporated entity in the Controlled Group.

2.12 **Hours Of Employment.** "Hours of Employment" for a person compensated on the basis of a certain amount for each hour worked during a given period means:

(a) Each hour for which a person is directly or indirectly paid, or entitled to payment, by the University for the performance of duties and for reasons other than the performance of duties; provided that

(1) no more than 501 Hours of Employment shall be credited on account of a single continuous period during which no duties are performed, and

(2) no Hours of Employment shall be credited if payment was made or due

(A) under a plan maintained solely for the purpose of complying with applicable worker’s compensation, or unemployment compensation or disability insurance laws; or

(B) solely as reimbursement for medical or medically related expenses incurred by the Employee.

(b) Each hour for which back pay, irrespective of mitigation of damages, has been either awarded or agreed to by the University. Such Hours of Employment shall be credited for the periods to which the award or agreement pertains rather than the periods in which the award, agreement, or payment is made, and no Hours of Employment shall be credited under this paragraph which would duplicate any hours credited above.

For a person who is not compensated on the basis of a certain amount for each hour worked during a given period, credit shall be given at the rate of 10 Hours of Employment for each calendar day of employment with the University for which he or she would be credited with one or more Hours of Employment if (a) or (b) above applied. For a person on a leave of absence pursuant to Section 12.1, credit for such leave shall be given for the number of regularly scheduled working hours included in the period of such leave.

Hours of Employment shall be calculated in accordance with Department of Labor Regulation Section 2530.200b-2(b) and (c).

2.13 **Normal Retirement Date.** "Normal Retirement Date" means the date on which a Participant terminates his or her employment with the University provided such date is on or after such Participant’s attainment of age 65.

2.14 **Participant.** "Participant" means an Employee who has satisfied the eligibility requirements of Section 3 and who has not become a former Participant under Section 3.4.

2.15 **Plan Administrator.** "Plan Administrator" means the Retirement Committee.
2.16 **Plan Year.** “Plan Year” means the 12-month period commencing on January 1 and ending on December 31.

2.17 **Qualified Plan.** “Qualified Plan” means any plan qualified under Section 401 of the Code. For purposes of Section 17 and Section 18 only, the term “Qualified Plan” also means a simplified employee pension described in Section 408(k) of the Code.

2.18 **Retirement Committee.** “Retirement Committee” means the committee charged with the sole purpose of administering the Plan, composed of individuals appointed by the Board and/or the President of the University.

2.19 **TIAA.** “TIAA” means the Teachers Insurance and Annuity Association.

2.20 **University.** “University” means Saint Louis University.

2.21 **Year Of Service.** “Year of Service” means each Employment Year beginning after 1983 in which a person completes at least 1,000 Hours of Employment. No more than one Year of Service may be earned in any Employment Year for any purpose of the Plan.

**SECTION 3 - ELIGIBILITY**

3.1 **Prior Participants.** Each person who was a Participant on December 31, 2011, shall continue to be a Participant on January 1, 2012.

3.2 **New Participants.** Provided that he or she enrolls in the Plan in accordance with the procedures established by the Plan Administrator, on and after January 1, 2012, each Employee not described in Section 3.1 shall become a Participant hereunder as of the pay period which includes the date on which the Employee completes one Year of Service.

If a person is not an Employee when he or she satisfies this requirement, he or she shall not become a Participant until the day he becomes an Employee.

3.3 **Reemployed Participants.** A former or inactive Participant who is reemployed by the University shall become a Participant on the date he or she is reemployed as an Employee.

3.4 **Cessation Of Participation.** A person shall cease to be a Participant when he or she

(a) has ceased to be employed by the University, and

(b) has no undistributed account balances under the Plan.

**SECTION 4 - CONTRIBUTIONS**

4.1 **Cessation of University Base Contributions.** Effective with the first pay period ending in 2003, University Base Contributions will cease and thereafter all University Contributions will be made under Section 4.2. Prior to 2003, the University contributed an amount equal to 2% of each Participant’s Compensation each month.
4.2 University Matching Contributions.

(a) The Plan is intended to provide a “safe harbor” contribution structure under Section 401(m)(11) of the Code. Effective with the first pay period beginning on or immediately after July 1, 2003, the University will make matching contributions, calculated as a percentage of Compensation, determined under the following table, based on the percentage of Compensation contributed by the Participant to the Annuity Plan in a given payroll period as a before-tax contribution:

<table>
<thead>
<tr>
<th>Participant’s Before-Tax Contribution to Annuity Plan</th>
<th>University Matching Contribution to This Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>1%</td>
<td>2%</td>
</tr>
<tr>
<td>2%</td>
<td>4%</td>
</tr>
<tr>
<td>3%</td>
<td>6%</td>
</tr>
<tr>
<td>4%</td>
<td>8%</td>
</tr>
<tr>
<td>5% or greater</td>
<td>9%</td>
</tr>
</tbody>
</table>

* Percentage of Compensation

With respect to a before-tax contribution made by a Participant to the Annuity Plan that is 5% or greater of his or her Compensation, effective July 1, 2004 the applicable University matching contribution to this Plan shall be 9.5% of the Participant’s Compensation and, effective July 1, 2005 the applicable University matching contribution to this Plan shall be 10% of the Participant’s Compensation.

(b) For pay periods prior to the first pay period beginning on or immediately after July 1, 2003, the University shall make the matching contributions as described in applicable Plan documents in effect from time to time.

(c) Any such contributions shall be paid to TIAA or CREF as soon as practicable following the end of each month.

(d) For a Participant who contributes the maximum permitted contribution to the Annuity Plan for a Plan Year and such contribution reaches such maximum at any time prior to the end of the Plan Year, the University will continue to make its matching contributions at the appropriate level each pay period throughout the Plan Year as if the Participant’s Annuity Plan contributions were annualized at a level amount each pay period; provided, however, that the University’s matching contributions will cease on the date the Participant terminates employment or receives the maximum amount of Compensation for the Plan Year as prescribed by Section 401(a)(17) of the Code.

4.3 Return of Contributions. If a contribution was made by the University by a mistake of fact, the excess of the amount of such contribution over the amount that would have been contributed had there been no mistake of fact shall be returned to the University within one year after the payment of the contribution. Earnings attributable to the contribution shall not be returned to the University, but losses attributable to such excess contribution shall be deducted from the amount to be returned.
4.4 Loans. TIAA-CREF, as administrator of the loan program, shall make loans available to Participants who are employed with the University on the date the loan is made pursuant to a uniform and nondiscriminatory policy. Notwithstanding the above, loans shall not be made available to highly compensated employees (as defined in Section 414(q) of the Code) in an amount greater than the amount made available to other employees.

4.4.1 Spousal Consent. If a Participant is married on the date the loan is made, then, unless the Participant’s spouse consents, in accordance with Sections 10.4 and 11.4 during the 90-day period ending on the date on which the loan is to be secured, to the possible reduction in the Participant’s benefit which may occur as a result of any setoff of the loan against his account, no loan may be made; provided, however, that no consent need be obtained if the total of the Participant’s accounts subject to security for the loan is less than or equal to $5,000. In the event the Participant has no spouse, or his spouse cannot be located, the Participant must certify a statement to that effect on a form provided by TIAA-CREF in order for his loan application to be effective.

SECTION 5 - ACTUAL CONTRIBUTION PERCENTAGE TEST

The Plan satisfies Code Section 401(m)(2) by complying with the provisions of Code Section 401(m)(11) and the rules of the Internal Revenue Service promulgated thereunder.

SECTION 6 - ACCOUNTS AND INVESTMENTS

6.1 Accounts and Subaccounts. Each Participant shall have an account to record his interest in University contributions and earnings on those contributions. Each account shall be divided into subaccounts. The portion of the Participant’s account invested in annuity contracts administered by TIAA shall be recorded in his TIAA subaccount. The portion of the Participant’s account invested in the equity fund maintained by CREF shall be recorded in the Participant’s CREF Stock subaccount. The portion of the Participant’s account invested in the money market fund maintained by CREF shall be recorded in the Participant’s CREF Money Market subaccount. The University may permit a Participant to invest all or a portion of his account in other funds maintained by TIAA or CREF or in any other funds maintained by any other Designated Financial Institution. Such investments shall be recorded in separate subaccounts.

Effective December 1, 2012, the University will no longer offer certain investment funds as investment options under the Plan. Any amounts remaining in each such eliminated fund at the close of business on November 30, 2012 will be automatically transferred to a designated fund maintained by TIAA or CREF and, as of December 1, 2012, any election for contributions to be invested in an eliminated fund will be treated as an election to invest in the applicable designated fund maintained by TIAA or CREF.

6.2 Investment of Nonvested University Contributions. All nonvested University contributions shall be credited to the Participant’s TIAA or CREF subaccount for investment by the Participant in any funds maintained by TIAA or CREF.

6.3 Investment of Vested University Contributions. A Participant may designate the subaccounts in which all vested University contributions shall be invested from among any of the investment options offered by the University. If the Participant fails to make such a designation, his
or her vested University contributions shall be invested in the applicable Designated Financial Institution’s default fund.

6.4 **Investment Transfers.** A Participant may transfer vested amounts held on his behalf by TIAA or CREF among the various investment vehicles sponsored by TIAA or CREF in accordance with rules prescribed by TIAA or CREF, or to any other Designated Financial Institution to the extent permitted by law and the University. Any such transfers shall be made in accordance with the rules of the applicable Designated Financial Institution, and shall be accomplished by action of the Participant. The University shall not be responsible for effecting or supervising any such transfers. The University and the Plan Administrator have no duty to inquire into the investment direction of a Participant or into any transfers of funds. The University and the Plan Administrator will not be responsible for any damage or loss resulting from an investment decision of a Participant.

6.5 **Valuation.** All Plan assets shall be valued on December 31 each year and on such other dates as determined by TIAA or CREF. Earnings or losses shall be allocated to accounts based on account balances.

**SECTION 7 - RETIREMENT**

7.1 **Normal Retirement Benefit.** A Participant who retires at his Normal Retirement Date but before his Required Beginning Date shall have his account distributed to him in accordance with Section 9. A Participant shall be fully vested in his account upon attainment of age 65.

7.2 **Required Minimum Distributions.** Notwithstanding anything to the contrary contained in the Plan, the entire interest of a Participant will be distributed in accordance with Code Section 401(a)(9) and the regulations thereunder beginning no later than the Participant’s Required Beginning Date. The provisions of this Section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year. Notwithstanding the other provisions of this Section, 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.

(a) If the Participant dies before distributions begin, the Participant’s entire interest will be distributed, or begin to be distributed, no later than as follows:

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

(2) If the Participant’s surviving spouse is not the Participant’s sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
(3) If there is no designated beneficiary as of September 30 of the year following the year of the Participant’s death, the Participant’s entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant’s death.

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

For purposes of this subsection, unless subsection (a)(4) applies, distributions are considered to begin on the Participant’s Required Beginning Date. If subsection (a)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under subsection (a)(1). To the extent the Plan provides for distributions in the form of annuities, 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 subsection (a)(1)), the date distributions are considered to begin is the date distributions actually commence.

(b) 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 subsections (c) and (d). To the extent the Plan provides for distributions in the form of annuities, 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 Code Section 401(a)(9) and the Treasury regulations.

(c) During the Participant’s lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

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

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

Required minimum distributions will be determined beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant’s date of death.
(d) 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.

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.

(e) 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 subsection (d). 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. 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 subsection (a)(1), this Section will apply as if the surviving spouse were the Participant.

(f) The following definitions shall apply for purposes of this Section:
(1) Designated beneficiary shall mean the individual who is designated as the beneficiary under the terms of the Plan and is the designated beneficiary under Code Section 401(a)(9) and section 1.401(a)(9)-4 of the Treasury regulations.

(2) A distribution calendar year is 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 subsection (a). 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.

(3) Life expectancy means an individual’s life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9, Q&A-1 of the Treasury regulations.

(4) The Participant’s account balance is 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.

(g) Required Minimum Distribution Waiver. Notwithstanding anything else contained in this Section 7.2 of the Plan, a Participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Section 401(a)(9)(H) of the Code (“2009 RMDs”), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant’s designated beneficiary, or for a period of at least 10 years, will receive those distributions for 2009 unless the Participant or beneficiary chooses not to receive such distributions (except with respect to a Designated Financial Institution that elected to suspend 2009 RMDs absent an election otherwise). Participants and beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving (or continue receiving, as applicable) the distributions described in the preceding sentence. In addition, notwithstanding Section 16.17(a) of the Plan, and solely for purposes of applying the direct rollover provisions of the Plan, 2009 RMDs will be treated as eligible rollover distributions.
7.3 **Required Beginning Date.** The Required Beginning Date of a Participant shall be:

(a) in the case of a Participant who is not a Five Percent Owner with respect to the Plan Year ending in the calendar year in which the Participant attains age 70½, the April 1 following the calendar year in which occurs the later of the date the Participant attains age 70½ and the date on which the Participant terminates employment; or

(b) in the case of a Participant who is a Five Percent Owner with respect to the Plan Year ending in the calendar year in which the Participant attains age 70½, the April 1 following the calendar year in which the Participant attains age 70½.

Each Participant shall have the right to elect to begin receiving distributions beginning on the April 1 following the calendar year in which the Participant reaches age 70½.

**SECTION 8 - DISABILITY BENEFITS**

8.1 **Disability Retirement Benefit.** If a Participant becomes permanently and totally disabled while in the employment of the University, his account shall become fully vested (if not already fully vested). A Participant who is permanently and totally disabled as described in Section 8.2 while in the employment of the University shall be deemed to have terminated such employment on the date the University determines that he or she is permanently and totally disabled.

8.2 **Determination Of Disability.** A Participant shall be considered permanently and totally disabled only if he or she qualifies for disability benefits under the University’s long-term disability plan.

**SECTION 9 - DISTRIBUTIONS AT TERMINATION OF EMPLOYMENT (VESTING)**

9.1 **Termination Benefits.** A Participant whose employment with the University is terminated prior to the earliest of his or her death, permanent and total disability or Normal Retirement Date shall be vested in his or her accounts in accordance with Section 9.2.

9.2 **Determination Of Vested Portion.**

(a) A Participant who has an Hour of Employment on or after January 1, 2003 shall be 100% vested in his account as of the date he performs such Hour of Service.

(b) A Participant who does not complete an Hour of Employment on or after January 1, 2003 shall be vested in his account in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Years of Service</th>
<th>Percentage of Account Vested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 3</td>
<td>0%</td>
</tr>
<tr>
<td>3 or more</td>
<td>100%</td>
</tr>
</tbody>
</table>

Notwithstanding any provision herein to the contrary, a Participant’s account shall be 100% vested and nonforfeitable upon such Participant’s attainment of age 65.
9.3 **Forfeitures.** The nonvested portion of the account of a Participant whose employment with the University is terminated prior to the earliest of his or her death, permanent and total disability or Normal Retirement Date shall be immediately forfeited and shall be used to reduce University contributions otherwise due under Section 4.2.

If a person who has incurred a forfeiture hereunder is reemployed by the University before he or she has incurred six Breaks in Service, the amounts in his or her account which were forfeited shall be restored without adjustment for any subsequent gains or losses. Restoration will first be made out of any unallocated forfeitures and, if such forfeitures are insufficient to restore such person’s account, restoration shall be made through a University contribution.

**SECTION 10 - PAYMENT OF BENEFITS**

10.1 **Timing and Manner of Payments.** Upon a Participant’s Normal Retirement Date, disability, or other termination of employment, subject to the provisions of Section 16.17, benefits shall be paid to the Participant at any time and in any manner permitted by the Designated Financial Institution. There shall be no involuntary cashouts of benefits under this Plan.

10.2 **Normal Form of Benefits.** A Participant’s benefits shall be paid in a single lump sum, if offered by the Designated Financial Institution, unless the Participant has elected in writing to receive an optional form of benefit.

10.3 **Optional Forms of Benefits.** In lieu of the distribution of his account in the normal form described in Section 10.2, a Participant may elect to have any one or more of his subaccounts distributed under any of the forms permitted by the Designated Financial Institution. An optional form of benefit must be elected on a form furnished by the Designated Financial Institution after the Participant receives the notice described in Section 10.5 and within the 180-day period ending on the Participant’s annuity starting date, which shall be the first day for which an amount is paid to the Participant as an annuity or in any other form.

10.4 **Spousal Consent.** Notwithstanding anything in Section 10.3 to the contrary, if the Participant elects the payment of benefits in the form of a life annuity, benefits may only be paid in the form of a qualified joint and survivor annuity for the joint lives of the Participant and his spouse, with the amount of the annuity paid to the spouse to be not less than 50% of the amount of the annuity paid to the Participant, or in the form of a “qualified optional survivor annuity” unless a written waiver of the qualified joint and survivor annuity by the Participant and a written consent to the waiver by his spouse are filed with the Designated Financial Institution within the 180-day period ending on the Participant’s annuity starting date. The spouse’s consent must:

(a) designate a form of benefits which may not be changed without further spousal consent;

(b) be irrevocable and acknowledge the effect of such election; and

(c) be witnessed by a Plan representative or a notary public.

If the Designated Financial Institution provides payment of benefits in the form of a life annuity, such Designated Financial Institution shall provide a qualified optional survivor annuity as an optional form of benefit. A qualified optional survivor annuity is an annuity payable for the
Participant's life that also pays to the Participant's spouse until his or her death, if the Participant's spouse outlives the Participant, the applicable percentage (as determined under Code Section 417(g)) of the benefit payable to the Participant.

No consent need be obtained in the event the Participant has no spouse or the Participant's spouse cannot be located. In this event, the Participant must certify on a form provided by the Designated Financial Institution that he has no spouse or that his spouse cannot be located in order for his election of an optional form of benefit to be effective.

10.5 Distribution Notice. Within the 30 to 180-day period before a Participant's annuity starting date, the Designated Financial Institution shall give to the Participant a written notification in nontechnical terms of:

(a) the material features and the relative values of the optional forms of benefits under the Plan,

(b) if the Designated Financial Institution offers a life annuity:

1. the terms and conditions of the qualified joint and survivor annuity benefit and of the qualified optional survivor annuity and the financial effect upon the Participant's benefit in terms of dollars per benefit payment,

2. the Participant's right to make, and the effect of, an election out of the qualified joint and survivor annuity benefit,

3. in the case of a married Participant, the rights of the Participant's spouse with respect to any such election,

4. the right of the Participant to make, and the effect of, a revocation of any such election before the commencement of benefits, and

(c) the right, if any, of the Participant to defer receipt of a distribution.

10.6 Withdrawal After Age 59 1/2. Any Participant who ceases employment with the University and immediately thereafter becomes employed by Tenet Healthcare after January 1, 1999 shall be entitled to receive at any time his or her vested benefits upon the attainment of age 59 1/2.

SECTION 11 - DEATH BENEFITS

11.1 Distributions Upon Death. Upon the death of a Participant while in the employment of the University, the Participant's account shall become fully vested (if not already fully vested) and shall be distributed to his spouse or beneficiaries in accordance with Section 11.2. Upon the death of a Participant after termination of his employment with the University, the vested portion of the Participant's account shall be distributed to his spouse or beneficiaries in accordance with Section 11.2.

11.2 Death Benefit. If an unmarried Participant dies prior to commencement of the payment of retirement benefits, his vested account shall be paid to the beneficiary designated by the Participant in a single lump cash sum or in the form of any one of the income options offered by the
Designated Financial Institution. If a married Participant dies prior to commencement of the payment of retirement benefits, his vested account shall be paid to the Participant's surviving spouse in the form of any one of the income options offered by the Designated Financial Institution, unless the surviving spouse has waived the spousal benefit and consented to an alternate beneficiary as provided in Section 11.4. If the spouse has waived the spousal benefit and consented to an alternate beneficiary, the Participant’s benefit shall be paid to the beneficiary designated by the Participant in a single lump cash sum or in the form of any one of the income options offered by the Designated Financial Institution.

11.3 Distribution To Spouse or Beneficiary. Notwithstanding the foregoing, upon the death of a Participant whose benefit has commenced as an annuity, the survivor benefit, if any, shall be distributed to the Participant’s spouse or beneficiaries in accordance with the terms of the annuity contract purchased for such Participant. Upon the death of a Participant whose benefit has commenced in a form other than an annuity, the Survivor benefit, if any, shall be distributed to the Participant’s spouse or beneficiaries pursuant to Section 11.2.

11.4 Spousal Consent to Designation of Alternate Beneficiary. The spouse of the Participant must waive the spouse’s right to the death benefit described in Section 11.2 and consent to the designation of an alternate beneficiary in accordance with this Section in order for such designation to be effective. The spousal consent must be in writing and:

(a) must designate a beneficiary which may not be changed without spousal consent,

(b) must be irrevocable and acknowledge the effect of such designation as being a waiver of the spouse’s right to the death benefit described in Section 11.2, and

(c) must be witnessed by a Plan representative or notary public.

Any such consent must be filed with the Designated Financial Institution in order to be effective. No consent need be obtained in the event the Participant has no spouse or the Participant’s spouse cannot be located. In this event, the Participant must certify on a form provided by the Designated Financial Institution for that purpose that he has no spouse or that his spouse cannot be located in order for his designation of an alternate beneficiary to be effective.

SECTION 12 - LEAVES OF ABSENCE AND TRANSFERS

12.1 Military Leave Of Absence. So long as The Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") or any similar law shall remain in force, providing for reemployment rights for all persons in qualified military service, as defined in Section 414(u) of the Code, an Employee who leaves the employment of the University for qualified military service shall, for all purposes of this Plan, be considered as having been in the employment of the University, with the time of his or her qualified military service credited to his or her Service; provided that upon such Employee being discharged from qualified military service of the United States he or she applies for reemployment with the University and takes all other necessary action to be entitled to, and to be otherwise eligible for, reemployment rights, as provided by USERRA, or any similar law from time to time in force.
12.1.1 University Contributions. An Employee who is on a leave of absence on account of military service described in this Section will share in the allocations of University contributions under Section 4.1 for the Plan Year in which such military service commences but will not share in any subsequent Plan Year ending before the Employee's return from such military leave. If the Employee is reemployed while entitled to veterans' reemployment rights under USERRA, the University shall make contributions under Section 4.1 on behalf of the Employee for each partial and full Plan Year in the Employee's period of military service for which the Employee did not receive a contribution. Such contributions shall be equal to the amount of contributions which would have been made had the Employee continued to be employed by the University during such military service and shall be determined as though the Employee received Compensation equal to the amount the Employee would have received if he or she were not in military service. If the Compensation the Employee would have received but for such military service is not reasonably certain, the Employee's average Compensation from the University during the 12 month period immediately preceding the period of military service shall be deemed to be such Compensation.

If the University makes a contribution under Section 4.2 during a period when an Employee was on military leave of absence and if the Employee later returns to employment and makes the contributions described in Section 4.2 to the Annuity Plan for this period, the University shall make such matching contributions on behalf of the Employee as would have been made had the Employee's contributions actually been made during the period of his or her military service.

12.1.2 Treatment Of Contributions. Contributions under this Section will be taken into account for purposes of the limitations of Sections 402(g) or 415 in the year to which the contributions relate, not the year in which the contributions are made. In addition, such contributions will not cause the Plan to be treated as failing to meet the requirements of Code Sections 401(a)(4), 401(a)(26), 401(k)(3), 401(m), 410(b) or 416.

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 Code Section 414(u). Loan repayments will be suspended under this Plan during a period of qualified military service as permitted under Code Section 414(u)(4).

12.2 Transfers. In the event that:

(a) a Participant is transferred to employment with a member of the Controlled Group in a status as a non-Employee; or

(b) a person is transferred from employment with a member of the Controlled Group in a status as a non-Employee to employment with the University under circumstances making such person an Employee; or

(c) a person was employed by a member of the Controlled Group in a status as a non-Employee, terminated his or her employment and was subsequently employed by the University as an Employee; or
(d) a Participant was employed by the University as an Employee, terminated his or her employment and was subsequently employed by a member of the Controlled Group in a status as a non-Employee;

then the following provisions of this subsection shall apply:

(1) transfer to employment with a member of the Controlled Group as a non-Employee shall not be considered termination of employment with the University, and such transferred person shall continue to be entitled to the benefits provided in the Plan, as modified by this Section;

(2) employment with a member of the Controlled Group by a non-Employee will be deemed to be employment by the University, but only with respect to employment during any period that such member of the Controlled Group is required to be aggregated with the University pursuant to Code Sections 414(b), (c) or (m);

(3) amounts earned from a member of the Controlled Group by a non-Employee shall not constitute Compensation hereunder;

(4) termination of employment with a member of the Controlled Group which has not adopted the Plan by a person entitled to benefits under this Plan (other than to transfer to employment with another member of the Controlled Group) shall be considered as termination of employment with the University;

(5) all other terms and provisions of this Plan shall fully apply to such person and to any benefits to which he may be entitled hereunder.

Notwithstanding anything in this Plan to the contrary, except as provided under Section 16.15, a Participant who is no longer employed by a member of the Controlled Group which includes the University as a member shall be considered a terminated Employee.

12.3 Death During Qualified Military Service. If a Participant dies while performing qualified military service (as defined in Code Section 414(u)), the Participant's spouse or beneficiary is entitled to any benefits (other than benefit accruals relating to the period of qualified military service), and the rights and features accompanying those benefits, that would have been provided under the Plan had the Participant been reemployed by the University or a member of the Controlled Group and separated from service on account of death.

SECTION 13 - ADMINISTRATION

13.1 Plan Administrator. The Retirement Committee shall be the Plan Administrator. The Retirement Committee is associated with the Catholic Church through its affiliation with the University. The principal purpose of the Retirement Committee shall be to administer the Plan.

The President of the University shall appoint the individuals to serve as the initial Retirement Committee. Thereafter, a Retirement Committee member may resign at any time by providing the
President of the University with sixty (60) days' prior written notice. The President of the University may accept such resignation at any time within such sixty (60) day notice period.

The President of the University may remove a Retirement Committee member at any time by providing such member with sixty (60) days' prior written notice. In the event of a vacancy on the Retirement Committee, at any time, whether by reason of resignation, removal or any other cause, the President of the University shall designate and appoint a successor member to serve on the Retirement Committee. A successor Retirement Committee member shall have all the powers herein conferred upon Retirement Committee members.

13.2 Construction. The Plan Administrator shall have the discretionary authority to construe, interpret and administer all provisions of the Plan and to forward contributions for each Participant to the Designated Financial Institution. The Designated Financial Institution shall have the discretionary authority to determine a Participant's eligibility for benefits.

13.3 Decisions And Delegation. The Plan Administrator may appoint such agents as it may deem necessary for the effective exercise of its duties, and may, to the extent not inconsistent herewith, delegate to such agents any powers and duties, both ministerial and discretionary, as the Plan Administrator may deem expedient or appropriate.

The Plan Administrator shall not make any decision or take any action covering exclusively his or her own benefits under the Plan. All such matters shall be decided by the Board.

13.4 Duties Of The Plan Administrator. The Plan Administrator shall, as part of its general duty to supervise and administer the Plan, direct the Designated Financial Institution specifically in writing in regard to the preparation of any report required by law to be filed for the Plan, as of the end of each Plan Year, in such form as the University may require.

The Plan Administrator may require a Participant who requests Plan information in accordance with his or her rights under applicable law to submit a written request to such person or entity as specified in the Plan’s summary plan description.

13.5 Records Of The Plan Administrator. All acts and determinations of the Plan Administrator shall be duly recorded, and all such records, together with such other documents as may be necessary for the proper administration of the Plan, shall be preserved in the custody of such Plan Administrator. Such records and documents shall at all times be open for inspection and copying by any person designated by the Board.

13.6 Expenses. Any expense incurred by the Plan Administrator with respect to employment of agents, attorneys or other persons, including expenses incurred in maintaining the Plan’s qualified status shall be paid by the University.

SECTION 14 - CLAIM PROCEDURE

14.1 Claim. A Participant or beneficiary or other person who believes that he is being denied a benefit to which he is entitled (hereinafter referred to as “Claimant”) may file a written request for such benefit with the Designated Financial Institution, setting forth his claim. The request must be addressed to Designated Financial Institution. Notwithstanding anything in the Plan to the contrary, a claim must be filed within one year from the date such claim first accrues or
the Claimant will be forever barred from pursuing such claim. A claim by a Claimant shall be deemed to have accrued on the earlier of (i) the date the Claimant's benefits commence or (ii) the date the Claimant became aware, or should have become aware, that his or her position regarding his or her entitlement to benefits is different from the Plan's or the University's position regarding the Claimant's entitlement to benefits.

14.2 Claim Decision. Upon receipt of a claim the Designated Financial Institution shall advise the Claimant that a reply will be forthcoming within 90 days and shall in fact deliver such reply in writing within such period. The Designated Financial Institution may, however, extend the reply period for an additional 90 days for reasonable cause. If the reply period will be extended, the Designated Financial Institution shall advise the Claimant in writing during the initial 90-day period indicating the special circumstances requiring an extension and the date by which the benefit determination is expected. If the claim is denied in whole or in part, the Designated Financial Institution will render a written opinion using language calculated to be understood by the Claimant with a copy to the Plan Administrator setting forth:

(a) the specific reason or reasons for the denial;
(b) specific references to pertinent Plan provisions on which the denial is based;
(c) a description of any additional material or information necessary for the Claimant to perfect the claim and an explanation why such material or such information is necessary;
(d) appropriate information as to the steps to be taken if the Claimant wishes to submit the claim for review; and
(e) the time limits for requesting a review of the denial and for the actual review of the denial.

14.3 Request For Review. Within 60 days after the receipt by the Claimant of the written opinion described above, the Claimant may request in writing that the Designated Financial Institution review its determination. Such request must be addressed to the Designated Financial Institution. The Claimant or his duly authorized representative may submit written comments, documents, records or other information relating to the denied claim, which shall be considered in the review under this subsection without regard to whether such information was submitted or considered in the initial benefit determination.

The Claimant or his or her duly authorized representative shall be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information which (i) was relied upon by the Designated Financial Institution in making its initial claims decision, (ii) was submitted, considered or generated in the course of making the initial claims decision, without regard to whether such instrument was actually relied upon in making the decision or (iii) demonstrates compliance by the Designated Financial Institution with its administrative processes and safeguards designed to ensure and to verify that benefit claims determinations are made in accordance with governing Plan documents and that, where appropriate, the Plan provisions have been applied consistently with respect to similarly situated claimants. If the Claimant does not request a review of the Designated Financial Institution's determination within such 60-day period,
he or she shall be barred and estopped from challenging the Designated Financial Institution's
determination.

14.4 Review Of Decision. Within a reasonable period of time, ordinarily not later than
60 days, after the Designated Financial Institution's receipt of a request for review, it will review the
prior determination. If special circumstances require that the sixty (60) day time period be extended,
the Designated Financial Institution will so notify the Claimant within the initial sixty (60)-day
period indicating the special circumstances requiring an extension and the date by which the
Designated Financial Institution expects to render its decision on review, which shall be as soon as
possible but not later than one hundred twenty (120) days after receipt of the request for review.
In the event that the Designated Financial Institution extends the determination period on review due
to a Claimant's failure to submit information necessary to decide a claim, the period for making the
benefit determination on review shall not take into account the period beginning on the date on
which notification of extension is sent to the Claimant and ending on the date on which the
Claimant responds to the request for additional information.

The Designated Financial Institution has discretionary authority to determine a Claimant's
eligibility for benefits and to interpret the terms of the Plan. Benefits under the Plan will be paid
only if the Designated Financial Institution decides in its discretion that the Claimant is entitled to
such benefits. The decision of the Designated Financial Institution shall be final and non-
reviewable, unless found to be arbitrary and capricious by a court of competent review. Such
decision will be binding upon the Designated Financial Institution and the Claimant.

If the Designated Financial Institution makes an adverse benefit determination on review,
the Designated Financial Institution will render a written opinion, using language calculated to be
understood by the Claimant, with a copy to the Plan Administrator, setting forth:

(a) the specific reason or reasons for the denial;

(b) the specific references to pertinent Plan provisions on which the denial is
   based; and

(c) a statement that the Claimant is entitled to receive, upon request and free of
   charge, reasonable access to, and copies of, all documents, records and other information
   which (i) was relied upon by the Designated Financial Institution in making its decision, (ii)
   was submitted, considered or generated in the course of the Designated Financial Institution
   making its decision, without regard to whether such instrument was actually relied upon by
   the Designated Financial Institution in making its decision or (iii) demonstrates compliance
   by the Designated Financial Institution with its administrative processes and safeguards
   designed to ensure and to verify that benefit claims determinations are made in accordance
   with governing Plan documents, and that, where appropriate, the Plan provisions have been
   applied consistently with respect to similarly situated claimants.

14.5 Other Claims. Any claim relating to eligibility to participate in the Plan, the proper
level of the Participant's contributions to the Plan, or any other matter not subject to review under
Section 14.1 shall be submitted to the Retirement Committee for review. The Retirement
Committee shall review such claim in accordance with the procedures set forth in Sections 14.1
through 14.4 above.
14.6 **Venue for Litigation.** In light of the Plan Administrator’s substantial contacts with the State of Missouri, the fact that the Plan Administrator resides in Missouri and the University is headquartered in St. Louis, Missouri, and the University’s establishment of, and the Plan Administrator’s maintenance of, this Plan in Missouri, any cause of action brought by a Claimant, Employee, Participant, former Employee, former Participant or any beneficiary of such an individual involving benefits under the Plan shall be filed and conducted exclusively in the federal courts in the Eastern District of Missouri.

No action at law or in equity shall be brought to recover under the Plan prior to the expiration of 60 days after receipt by the Claimant of the written decision regarding the Claimant’s request for review under the claims procedure, nor shall such action be brought at all unless within three years from receipt by the Claimant of such written decision by the final claims reviewer under the claims procedure.

**SECTION 15 - AMENDMENT AND TERMINATION**

15.1 **Amendment.** The University shall have the right, by a resolution adopted by action of the Board or anyone to whom authority to amend the Plan has been delegated by the Board, at any time and from time to time to amend, in whole or in part, any or all of the provisions of the Plan. No such amendment, however, shall authorize or permit any part of the assets of the Plan (other than such part as is required to pay taxes and administration expenses of the Plan) to be used for or diverted to purposes other than for the exclusive benefit of the Participants or their beneficiaries; no such amendment shall cause any reduction in the amount credited to any Participant’s account or cause or permit any portion of the assets of the Plan to revert to or become the property of the University.

15.2 **Termination; Discontinuance Of Contributions.** The University shall have the right at any time to terminate this Plan. Upon termination, partial termination, or complete discontinuance of contributions, all Participants’ accounts (or, in the case of a partial termination, the accounts of all affected Participants) shall become fully vested, and shall not thereafter be subject to forfeiture.

**SECTION 16 - MISCELLANEOUS**

16.1 **Participants’ Rights.** Neither the establishment of the Plan hereby created, nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any Participant or other person any legal or equitable right against the University, any officer or Employee thereof, the Designated Financial Institution or the Board except as herein provided. Under no circumstances shall the terms of employment of any Participant be modified or in any way affected hereby.

16.2 **Spendthrift Clause.** Except as provided in Sections 4.4 and 16.13, no benefit or beneficial interest provided under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, either voluntary or involuntary, and any attempt to so alienate, anticipate, sell, transfer, assign, pledge, encumber or charge the same shall be null and void. No such benefit or beneficial interest shall be liable for or subject to the debts, contracts, liabilities, engagements, or torts of any person to whom such benefits or funds are or may be payable.
Notwithstanding the above, a Participant's benefit will be offset against any amount he or she is ordered or required to pay to the Plan pursuant to an order or requirement which arises under a judgment of conviction for a crime involving the Plan, under a civil judgment (including a consent order or decree) entered by a court in an action involving a fiduciary breach (or alleged fiduciary breach) or pursuant to a settlement agreement between the Participant and the Department of Labor or the Pension Benefit Guaranty Corporation. Any such offset shall be made pursuant to Section 206(d) of the Employee Retirement Income Security Act of 1974 ("ERISA").

16.3 Delegation Of Authority By the University. Whenever the University, under the terms of this Plan, is permitted or required to do or perform any act, it shall be done and performed by any officer duly authorized by the Board.

16.4 Distributions To Minors. In the event that any portion of the Plan becomes distributable to a minor or other person under legal disability (as determined by the laws of the jurisdiction in which he or she then resides), the Designated Financial Institution shall direct that such distribution be made to the legal representative of such minor or other person.

16.5 Construction Of Plan. This Plan shall be construed according to the laws of the State of Missouri, and all provisions of the Plan shall be administered according to the laws of such state.

16.6 Gender, Number And Headings. Whenever any words are used herein in the masculine gender, they shall be construed as though they were also used in the feminine gender in all cases where they would so apply, and wherever any words are used herein in the singular form, they shall be construed as though they were also used in the plural form in all cases where they would so apply. Headings of Sections and subsections are inserted for convenience of reference, constitute no part of the Plan and are not to be considered in the construction of the Plan.

16.7 Separability Of Provisions. If any provision of this Plan shall be for any reason invalid or unenforceable, the remaining provisions shall nevertheless be carried into effect.

16.8 Diversion Of Assets. No part of the assets of the Plan shall be used for, or diverted to, purposes other than the exclusive benefit of Participants or their beneficiaries. Except as provided in Section 4.3, the University shall have no beneficial interest in the assets of the Plan and no part of the assets of the Plan shall revert or be repaid to the University, directly or indirectly.

16.9 Service Of Process. The General Counsel of the University shall constitute the Plan's agent for service of process.

16.10 Merger. In the event of any merger or consolidation with, or transfer of assets or liabilities to, any other plan, each Participant shall (as if the Plan had then terminated) receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he or she would have been entitled to receive immediately before the merger, consolidation or transfer (if the Plan had then terminated).

16.11 Benefit Limitation.

(a) Notwithstanding any other provision hereof, and except as provided in Section 12.1, the amounts allocated to a Participant during the Limitation Year under the
Plan and allocated to the Participant under any other defined contribution plan to which the University or any other member of the Controlled Group has contributed shall be proportionately reduced, to the extent necessary, so that the Annual Addition does not exceed the lesser of:

(1) $50,000, as adjusted for increases in the cost of living under Code Section 415(d); or

(2) 100% of the Participant’s compensation within the meaning of Code Section 415(c)(3) during the Limitation Year; or

(3) such other limits set forth in Section 415 of the Code as in effect from time to time.

For purposes of this Section 16.11 and 17.9, compensation within the meaning of Code Section 415(c)(3) shall mean the amount as defined in Treasury Regulation Section 1.415(c)-2(d)(4) (e.g., amounts reported in Box 1 of Form W-2, plus amounts that would be reported as wages but for an election under Code Section 125(a), 132(f)(4), 402(c)(3), 402(h)(1)(B), 402(k) or 457(b)). Compensation shall not include any severance pay, whether paid before or after an Employee’s termination of employment, or any other compensation paid after an individual’s termination of employment. Notwithstanding the preceding, to the extent that the following amounts are otherwise included in the definition of compensation and are paid no later than the later of the date which is 2½ months after termination of employment or the end of the Limitation Year that includes the date of termination of employment, such amounts paid after an Employee’s termination of employment shall be deemed compensation: regular pay, including compensation for services during regular working hours, overtime, shift differential, commissions, bonuses or other similar payments; payment for unused accrued sick, vacation or other leave, but only if the Employee would have been able to use the leave if employment had continued; and payment received pursuant to a nonqualified, unfunded deferred compensation plan sponsored by the University, but only if the Employee would have received the payment at the same time if employment had continued and only to the extent the payment is includible in the Employee’s gross income.

The exclusions provided for in this Section 16.11 with respect to post-employment payments shall not apply to payments to an individual who does not currently perform services for the University by reason of qualified military service, to the extent such payments do not exceed the compensation such individual would have received from the University if he or she had continued to perform services for the University.

(b) For purposes of this Section, Limitation Year means the Plan Year.

(c) For purposes of this Section, Annual Additions means the sum for the Limitation Year of University contributions, Employee contributions, and forfeitures, each determined without regard to the specified amounts not treated as annual additions under Treasury Regulation Section 1.415(c)-1(b).

16.12 Commencement Of Benefits.
(a) Notwithstanding any other Section of the Plan, the payment of benefits under the Plan to the Participant will begin not later than the 60th day after the close of the Plan Year in which the last of the following occurs:

(1) the date on which the Participant attains age 65; or

(2) the 10th anniversary of the date on which the Participant commenced participation in the Plan; or

(3) the Participant’s termination of employment with the University;

provided, notwithstanding any other provision of the Plan, except for benefits payable pursuant to Section 7.2, the University may require that a Participant file a claim for benefits before benefits will commence.

(b) Notwithstanding subsection (a) or any other provision of the Plan, if the amount of payment cannot be ascertained, or if it is not possible to make payment because the Designated Financial Institution cannot locate the Participant after making reasonable efforts to do so, a retroactive payment may be made no later than 60 days after the earliest date on which the amount of such payment can be ascertained or the date on which the Participant is located, whichever is applicable.

(c) If the Designated Financial Institution is unable to locate any person entitled to receive distribution from an account hereunder, such account shall be forfeited and used to reduce University contributions due under Sections 4.1 and 4.2 on the date two years after

(1) the date the Designated Financial Institution sends by certified mail a notice concerning the benefits to such person at his or her last known address or

(2) the Designated Financial Institution determines that there is no last known address.

If an account is forfeited under this Section and a person otherwise entitled to the account subsequently files a claim with the Designated Financial Institution during any Plan Year, before the University contributions for such Plan Year are made under Sections 4.1 and 4.2 the account will be restored to the amount which was forfeited without regard to any earnings or losses that would have been allocated. Such restoration shall first be taken out of forfeitures which have not been used to reduce University contributions and if such forfeitures are insufficient to restore such person’s account balance, restoration shall be made by a University contribution to the Plan.

16.13 Qualified Domestic Relations Order. Notwithstanding anything in the Plan to the contrary, benefits may be distributed in accordance with the terms of a Qualified Domestic Relations Order (“QDRO”). For this purpose a QDRO is any Domestic Relations Order determined by the University to be a Qualified Domestic Relations Order within the meaning of Section 414(p) of the Code pursuant to this Section.

(a) A Domestic Relations Order means a judgment, decree, or order (including the approval of a property settlement agreement) which
(1) relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child or other dependent of a Participant,

(2) is made pursuant to a state domestic relations law, and

(3) creates or recognizes the existence of an Alternate Payee's right, or assigns to the Alternate Payee the right, to receive all or a portion of the benefits of the Participant under the Plan.

An "Alternate Payee" includes any spouse, former spouse, child, or other dependent of a Participant who is designated by the Domestic Relations Order as having a right to receive all or a portion of the benefits payable under the Plan with respect to the concerned Participant.

(b) To be a QDRO, the Domestic Relations Order must meet the specifications set forth in Section 414(p) of the Code and must clearly specify the following:

(1) Name and last known mailing address of the Participant.

(2) Name and last known mailing address of each Alternate Payee covered by the Domestic Relations Order.

(3) The amount or the percentage of the Participant's benefit to be paid to each Alternate Payee, or the manner in which such amount or percentage is to be determined.

(4) The number of payments or period to which the Domestic Relations Order applies.

(5) Each plan to which the Domestic Relations Order applies.

(c) The status of any Domestic Relations Order as a QDRO shall be determined under the following procedures:

(1) Promptly upon receiving a Domestic Relations Order, the University will

   (A) refer the Domestic Relations Order to legal counsel for the Plan to render an opinion within 90 days (or such earlier period as shall be provided by applicable law) whether the Domestic Relations Order is a QDRO, and

   (B) notify the affected Participant and any Alternate Payee of the receipt by the Plan of the Domestic Relations Order and of this procedure.

(2) Promptly upon receiving the determination made by the Plan's legal counsel of the status of the Domestic Relations Order, the affected Participant and each Alternate Payee (or any representative designated by an Alternate Payee by
written notice to the University) and each Designated Financial Institution shall be furnished a copy of such determination. The notice of determination shall state

(A) whether the Plan's legal counsel has determined that the Domestic Relations Order is a QDRO, and

(B) once such legal counsel determines whether the Domestic Relations Order constitutes a QDRO, that the Designated Financial Institution will commence any payments currently due under the Plan to the person or persons entitled thereto after the expiration of a period of 60 days commencing on the date of the mailing of the notice unless prior thereto the Designated Financial Institution receives notice of the institution of legal proceedings disputing the determination. The Designated Financial Institution shall, as soon as practical after such 60 day period, ascertain the dollar amount currently payable to each payee pursuant to the Plan and the QDRO, and any such amounts shall be disbursed by the Plan.

(3) If there is a dispute on the status of a Domestic Relations Order as a QDRO, there shall be a delay in making payments. The Designated Financial Institution shall direct that the amounts otherwise payable be held in a separate account within the Plan. If within 18 months thereafter, the Domestic Relations Order is determined not to be a valid QDRO, or the status of the Domestic Relations Order has not been finally determined, the segregated or escrow amounts (including interest thereon) shall be paid to the person or persons who would have been entitled to such amounts if there had been no Domestic Relations Order. Any determination thereafter that the Domestic Relations Order is a QDRO shall be applied prospectively only.

(d) If a Domestic Relations Order requires payment to an Alternate Payee in an immediate lump sum, the order shall not lose its status as a Qualified Domestic Relations Order merely because of the immediate lump sum provision.

16.14 Written Explanation Of Rollover Treatment. The Designated Financial Institutions shall, within a reasonable period of time before making an eligible rollover distribution, provide a written explanation to the recipient of such distribution of his or her right to roll over such distribution to an eligible retirement plan and, if applicable, his or her right to the special ten year averaging and capital gains tax treatment in the Code. Such written explanation will be provided to the recipient in accordance with rules prescribed by the Internal Revenue Service.

16.15 Leased Employees. "Leased Employee" means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person (a "leasing organization") has performed services for the recipient (or for the recipient and related persons as determined in accordance with Section 414(n)(6) of the Code) on a substantially full time basis for a period of at least one year, if such services are performed under primary direction or control by the recipient. Contributions or benefits provided a Leased Employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer.
Any person who is a Leased Employee of any member of the Controlled Group shall be treated for all purposes of the Plan as if he or she were employed by a member of the Controlled Group which has not adopted the Plan. In the case of a Leased Employee or an Employee, Years of Service shall be determined by taking into account any period for which the individual would have been a Leased Employee but for the fact that he or she had not performed services for a member of the Controlled Group on a substantially full-time basis for a period of at least one year. A transfer from the status of an employee of the University to that of a Leased Employee shall not be considered a termination of employment under the Plan. An individual who has such a transfer shall not have a termination of employment until he or she ceases to be an employee of the University and all members of its Controlled Group and is no longer a Leased Employee.

16.16 Application of Benefits. Application for receipt of benefits is initiated by writing directly to the Designated Financial Institution. Benefits will be payable by the Designated Financial Institution upon receipt by such Institution of a satisfactorily completed application for benefits and supporting documents, including any waiver of spousal rights to retirement benefits or death benefits. The Designated Financial Institution shall provide the necessary forms to the Participant, the Participant’s surviving spouse or any other designated beneficiary. The Designated Financial Institution shall be solely responsible for providing the Participant with all required notices and forms relating to the payment of benefits.

16.17 Special Distribution Option. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee’s (as hereinafter defined) election under this Section, a Distributee may elect, at the time and in the manner prescribed by the Designated Financial Institutions, to have any portion of an Eligible Rollover Distribution (as hereinafter defined) paid directly to an Eligible Retirement Plan (as hereinafter defined) specified by the Distributee in a Direct Rollover.

(a) 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:

   (1) 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;

   (2) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; or

   (3) hardship distributions.

(b) An Eligible Retirement Plan is

   (1) an individual retirement account described in Section 408(a) of the Code;

   (2) an individual retirement annuity described in Section 408(b) of the Code;
(3) an annuity plan described in Section 403(a) of the Code;

(4) a governmental plan described in Section 457(b) of the Code which is maintained by an eligible employer described in Section 457(e)(1)(A) of the Code;

(5) an annuity contract described in Section 403(b) of the Code;

(6) a qualified trust described in Section 401(a) of the Code that accepts the Distributee's Eligible Rollover Distribution; or

(7) to the extent permitted by and in accordance with the applicable rules under Code Section 408A, a Roth IRA described in Code Section 408A.

(c) 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. Moreover, a designated non-spouse beneficiary may be a Distributee, but only with respect to an Eligible Retirement Plan described in Section 16.17(b)(1), (2) or (7).

(d) A Direct Rollover payment is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

16.18 Limitations On Special Distribution Option.

(a) Notwithstanding the provisions of Section 16.17, if the Distributee elects to have a portion of an Eligible Rollover Distribution paid to him or her and the remainder paid directly to the trustee of another Eligible Retirement Plan under such Section, the amount paid directly to the trustee of the other Eligible Retirement Plan must be no less than $500. Also, even if the Distributee elects to have all of an Eligible Rollover Distribution paid directly to the trustee of another Eligible Retirement Plan, the direct rollover will not be available unless the amount of all such distributions in the calendar year are reasonably expected to total $200 or more.

(b) The Designated Financial Institutions shall provide notice of the special distribution option described in Section 16.17 to the Participant in accordance with rules prescribed by the Internal Revenue Service.

16.19 Waiver Of 30-Day Period. A Participant who receives the notice described in Section 10.5 will simultaneously receive the notice described in Section 16.14 and will be given the opportunity to consider for at least 30 days after such notices are provided the decision of whether or not to elect a Direct Rollover (as described in Section 16.17) and whether or not to elect to defer receipt of his or her vested benefit. A Participant may waive such opportunity to consider such elections for at least 30 days by submitting completed distribution election forms to the Designated Financial Institutions before the 30 day time period has elapsed. Notwithstanding any provision herein to the contrary, the Designated Financial Institutions may distribute a Participant's vested benefit pursuant to his or her distribution election forms at any time following such Participant's waiver of the opportunity to consider such elections for at least 30 days.
16.20 **Acquisition of New Entity.** If a member of the Controlled Group contributes to the Plan and the contribution is accepted by the Plan with the consent of the University, the Controlled Group member will be deemed to have adopted the Plan with the consent of the University with respect to the category of employees on behalf of whom the contribution was made, and such employees shall be included in the definition of Employee.

If the University acquires the assets (through purchase, merger or otherwise) of any other entity and hires the persons who had been employed by such entity, the division or other subgroup in which such persons are employed shall be excluded from the groups included in the definition of Employee unless the University communicates to such division or subgroup that such division or subgroup is accruing benefits under the Plan.

16.21 **Acceptance of Rollovers.** This Plan shall accept transfers of amounts distributed ("rollovers") to a Participant (within 60 days of receipt) or directly to this Plan ("direct transfer") from a 403(a) annuity plan, a 403(b) annuity plan, 457(b) governmental plan, a qualified plan or IRA.

**SECTION 17 - TOP-HEAVY DEFINITIONS**

17.1 **Accrued Benefits.** "Accrued Benefits" means "the present value of accrued benefits" as that phrase is defined under regulations issued under Section 416 of the Code. For purposes of Section 17 and Section 18 hereof, the Accrued Benefits of any Participant (other than a Key Employee) shall be determined under the single accrual rate used by all Qualified Plans of the University which are defined benefit plans, or if there is no single accrual rate, Accrued Benefits shall be determined as accruing no more rapidly than the slowest rate permitted under Section 411(b)(1)(C) of the Code. The present values of Accrued Benefits and the amounts in Accounts of an employee as of the Determination Date shall be increased by the distributions made with respect to the employee under the Plan and any plan aggregated with the Plan under Code Section 416(g)(2) during the one (1)-year period ending on the Determination Date. The preceding sentence shall also apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the Plan under Code Section 416(g)(2)(A)(i). In the case of a distribution made for a reason other than severance from employment, death, or disability, this provision shall be applied by substituting "five (5)-year period" for "one (1)-year period."

17.2 **Beneficiaries.** "Beneficiaries" means the person or persons to whom the share of a deceased Participant's account is payable.

17.3 **Determination Date.** "Determination Date" means for a Plan Year the last day of the preceding Plan Year.

17.4 **Former Key Employee.** "Former Key Employee" means any person presently or formerly employed by the Controlled Group (and the Beneficiaries of such person) who during the Plan Year is not classified as a Key Employee but who was classified as a Key Employee in a previous Plan Year; provided, however, that a person who has not performed any services for the Controlled Group at any time during the one-year period ending on the Determination Date (and the Beneficiaries of any such person) shall not be considered a Former Key Employee.

17.5 **Key Employee.** "Key Employee" means any person presently or formerly employed by the Controlled Group (and the Beneficiaries of such person) who is a "key employee" as that term is defined in Section 416(i) of the Code and the regulations thereunder; provided,
however, that a person who has not performed any services for the Controlled Group at any time during the one-year period ending on the Determination Date (and the Beneficiaries of any such person) shall not be considered a Key Employee. For purposes of determining whether a person is a Key Employee, the definition of Top-Heavy Compensation shall be applied.

17.6 Non-Key Employee. "Non-Key Employee" means any person presently or formerly employed by the Controlled Group (and the Beneficiaries of such person) who is not a Key Employee or a Former Key Employee; provided, however, that a person who has not performed any services for the Controlled Group at any time during the one-year period ending on the Determination Date (and the Beneficiaries of any such person) shall not be considered a Non-Key Employee.

17.7 Permissive Aggregation Group. "Permissive Aggregation Group" means each Qualified Plan of the Controlled Group in the Required Aggregation Group plus each other Qualified Plan which is not part of the Required Aggregation Group but which satisfies the requirements of Sections 401(a)(4) and 410 of the Code when considered together with the Required Aggregation Group.

17.8 Required Aggregation Group. "Required Aggregation Group" means each Qualified Plan (including any terminated Qualified Plan) of the Controlled Group in which a Key Employee participates during the Plan Year containing the Determination Date or any of the four preceding Plan Years and each other Qualified Plan (including any terminated Qualified Plan) of the Controlled Group which during this period enables any Qualified Plan (including any terminated Qualified Plan) in which a Key Employee participates to meet the requirements of Section 401(a)(4) or 410 of the Code.

17.9 Top-Heavy Compensation. "Top-Heavy Compensation" means compensation within the meaning of Section 415(c)(3) of the Code. See Section 16.11 for the definition of compensation. For purposes of this Section, such compensation shall be considered only if earned while a Participant.

17.10 Top-Heavy Group. "Top-Heavy Group" means, for a Plan Year, the Required Aggregation Group if, and only if, the sum of the Accrued Benefits (valued as of the Determination Date for such Plan Year) under all Qualified Plans (including any terminated Qualified Plans) in the Required Aggregation Group for Key Employees exceeds 60% of the sum of the Accrued Benefits (valued as of such Determination Date) under all Qualified Plans (including any terminated Qualified Plans) in the Required Aggregation Group for all Key Employees and Non-Key Employees; provided, however, that the Required Aggregation Group will not be a Top-Heavy Group for a Plan Year if the sum of the Accrued Benefits (valued as of the Determination Date for such Plan Year) under all Qualified Plans (including any terminated Qualified Plans) in the Required Aggregation Group for Key Employees does not exceed 60% of the sum of the Accrued Benefits (valued as of such Determination Date) under all Qualified Plans in the Permissive Aggregation Group for all Key Employees and Non-Key Employees. If the Qualified Plans in the Required or Permissive Aggregation Group have different Determination Dates, the Accrued Benefits under each such Plan shall be calculated separately, and the Accrued Benefits as of Determination Dates for such Plans that fall within the same calendar year shall be aggregated.
SECTION 18 - TOP-HEAVY RULES

18.1 Special Top-Heavy Rules. If for any Plan Year the Plan is part of a Top-Heavy Group, then, effective as of the first day of such Plan Year this Section shall apply to Participants who accrue an Hour of Employment on or after the first day of such Plan Year.

18.2 Minimum Allocation if Plan is part of Top-Heavy Group. Notwithstanding the foregoing, for each Plan Year in which the Plan is part of a Top-Heavy Group, the sum of the University contributions and forfeitures allocated under the Plan to the account of each Non-Key Employee who is both a Participant and Employee on the last day of such Plan Year shall be at least equal to the lesser of three percent of such Non-Key Employee's Top-Heavy Compensation for such Plan Year or the largest percentage of Top-Heavy Compensation allocated to the account of any Key Employee; provided, however, that if for any Plan Year a Non-Key Employee is a Participant in both this Plan and one or more defined contribution plans, the University need not provide the minimum allocation described in the preceding sentence for such Non-Key Employee if the University satisfies the minimum allocation requirement of Section 416(c)(2)(B) of the Code for the Non-Key Employee in such other defined contribution plans; and provided that if for any Plan Year a Non-Key Employee is a Participant in both this Plan and a defined benefit plan, the University need not provide the minimum allocation described in this Section for such Non-Key Employee if the University satisfies the minimum benefit requirement of Section 416(c)(1) of the Code for the Non-Key Employee in such other defined benefit plan. Amounts which a Non-Key Employee or Key Employee elects to contribute on a pre-tax basis to a Qualified Plan which meets the requirements of Section 401(k) of the Code shall be considered a University contribution for purposes of Section 17.10; provided, however, that such pre-tax contributions made by Non-Key Employees may not be taken into account in determining the minimum allocation provided under this Section. Matching contributions made on behalf of Non-Key Employees may be taken into account in determining the minimum allocation provided under this Section.
18.3 **Modification of Top-Heavy Rules.** The top-heavy requirements of Section 416 of the Code and this Section 18 shall not apply in any year in which the Plan consists solely of matching contributions with respect to which the requirements of Section 401(m)(11) of the Code are met.

IN WITNESS WHEREOF, the University has caused this Amendment to be executed by an authorized individual this 17th day of December, 2012.

SAINT LOUIS UNIVERSITY

By:  

Name: Kenneth Fleischmann  

Title: Vice President – Human Resources