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Article I: Definitions

The following words and phrases when used in the Plan with initial capital letters shall, for the purpose of this Plan, have the meanings set forth below unless the context indicates that other meanings are intended:

1.1 Accumulation Account means the bookkeeping account maintained for each Participant which reflects the aggregate amount credited to the Participant’s Account under all Accounts, including the Participant’s Elective Deferrals, the earnings or loss of each Annuity Contract or a Custodial Account (net of expenses) allocable to the Participant, any transfers for the Participant’s benefit, and any distribution made to the Participant or the Participant’s Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant’s death, then a separate Accumulation Account shall be maintained for each Beneficiary. The Accumulation Account includes any account established under Section 6.1 for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant’s death, and any account or accounts established for an alternate payee (as defined in Section 414(p)(8) of the Code).

1.2 Administrator means the Institution, as specified in Section 8.1.

1.3 Adoption Agreement means the document executed by the Institution through which it adopts the Plan and thereby agrees to be bound by all the terms and conditions of the Plan.

1.4 Alternate Payee means any Spouse, former Spouse, child, or other dependent of a Participant who is recognized by a Domestic Relations Order as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to such Participant.

1.5 Annual Additions means the sum of the following amounts credited to a Participant’s Accumulation Account during the Limitation Year: (a) Plan Contributions; (b) forfeitures, if any; and (c) individual medical account amounts described in Section 415(l)(2) and 419(d)(2) of the Code, if any.

1.6 Annuity Contract means a nontransferable contract as defined in Section 403(b)(1) of the Code, established for each Participant by the Administrator that is issued by an insurance company qualified to issue annuities in the State of California and that includes payment in the form of an annuity.

1.7 Beneficiary(ies) means the individual, institution, trustee, or estate designated by the Participant to receive the Participant's benefits at his or her death.

1.8 Board means the Institution's Board of Trustees.

1.9 Code means the Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

1.10 Compensation means the amount paid by the Institution to a Participant after the Plan Entry Date that must be reported as wages on the Participant's Form W-2, plus compensation that is not currently includable in the Participant’s gross income after the Plan Entry Date because of the application of Code Sections 125, 132(f)(4), 457(b) or 403(b) through a salary reduction agreement. Compensation includes leave cashouts and deferred compensation paid after severance.

In addition to other applicable limitations stated in the Plan, and notwithstanding any other provision of the Plan to the contrary, for Plan years beginning on or after January 1, 1994, the annual compensation of each employee taken into account under the plan shall not exceed the OBRA '93 annual compensation limit. The OBRA '93 annual compensation limit is $150,000, as adjusted by the Commissioner of the Internal Revenue Service for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the OBRA '93 annual
compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

For plan years beginning on or after January 1, 1994, any reference in this plan to the limitation under Section 401(a)(17) of the Code shall mean the OBRA '93 annual compensation limit stated in this provision.

If compensation for any prior determination period is taken into account in determining an Eligible Employee's benefits accruing in the current Plan Year, the compensation for that prior determination period is subject to the OBRA '93 annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first Plan Year beginning on or after January 1, 1994, the OBRA '93 annual compensation limit is $150,000.

1.11 **Custodial Account** means the group or individual custodial account or accounts, as defined in Section 403(b)(7) of the Code, established for each Participant by the Administrator to hold assets of the Plan.

1.12 **Date of Employment or Reemployment** means the effective date of the appointment of a faculty member. For all other Eligible Employees, the Date of Employment or Reemployment is the first day upon which an employee completes an Hour of Service for performance of duties during the employee's most recent period of service with the Institution.

1.13 **Domestic Relations Order** means any judgment, decree, or order (including approval of a property settlement agreement) that:

(a) 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, and

(b) is made pursuant to state domestic relations law (including applicable community property laws).

1.14 **Effective Date** means the date the Plan or amendment or restatement becomes effective as indicated in the Adoption Agreement.

1.15 **Eligible Employee** means any faculty with academic rank (meaning persons having the academic rank at the College of Professor, Associate Professor, Assistant Professor or Instructor), Visiting Faculty, Adjunct Faculty, administrative officers, athletic coaches, and clerical, secretarial, maintenance and service employees who are employed a minimum of 20 hours per week on an annual basis. However, Lecturers, as defined in the Saint Mary’s College Faculty Handbook) and any employee who is customarily employed on a part-time, temporary or irregular basis for less than 1,000 hours a year, excluding overtime, are not Eligible Employees. Eligible Employee does not include a person who is enrolled and regularly attending classes at the Institution whose employment is incidental to his or her educational program.

No individual who is deemed to be an independent contractor, as determined by the Administrator in its sole discretion, or individual performing services for the Institution pursuant to an agreement that provides that such individual shall not be eligible to participate in the retirement or other benefit plans of the Institution, shall be an Eligible Employee for purposes of this plan.

1.16 **Eligible Employer** means any institution of higher education.

1.17 **Fund Sponsor** means an insurance, variable annuity or investment company that provides Funding Vehicles, by way of Annuity Contracts or Custodial Accounts, available to Participants under this Plan when authorized by the Institution.
1.18 **Funding Vehicle** means an annuity contract or custodial account that meets the requirements of Code Section 403(b) and is available for investment of Plan Contributions under this Plan and specifically approved by the Institution for use under this Plan as provided in Article V.

1.19 **Hours of Service.**

(a) **General:** Subject to subparagraphs (b) and (c) of this paragraph 1.12, **Hour of Service** means:

(1) Each hour for which an Eligible Employee is paid, or entitled to payment, for the performance of duties for the Institution.

(2) Each hour for which an Eligible Employee is paid, or entitled to payment, on account of a period of time during which no duties are performed (regardless of whether employment has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty, leave of absence, or maternity or paternity leave (whether paid or unpaid). However, any period for which a payment is made or due under a plan maintained solely for the purpose of complying with Workers’ Compensation or unemployment compensation or disability insurance laws, or solely to reimburse the employee for medical or medically-related expenses, is excluded. An Eligible Employee is directly or indirectly paid, or entitled to payment by the Institution regardless of whether payment is made by or due from the Institution directly or made indirectly through a trust fund, insurer or other entity to which the Institution contributes or pays premium. No more than 501 Hours of Service will be credited under this paragraph. Hours of Service under this paragraph will be calculated and credited pursuant to Section 2530.200b-2 of the Department of Labor Regulations, incorporated herein by reference.

(3) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Institution, without duplication of hours provided above, and subject to the 501-hour restriction for periods described in (b) above.

Hours of Service will be credited for employment with other members of an affiliated service group (under Code Section 414(m)), a controlled group of corporations (under Code Section 414(b)), or a group of trades or businesses under common control (under Code Section 414(c)) of which the Institution is a member, and any other entity required to be aggregated with the Institution pursuant to Code Section 414(o) and the regulations thereunder. Hours of Service also will be credited for any person considered an Eligible Employee for this Plan under Code Sections 414(n) or 414(o) and the regulations thereunder.

(b) **Employees Other Than Faculty and Administrative Officers.** Except as provided in paragraph (c), Hours of Service for Eligible Employees will be determined on the basis of actual hours for which the employee is paid or entitled to payment.

(c) Faculty and Administrative Officers. Hours of Service for faculty with academic rank, Visiting Faculty, Adjunct Faculty and Administrative Officers will be determined as follows:

(i) 45 Hours of Service will be credited for each calendar week of employment during which the Eligible Employee is required to perform the specified duties in the letters of appointment and to carry out other duties assigned in accordance with the applicable provisions of the Saint Mary’s College Faculty Handbook or as otherwise assigned, except as provided in subparagraph (ii).

(ii) Faculty with academic rank who enter into a Reduced Services Agreement or a Phased Retirement Services Agreement will be credited on the basis 45 Hours of Service per week for the number of weeks which the faculty member would work if the faculty member continued to teach full time.
(iv) Except as otherwise provided in paragraph 1.12(a) and 1.19(c)(ii) above, no Hours of Service will be credited for —

(A) any calendar week during which no duties are performed; or

(B) any calendar week following the calendar week in which a severance from service occurs and before the Eligible Employee performs another Hour of Service for which the Eligible Employee is paid, or entitled to payment, for the performance of duties for the Institution. A severance from service shall occur on the date on which an Eligible Employee quits, retires, is discharged or dies.

1.20 **Individual Agreement** means agreements between a Fund Sponsor and a Participant that constitutes or governs a Custodial Account or an Annuity Contract.

1.21 **Institution** means Saint Mary’s College of California.

1.22 **Institution Plan Contributions** means contributions made by the Institution under this Plan.

1.23 **Limitation Year** means a calendar year.

1.24 **Normal Retirement Age** means age 65.

1.25 **Participant** means any Eligible Employee of the Institution who meets the requirements of Article III for participating in this Plan.

1.26 **Phased Retirement Program Services Agreement** means a written agreement between the Institution and a faculty member to participate in the Phased Retirement Program described in Saint Mary’s College of California Phased Retirement Program Policy Statement of April 1, 2007 and Section 2.2.4.1 of the Saint Mary’s College Faculty Handbook.

1.27 **Plan** means the Institution's Defined Contribution Retirement Plan as set forth in this document.

1.28 **Plan Contributions** means contributions made under this Plan by the Institution.

1.29 **Plan Entry Date** means the first of the month beginning after the date that the Eligible Employee has met the of Article III for participating in the Plan.

1.30 **Plan Year** means July 1 through June 30.

1.31 **Qualified Domestic Relations Order** means a Domestic Relations Order meeting the following requirements, as determined by the Fund Sponsor under a Participant’s Individual Agreement(s):

(a) A Domestic Relations Order shall be a **Qualified Domestic Relations Order** only if the order clearly specifies

(1) the name and last known mailing address (if any) of the Participant and the name and mailing address of each Alternate Payee covered by the order,

(2) the amount or percentage of the Participant's benefits to be paid by the Plan to each such Alternate Payee, or the manner in which such amount or percentage is to be determined,

(3) the number of payments or period to which such order applies, and
(4) each plan to which such order applies.

(b) Further, a Domestic Relations Order shall be considered a **Qualified Domestic Relations Order** only if such order

(1) does not require the Plan to provide any type or form of benefit, or any option not otherwise provided under the Plan,

(2) does not require the Plan to provide increased benefits, and

(3) does not require benefits to an Alternate Payee that are required to be paid to another Alternate Payee under another order previously determined to be a Qualified Domestic Relations Order.

(c) **Exception for Certain Payments.** A Domestic Relations Order shall not be treated as failing to meet the requirements above solely because such order requires that payment of benefits be made to an Alternate Payee

(1) on or after the date on which the Participant attains (or would have attained) the earliest retirement age as defined in Code Section 414(p)(4)(B).

(2) as if the Participant had retired on the date on which such payment is to begin under such order, and

(3) in any form in which such benefits may be paid under the Plan to the Participant (other than in a Qualified Joint and Survivor Annuity) with respect to the Alternate Payee and their subsequent spouse.

1.32 **Qualified Joint and Survivor Annuity** means an immediate annuity for the life of the Participant with a survivor annuity for the life of the spouse that is not less than 50 percent (and not more than 100 percent) of the amount payable during the joint lives of the Participant and the spouse that can be purchased with the Participant’s vested Accumulation Account. The percentage of the survivor annuity under the Plan shall be 50 percent.

1.33 **Reduced Services Agreement** means a written agreement between the Institution and a tenured faculty member to accept a Reduced Services Appointment under the conditions described in Section 2.2.4 of the Saint Mary’s College Faculty Handbook.

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

1.35 **Valuation Date** means the date on which a valuation occurs of the assets and liabilities of the Accumulation Account as specified in a Participant’s Individual Agreement.

1.36 **Year of Service** means a 12-month period (computation period) during which the Eligible Employee completes 1,000 or more Hours of Service.
Article II: Establishment of Plan

2.1 Establishment of Plan. The Board of Saint Mary's College of California established the Plan as of September 1, 1949.

This plan document sets forth the provisions of this Code Section 403(b) Plan. The Plan was restated as of January 1, 2009. Plan Contributions are invested, at the direction of each Participant, in one or more of the Funding Vehicles available to Participants under the Plan. Plan Contributions shall be held for the exclusive benefit of Participants.

A Code Section 403(b) defined contribution retirement plan is a plan that provides for a separate account(s) for each Participant that meets the requirements of Code Section 403(b). Benefits are based solely on the amounts of Plan Contributions to the Participant's Accumulation Account(s) and earnings, if any. All benefits under the Plan are fully funded and provided through the Funding Vehicle(s) selected by the Participant. Benefits are not subject to, nor covered by, federal plan termination insurance.

Article III: Eligibility for Participation

3.1 Eligibility. An Eligible Employee will begin participation in this Plan on the Plan Entry Date following fulfillment of the following requirement(s):

(a) completion of 1 Year of Service at the Institution

(b) attainment of age 21.

For purposes of eligibility for participation, Years of Service with an Eligible Employer during the period immediately preceding the Eligible Employee’s Date of Employment with the Institution will be counted, subject to appropriate documentation of service from the prior Eligible Employer.

3.2 Notification. The Administrator will notify an Eligible Employee when he or she has completed the requirements necessary to become a Participant. An Eligible Employee who complies with the requirements and becomes a Participant is entitled to the benefits and is bound by all the terms, provisions, and conditions of this Plan, including any amendments that, from time to time, may be adopted, and including the terms, provisions and conditions of any Funding Vehicle(s) to which Plan Contributions for the Participant have been applied.

3.3 Enrollment in Plan. To participate in this Plan, an Eligible Employee must complete the necessary enrollment form(s) and return them to the Administrator. An employee who has been notified that he or she is eligible to participate but who fails to return the enrollment forms will be deemed to have waived all of his or her rights under the Plan except the right to enroll at a future date. Each employee enrolling in the Plan shall provide to the Administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable for the Administrator to administer the Plan, including any information required under the Individual Agreements.

3.4 Reemployment. A former employee who is reemployed by the Institution will be eligible to participate upon meeting the requirements stated in the “Eligibility” section of Article III. A former employee who satisfied these requirements before termination of employment will be eligible to begin participation immediately after reemployment provided the former employee is an Eligible Employee.
3.5 **Termination of Participation.** A Participant will continue to be eligible to participate in the Plan until one of the following conditions occurs:

(a) He or she ceases to be an Eligible Employee; or

(b) The Plan is terminated.

Provided, if a Participant begins to receive retirement benefits from the Accumulation Accounts(s) arising from Plan Contributions under this Plan before termination of employment, he or she will cease to be eligible and no further Institution Plan Contributions will be made on his or her behalf unless the Participant is subject to a Phased Retirement Program Services Agreement.

3.6 **Computation Period.** For purposes of determining a Year of Service for purposes of eligibility for participation, the initial computation period is the 12-consecutive month period beginning with the day the Eligible Employee first performs an Hour of Service. Any subsequent computation period will begin on the anniversary of the Date of Employment or Reemployment.

**Article IV: Plan Contributions**

4.1 **Plan Contributions.**

(a) Except as provided in paragraph (b), Plan Contributions will be made for Eligible Employees who have satisfied the requirements of Article III, including completion of a Year of Service for the Plan Year for which the contributions are to be made, in accordance with the schedule below:

<table>
<thead>
<tr>
<th>Plan Contributions as a Percentage of Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>By the Institution (for Plan Years commencing July 1, 2002)</td>
</tr>
<tr>
<td>8.25%</td>
</tr>
<tr>
<td>By the Institution (for Plan Years commencing July 1, 2009)</td>
</tr>
<tr>
<td>2.0%</td>
</tr>
</tbody>
</table>

(b) Plan Contributions for Eligible Employees who are tenured faculty with academic rank and who are employed under a Phased Retirement Program Services Agreement will be made according to the formula provided in paragraph (a), except that the compensation base will be the amount which the faculty member would be paid as salary if the faculty member was teaching full time.

(c) All Plan Contributions are subject to the limitations of Section 4.9 (Maximum Plan Contributions).

4.2 **When Contributions Are Made.** Plan Contributions will begin when the Institution has determined that the Participant has met or will meet the requirements of Article III. Any part of a year's Plan Contributions not contributed before this determination will be included in contributions made for that year after the determination. Plan Contributions will be transmitted to the Funding Vehicle(s) in accordance with the procedures established by the Institution. Institution Plan Contributions will be forwarded to the Fund Sponsor(s) at least annually.

4.3 **Allocation of Contributions.** A Participant may allocate Plan Contributions to the Funding Vehicle(s) in any whole-number percentages that equal 100 percent. A Participant may change his or her allocation of
future contributions to the Funding Vehicle(s) at any time in accordance with the procedures established by the Institution and the Fund Sponsor.

4.4 **Plan Contributions Vested.** Plan Contributions are fully and immediately vested and nonforfeitable when such Plan Contributions are made.

4.5 **Leave of Absence.** During a paid leave of absence, Plan Contributions will continue to be made for a Participant on the basis of Compensation then being paid by the Institution. No Plan Contributions will be made during an unpaid leave of absence.

4.6 **Protection of Persons in Uniformed Services.** Notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.

4.7 **Transfer of Funds from Another Plan (Fund-to-Fund Transfer).**

   (a) With the consent of the Administrator and a Fund Sponsor, the Plan may receive contributions that are transferred directly from any other plan described in Section 403(b) of the Code, whether such plans are funded through a trustee arrangement or through an annuity contract, if such contributions are attributable only to employer and employee contributions and the earnings thereon and the funds are accompanied by instructions showing the respective amounts attributable to employer and employee contributions. Such funds and the accumulation generated from them shall always be fully vested and nonforfeitable. Whether any particular transfer may be accepted by the Plan, and the procedures for the receipt of such transfers by the Plan, will be determined by the requirements of Treasury Regulation 1.411(d)-4, Q&A-3, Treasury Regulation 1.403(b)-10(b)(3), and other rules promulgated by the Internal Revenue Service. The Administrator and any Fund Sponsor accepting such transferred amounts may require that the transfer be in cash or other property acceptable to them. The Administrator or any Fund Sponsor accepting such transferred amounts may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with Treasury Regulation 403(b)-10(b)(3) and to confirm that the other plan is a plan that satisfies the requirements of Code Section 403(b).

   (b) The amount so transferred shall be credited to the Participant's Accumulation Account and separately accounted for, and the Participant whose assets are being transferred must have an accumulated benefit immediately after the transfer at least equal to the accumulated benefit with respect to that Participant immediately before the transfer.

   (c) To the extent any amount transferred is subject to any distribution restrictions required under Code Section 403(b) and Treasury Regulation 403(b)-6, distribution restrictions under the Plan which apply to the Participant or Beneficiary whose assets are being transferred will not be less stringent than those imposed under the transferor plan.

4.8 **Acceptance of Rollover Contributions.**

   (a) **Direct Rollovers.** The Plan will accept a direct rollover of an eligible rollover distribution from:

      (1) A qualified plan described in Section 401(a) or 403(a) of the Code, excluding after-tax employee contributions.

      (2) A qualified tax sheltered annuity plan described in Section 403(b) of the Code.

      (3) An eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.
(b) **Participant Rollover Contributions from Other Plans.** The Plan will accept, within 60 days of the receipt of the distribution, a Participant contribution of an eligible rollover distribution from:

1. A qualified plan described in Section 401(a) or 403(a) of the Code.
2. A tax sheltered annuity plan described in Section 403(b) of the Code.
3. An eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(c) **Participant Rollover Contributions from IRAs.** The Plan will accept, within 60 days of the receipt of the distribution, a Participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or 408(b) of the Code that is eligible to be rolled over and would otherwise be includible in gross income.

(d) **Withdrawals of Rollover Contributions.** To the extent permitted by the Funding Vehicle, a Participant may receive a cash withdrawal of any rollover contribution made on or after January 1, 2002. Withdrawals may be received while the Participant is employed by the Institution. To the extent the Plan is subject to ERISA, this right will be subject to the spouse’s rights to survivor benefits.

4.9 **Maximum Plan Contributions.** Notwithstanding anything contained in this Plan to the contrary, the total Annual Additions made for any Participant for any year will not exceed the amount permitted under Section 415 of the Code. The limitations of Code Section 415 are hereby incorporated by reference.

For the purpose of calculating the limits of Code Section 415, compensation means a Participant's earned income, wages, salaries, and fees for professional services and other amounts received for personal services actually rendered in the course of employment with the employer maintaining the plan and excluding the following: (a) employer contributions to a plan of deferred compensation that are not includible in the employee's gross income for the taxable year in which contributed, or employer contributions under a simplified employee pension plan to the extent such contributions are deductible by the employee, or any distributions from a plan of deferred compensation; and (b) any other amount that received special tax benefits, or contributions made by the employer (whether or not under a salary reduction agreement) towards the purchase of an annuity described in Code Section 403(b) (whether or not the amounts are actually excludable from the gross income of the employee). For years beginning after December 31, 1997, compensation shall include any elective deferral (as defined in Code Section 402(g)(3)) and any amount which is contributed or deferred by the Institution at the election of the Participant which is not includible in the gross income of the Participant by reason of Code Section 125, 132(f)(4) or 457.

To the extent permitted by Code Section 415 and the regulations promulgated thereunder, if the Annual Additions exceed the Section 415 limitations, the excess amounts will be disposed of as follows: (a) any Participant Plan Contributions (plus any gain attributable to the excess), to the extent they would reduce the excess amount, will be returned to the Participant; and to the extent necessary, (b) if, after the application of (a) an excess still exists, the excess will be held unallocated in a suspense account and will be applied to reduce Institution Plan Contributions in succeeding Limitation Years.

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

**Article V: Funding Vehicles**

5.1 **Manner of Investment.** All Plan Contributions, all property and rights purchased with such amounts under the Funding Vehicles, and all income attributable to such amounts, property, or rights shall be held and invested in one or more Annuity Contracts or Custodial Accounts. Each Custodial Account shall provide for it to be impossible, prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the Custodial Account to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

5.2 **Investment of Contributions.** Each Participant or Beneficiary shall direct the investment of his or her Account among the investment options available under the Annuity Contracts or Custodial Accounts in accordance with the terms of the Individual Agreements. Transfers among Annuity Contracts and Custodial Accounts may be made to the extent provided in the Individual Agreements and permitted under applicable Treasury Regulations. A Fund Sponsor may permit, in a uniform and nondiscriminatory manner, a Beneficiary of a deceased Participant or the Alternate Payee under a Qualified Domestic Relations Order to individually direct investments.

5.3 **Current and Former Fund Sponsors.** The Administrator shall maintain a list of all approved Fund Sponsors under the Plan. Such list is hereby incorporated as part of the Plan. Each Fund Sponsor and the Administrator shall exchange such information as may be necessary to satisfy Section 403(b) of the Code or other requirements of applicable law. In the case of a Fund Sponsor which is not approved to receive Elective Deferrals under the Plan (including a Fund Sponsor which has ceased to be a Fund Sponsor eligible to receive Elective Deferrals under the Plan and a Fund Sponsor holding assets under the Plan in accordance with Section 6.2 or 6.4), the Institution shall keep the Fund Sponsor informed of the name and contact information of the Administrator in order to coordinate information necessary to satisfy Section 403(b) of the Code or other requirements of applicable law.

5.4 **Selection of Fund Sponsors and Funding Vehicles.**

(a) The Administrator shall select the Fund Sponsors that will provide the Funding Vehicles under the Plan. The Administrator will identify each entity that will be treated as a Fund Sponsor for purposes of the Plan. The Administrator will also identify the Funding Vehicles that each Fund Sponsor may offer under the Plan. The Fund Sponsor may be permitted to offer one or more Funding Vehicles. As indicated in the definition of Funding Vehicle, the Funding Vehicles offered by a Fund Sponsor may be either annuity contracts or custodial accounts, or both. Each Participant or Beneficiary shall execute an Individual Agreement with the Fund Sponsor(s).

(b) Each Funding Vehicle offered by a Fund Sponsor may provide a range of investment options. The Administrator shall determine the investment options that will be available under a Funding Vehicle. The Administrator may alter the investment options available under a Funding Vehicle subject to the Individual Agreement. Participants must be notified of any alterations to investment options available under the Funding Vehicles.

(c) The Administrator may, for the benefit of Participants and Beneficiaries, change the Fund Sponsors or Funding Vehicles available pursuant to the Plan for future allocations to the extent permitted by the Individual Agreements. The Administrator must notify affected Participants regarding any such change.
(d) Funding Vehicles shall be made available for the sole purpose of providing benefits under this Plan in accordance with Code Section 403(b) and any other laws relating thereto. Documents establishing such Funding Vehicles and Individual Agreements shall be consistent with the terms of the Plan.

5.5 Election Among Investment Options.

(a) A Participant may select the investment options and/or Funding Vehicles of one or more Fund Sponsors to receive contributions under the Plan made on their behalf and may change the Fund Sponsor or Fund Sponsors who are to receive those contributions, but only pursuant to rules established by and agreed to by the affected Fund Sponsors. Each Participant shall complete an application form or use another method of application made available by the Fund Sponsor or Fund Sponsors in order for one or more Funding Vehicles to be issued or utilized on their behalf under the Plan.

(b) Participants or Beneficiaries may change the investment of their Accumulation Account among the Funding Vehicles issued by Fund Sponsors authorized under the Plan provided that (i) such Fund Sponsor may accept new Plan Contributions, (ii) such transfers are permissible under the restrictions of the relevant Individual Agreements, and (iii) such transfers are consistent with any procedures and rules which may be established by the Fund Sponsor(s), including any rules or procedures with respect to sharing of information necessary for plan compliance under the Code and Treasury Regulations thereunder.

5.6 Allocation of Contributions. A Participant may allocate Plan Contributions to the Funding Vehicle(s) in any whole-number percentages that equal 100 percent. A Participant may change his or her allocation of future contributions to the Funding Vehicle(s) at any time in accordance with the procedures established by the Administrator and the Fund Sponsor.

5.7 Information Sharing. If any Fund Sponsor ceases to be eligible to receive contributions under the Plan after December 31, 2008, the Institution will enter into an information sharing agreement with the former Fund Sponsor to the extent another agreement with the Fund Sponsor does not provide for the exchange of information, as required by the Code and Treasury Regulations thereunder.

5.8 Addition or Deletion of Fund Sponsors and Funding Vehicles. The Institution's current selection of Fund Sponsors and Funding Vehicles is not intended to limit future additions or deletions of Fund Sponsors and Funding Vehicles.

Article VI: Valuation

6.1 Valuation and Accumulation Accounts

(a) The Participants' Accumulation Accounts will be valued on each Valuation Date at fair market value.

(b) Each Fund Sponsor shall establish and maintain an Accumulation Account in the name of each Participant to reflect the total value of their interest in the Funding Vehicle. Each Accumulation Account established hereunder shall consist of such subaccounts as may be needed for each Participant, including appropriate subaccounts to reflect a Participant's rollover contributions and transfer contributions. The Fund Sponsor may establish additional accounts as it may deem necessary for the proper administration of the Plan. Also, separate accounts will be established whenever specified in the Plan or required by regulations under Code Section 403(b), including for Excess Annual Additions.
Article VII: Benefits

7.1 Retirement Benefits. Eligibility for benefits upon retirement will be determined by the Fund Sponsors according to the Individual Agreements. Unless modified by the terms of the Individual Agreements, the Participant may elect (either in writing or in any other form permitted under rules promulgated by the Internal Revenue Service) that the Participant's Accumulation Account be paid to the Participant in one or more of the following forms of payment: (1) in a lump sum, (2) in a partial payment, (3) in installment payments over a period not to exceed the life expectancy of the Participant or the joint and last survivor life expectancy of the Participant and the Participant's Designated Beneficiary, or (4) applied to the purchase of an annuity contract (if assets are held in a custodial account) or converted to an income option (if assets are held in an annuity contract). Any income option available to Participants under the Individual Agreements will be permitted under this Plan.

7.2 Benefit Distributions at Severance from Employment or Other Distribution Event. Subject to the applicable Individual Agreements and except as permitted under Section 4.8(d) (relating to withdrawals of amounts rolled over into the Plan) or Article IX (relating to termination of the Plan), a Participant's Accumulation Account shall be distributable upon (1) the Participant's Severance from Employment, (2) the Participant becoming Disabled, (3) the Participant's attainment of age 59½, or (4) the death of the Participant. If a Participant who is entitled to a distribution is not legally competent to request or consent to a distribution, the Participant's court-appointed guardian, an attorney in fact acting under a valid power of attorney, or any other individual or entity authorized under state law to act on behalf of the Participant, may request and accept a distribution of the Participant's Accumulation Account under this Plan Section 7.2. For purposes of this section, the meaning of the term “Disabled” is determined by the definition of disability provided in the applicable Individual Agreement.

7.3 Application for Benefits. Procedures for receipt of benefits are initiated by writing directly to the Fund Sponsor. Benefits will be payable by the Fund Sponsor upon receipt of a satisfactorily completed application for benefits and supporting documents. The necessary forms will be provided to the Participant, the surviving spouse, or the Beneficiary(ies) by the Fund Sponsor.

7.4 Retirement Transition Benefit. Unless the Joint and Survivor Annuity, the Minimum Distribution Annuity, or the Limited Periodic Withdrawal Option is elected, a Participant may elect to receive a one-time lump-sum payment of up to 10 percent of his or her Accumulation Account(s) at the time annuity income begins, provided the one-sum payment from Accumulation Account does not exceed 10 percent of the respective Accumulation Account(s) being converted to retirement income.

7.5 Cash Withdrawals. A Participant may receive a cash withdrawal as permitted by the Funding Vehicle. Cash withdrawals may be received while the Participant is employed by the Institution, to the extent permitted by the Code, at age 60.

7.6 Small Accumulation Accounts. The terms of the Individual Agreement may permit distributions to be made in the form of a lump-sum payment, without the consent of the Participant or Beneficiary, but no such payment may be made without the consent of the Participant or Beneficiary unless the Accumulation Account does not exceed $5,000 (determined without regard to any separate account that holds rollover contributions under Section 4.9) and any such distribution shall comply with the requirements of Section 401(a)(31)(B) of the Code (relating to automatic distribution as a direct rollover to an individual retirement plan for distributions in excess of $1,000).

7.7 In-Service Distributions From Rollover Account. If a Participant has a separate account attributable to rollover contributions to the plan, and to the extent permitted by the applicable Individual Agreement, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account.
Minimum Distribution Requirements. The provisions of this Section 7.8 will apply for purposes of determining required minimum distributions for calendar years beginning January 1, 2003. The requirements of this section shall apply to any distribution of a Participant's vested Accumulation Account(s) and will take precedence over any inconsistent provisions of this Plan. Distributions in all cases will be made in accordance with Code Section 401(a)(9) and the regulations promulgated thereunder.

(a) Time and Manner of Distribution.

(1) Required Beginning Date. The Participant’s entire interest shall be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

(2) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest shall be distributed, or begin to be distributed, no later than as follows:

(A) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then distributions to the surviving spouse shall 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 70 1/2, if later.

(B) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then distributions to the designated Beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(C) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest shall be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(D) If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this subsection (a)(2), other than subsection (a)(2)(A), will apply as if the surviving spouse were the Participant.

For purposes of subsections (a)(2) and (d), unless subsection (a)(2)(D) applies, distributions are considered to begin on the Participant's Required Beginning Date. If subsection (a)(2)(D) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under subsection (a)(2)(A). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection (a)(2)(A), the date distributions are considered to begin is the date distributions actually commence.

(3) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions shall be made in accordance with subsections (b) and (c) of this Section. 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.
(b) **Required Minimum Distributions During Participant's Lifetime.**

(1) **Amount of Required Minimum Distribution for Each Distribution Calendar Year.**

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

(A) the quotient obtained by dividing the Participant's Accumulation Account by the distribution period in the Uniform Lifetime Table set forth in Treasury Regulation Section 1.401(a)(9)-9, using the Participant's age as of the Participant's birthday in the distribution calendar year; or

(B) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's Accumulation Account by the number in the Joint and Last Survivor Table set forth in Treasury Regulation Section 1.401(a)(9)-9, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(2) **Lifetime Required Minimum Distribution Through Year of Participant's Death.**

Required minimum distributions will be determined under this subsection (b) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(c) **Required Minimum Distributions After Participant's Death.**

(1) **Death On or After Date Distributions Begin.**

(A) **Participant Survived by Designated Beneficiary.** If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Accumulation Account 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:

(i) 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.

(ii) 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.

(iii) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year
following the year of the Participant's death, reduced by one for each subsequent year.

(B) **No Designated Beneficiary.** If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that shall be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Accumulation Account 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.

(2) **Death Before Date Distributions Begin**

(A) **Participant Survived by Designated Beneficiary.** If the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that shall be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Accumulation Account by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 7.8(a)(1)(A).

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

(C) **Death of Surviving Spouse Before Distributions to Surviving Spouse are Required to Begin.** If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under subsection (a)(2)(A), this subsection (c)(2) shall apply as if the surviving spouse were the Participant.

(d) **Definitions**

(1) **Designated Beneficiary.** The individual who is designated as the Beneficiary under the Plan and is the designated Beneficiary under Code Section 401(a)(9) and Treasury Regulation Section 1.401(a)(9)-1, Q&A-4.

(2) **Distribution calendar year.** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under subsection (a)(2). The required minimum distribution for the Participant's first distribution calendar year shall 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.** Life expectancy as computed by use of the Single Life Table in Treasury Regulation Section 1.401(a)(9)-9.
(4) **Participant's Accumulation Account.** The Participant's Accumulation Account 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 Participant's Accumulation Account 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 Participant's Accumulation Account for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(5) **Required Beginning Date.** The Required Beginning Date of a Participant is April 1 following the calendar year in which the Participant attains age 70 ½ or if later, April 1 following the calendar year in which the Participant retires.

(e) **Election to Allow Participants, Former Participants or Beneficiaries to Adopt 5-Year Rule.** Participants or Beneficiaries may elect on an individual basis whether the 5-year rule or the life expectancy rule in subsections (a)(2) and (c)(2) applies to distributions after the death of a Participant who has a designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Subsection (a)(2), or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death. If neither the Participant nor Beneficiary makes an election under this paragraph, distributions will be made in accordance with subsection (a)(2) and (c)(2).

7.9 **Commencement of Benefits.** Unless the Participant elects otherwise, distribution of benefits will begin no later than the 60th day after the latest of the close of the Plan Year in which:

(a) the Participant attains age 65 (or Normal Retirement Age, if earlier);

(b) occurs the 10th anniversary of the year in which the Participant commenced participation in the Plan; or,

(c) the Participant terminates service with the Institution.

Notwithstanding the foregoing, the failure of a Participant and spouse to consent to a distribution while a benefit is immediately distributable shall be deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy this section.

A Participant who elects to defer receipt of benefits may not do so to the extent that he or she is creating a death benefit that is more than incidental.

7.10 **Repurchase.** A Participant's accumulations in retirement annuities may be received in a single sum through "repurchase" if certain conditions are met. If a Participant in this Plan terminates employment with the Institution and requests that a Fund Sponsor repurchase his or her retirement annuities, the Institution will approve such repurchase if, at the time of the request, all of the following conditions apply:

(a) The total value of retirement annuities in the Accumulation Account is not over $2,000.

(b) The Participant does not have an annuity providing for transfer and withdrawal of accumulated funds in effect.

Amounts paid to the Participant on repurchase will be in full satisfaction of the Participant's and his or her spouse's rights to retirement or survivor benefits from the Fund Sponsor attributable to such amounts.
7.11 **Direct Rollovers.** A distributee who is entitled to an eligible rollover distribution may elect to have any portion of an eligible rollover distribution from the Plan that is equal to at least $500 paid directly to an eligible retirement plan specified by the Participant in a direct rollover. In the case of a distribution to a Beneficiary who at the time of the Participant’s death was neither the spouse of the Participant nor the spouse or former spouse of the participant who is an alternate payee under a Domestic Relations Order, a direct rollover is payable only to an individual retirement account or individual retirement annuity (IRA) that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of Section 408(d)(3)(C) of the Code). Each Fund Sponsor shall be separately responsible for providing, within a reasonable time period before making an initial eligible rollover distribution, an explanation to the Participant of his or her right to elect a direct rollover and the income tax withholding consequences of not electing a direct rollover.

For this section, the following definitions apply:

(a) **Eligible rollover distribution:** An eligible rollover distribution is any distribution of all or any portion of the balance of the Accumulation Account, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is a minimum distribution required under Code Section 401(a)(9); the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and, for any distributions after December 31, 1999, any hardship distributions described in Code Section 401(k)(2)(b)(i)(iv).

(b) **Eligible retirement plan:** An eligible retirement plan is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Section 408(b) of the Code, a tax-sheltered annuity plan described in Code Section 403(b), a qualified retirement plan described in Section 401(a) or Section 403(a) of the Code, or an eligible plan under Section 457(b) of the Code (which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan) that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(c) **Distributee:** A distributee includes an Eligible Employee or former Eligible Employee. In addition, the Eligible Employee's or former Eligible Employee's surviving spouse and the Eligible Employee's or former Eligible Employee's spouse or former spouse who is the alternate payee under a Domestic Relations Order Qualified Domestic Relations Order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

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

7.12 **Distributions Upon the Death of a Participant**

(a) **Designation of Beneficiary.** Each Participant (or the Participant's surviving Spouse) may designate, upon a form provided by the Administrator or Fund Sponsor and approved by and delivered to the respective Fund Sponsor, one or more primary and contingent Beneficiaries to receive all or a specified portion of the Participant's Accumulation Account in the event of his or her death. A Participant may change or revoke such Beneficiary designation by completing and delivering the proper form to the Fund Sponsor with a copy to the Administrator. If the Participant
designates a Spouse Beneficiary and the individual later ceases to be a Spouse, such designation of the individual who becomes an ex-Spouse (other than by death) will be deemed void and the ex-Spouse shall have no rights as a Beneficiary unless redesignated as a Beneficiary by the Participant subsequent to becoming an ex-Spouse. In the event that a Participant fails to designate a Beneficiary, the rights of Beneficiaries will be determined under the Individual Agreements, to the extent applicable.

(b) **Payment to Beneficiary.** Subject to the Individual Agreements, if a Participant dies before the Participant's entire Accumulation Account has been paid, such deceased Participant's Accumulation Account shall be payable to any surviving Beneficiary designated by the Participant, or, if no Beneficiary survives the Participant, 50% to the Participant's Spouse and 50% to the Participant's estate or, where no Spouse exists, to the Participant's estate, unless otherwise set forth in the Individual Agreement. If the Beneficiary is a minor, distribution will be deemed to have been made to such Beneficiary if the portion of the Participant's Accumulation Account to which the Beneficiary is entitled is paid to his or her legal guardian or, if applicable, to their custodian under the Uniform Gifts to Minors Act or the Uniform Transfers to Minors Act. If a Beneficiary is not a minor but is not legally competent to request or consent to a distribution, distributions will be deemed to have been made to such Beneficiary if the portion of the Participant's Accumulation Account to which the Beneficiary is entitled is paid to the Participant's court-appointed guardian, an attorney in fact acting under a valid power of attorney, or any other individual or entity authorized under state law to act on behalf of the Beneficiary.

(c) **Application for Benefits.** A Beneficiary of a deceased Participant entitled to a distribution who wishes to receive a distribution must submit a written application as provided in Section 7.3.

7.13 **Form of Distribution to Beneficiaries.**

(a) If the value of the Vested portion of a Participant’s Accumulation Account does not exceed $5,000, the value of the Vested portion of a Participant's Accumulation Account may be made to the Beneficiary as permitted by the Individual Agreements. The value of the Participant's Vested Accumulation Account for purposes of this paragraph shall be determined by including rollover contributions (and earnings allocable thereto) within the meaning of Code Sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii) and 457(e)(16).

(b) If the value of a Participant's Accumulation Account exceeds $5,000, the Beneficiary may, subject to the requirements of Plan Section 7.8 concerning Required Minimum Distributions, request (either in writing or in any other form permitted under rules promulgated by the Internal Revenue Service) that the Participant's Accumulation Account be paid in any form of distribution permitted to be taken by the Participant under this Plan and the Individual Agreements other than applying the Accumulation Account toward the purchase of an annuity contract. Notwithstanding the foregoing, installment payments to a Beneficiary cannot be made over a period exceeding the life expectancy of such Beneficiary.

7.14 **Tax Withholding Information.** A payee shall provide such information as the Administrator may need to satisfy income tax withholding obligations, and any other information that may be required by guidance issued under the Code.

7.15 **Payments to Minors and Incompetents.** If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Fund Sponsor, benefits will be paid to such person as the Fund Sponsor may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.
7.16 **Procedure When Distributee Cannot Be Located.** The respective Fund Sponsor shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on the Fund Sponsor’s and the Administrator's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guaranty Corporation (under their program to identify payees under retirement plans), and (c) the payee has not responded within 6 months. If the Fund Sponsor is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Fund Sponsor shall continue to hold the benefits due such person.

**Article VIII: Administration**

8.1 **Administrator.** The Institution, located at 1928 St. Mary's Road, Moraga, CA 94556, is the Administrator of this Plan and has designated the Human Resources Office to be responsible for enrolling Participants, transmitting Plan Contributions for each Participant to the Fund Sponsors, and for performing other duties required of the Administrator for the operation of the Plan.

8.2 **Authority of the Institution.**

(a) This Plan is a “church plan” within the meaning of Sections 403(b)(1)(D) and 414(e)(3)(A) of the Code and Section 3(33) (C)(i) of ERISA (29 U.S.C. Section 1002(33)(C)(i)) and is exempt under the requirements of Title I of ERISA according to Section 4(b)(2) of ERISA (29 U.S.C. Section 1003(b)(2)). It is intended that this Plan will not be subject to the requirements of ERISA under Department of Labor Regulation Section 2510.3-2(f). This Defined Contribution Retirement Plan and the related Adoption Agreement that are portions of the Plan are designed to comply with a safe harbor described in Labor Regulation 2510.3-2(f) as clarified by the Employee Benefits Security Administration Field Assistance Bulletin (FAB) 2007-02 (and additional related Department of Labor guidance), and to therefore not be covered by ERISA. Accordingly, the activities of the Employer with respect to implementation of the Plan are intended to be limited to ministerial and administrative activities permitted by that regulation, as clarified by FAB 2007-02. The authority to make most discretionary determinations under the terms of this Plan and the Individual Agreements resides with the Fund Sponsors.

(b) The powers and duties required under this Plan are dependent upon the role each entity has in the administration of the Plan, as those entities are defined in this Defined Contribution Retirement Plan and are further described below.

(i) **Powers and Duties of the Administrator.** The Administrator shall perform ministerial and administrative functions that are allocated to it under the terms of the Plan (or Individual Agreements, as applicable) or otherwise necessary for operation of the Plan. As described above and in the Employer Information section of the Adoption Agreement, the Plan is designed to comply with a safe harbor described in Labor Regulation 2510.3-2(f) as clarified by Employee Benefits Security Administration Field Assistance Bulletin 2007-02 (and additional related Department of Labor guidance), and to therefore not be covered by ERISA. Accordingly, the Administrator’s activities with respect to the Plan shall be limited as provided in such guidance.

(ii) **Powers and Duties of the Fund Sponsors.** The Fund Sponsors will be the parties assuming the plan administration responsibilities as assigned under the agreement between the Fund Sponsors and the Employer. To the extent there is no such agreement, the Administrator will perform those responsibilities. However, the Administrator will limit its duties in accordance with the safe harbor described in Labor Regulation 2510.3-
2(f) as clarified by the Employee Benefits Security Administration Field Assistance Bulletin (FAB) 2007-02 (and additional related Department of Labor guidance).

8.3 **Action of the Institution.** Any act authorized, permitted, or required to be taken by the Institution under the Plan, which has not been delegated in accordance with Section 8.2, may be taken by a majority of the members of the Board, either by vote at a meeting, or in writing without a meeting. All notices, advice, directions, certifications, approvals, and instructions required or authorized to be given by the Institution under the Plan will be in writing and signed by either (i) a majority of the members of the Board, or by any member or members as may be designated by an instrument in writing, signed by all members, as having authority to execute the documents on its behalf, or (ii) a person who becomes authorized to act for the Institution in accordance with the provisions of Section 8.2. Any action taken by the Institution that is authorized, permitted, or required under the Plan and is in accordance with Funding Vehicles’ contractual obligations are final and binding upon the Institution, and all persons who have or who claim an interest under the Plan, and all third parties dealing with the Institution. Any delegation will be set forth in writing.

8.4 **Expenses and Compensation.** All reasonable expenses of administration, including, but not limited to, those involved in retaining necessary professional assistance, may be paid from the assets of the Funding Vehicles, subject to the Individual Agreements. Alternatively, the Institution may, in its discretion, pay any or all such expenses. Pursuant to uniform and nondiscriminatory rules that the Administrator may establish from time to time, and subject to the Individual Agreements, administrative expenses and expenses unique to a particular Participant or group of Participants may be charged to the Accumulation Account of such Participant or may be assessed against terminated Participants even if not assessed against active Participants, or the Administrator may allow Participants to pay such fees outside of the Plan.

8.5 **Disputes.** In the case of a dispute between a Participant, Beneficiary, Alternate Payee or other person claiming a right or entitlement pursuant to the Plan and the Employer, the Administrator, the Fund Sponsor, or other person relating to or arising from the Plan, venue in the United States District Court for the Northern District of California will apply for purposes of resolving such dispute.

8.6 **Indemnification.** The Institution will satisfy any liability actually and reasonably incurred by any members of the Board or any person to whom any power, authority or responsibility of the Institution is delegated pursuant to Section 8.2 (other than the Fund Sponsors). These liabilities include expenses, attorney's fees, judgments, fines and amounts paid in connection with any threatened, pending or completed action, suit or proceeding related to the exercise (or failure to exercise) of this authority. This is in addition to whatever rights of indemnification exist under the articles of incorporation, regulations or by-laws of the Institution, under any provision of law, or under any other agreement.

8.7 **No Reversion.** Subject to Section 8.4, Plan Contributions of the Institution will not revert to, be paid to, or inure to the benefit of, directly or indirectly, the Institution. However, if Plan Contributions are made by the Institution by mistake of fact, these amounts may be returned to the Institution within one year of the date that they were made.

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

8.9 **Reporting.** Records for each Participant under this Plan are maintained on the basis of the Plan Year. At least once a year the Fund Sponsors will send each Participant a report summarizing the status of his or her
Accumulation Account(s) as of December 31. Similar reports or illustrations may be obtained by a Participant upon termination of employment or at any other time by writing directly to the Fund Sponsors.

8.10 **Calendar Year Election.** For purposes of determining the highly compensated employees for the Plan Year, the Institution may make a calendar year election in accordance with the provisions of the Code and regulations issued thereunder.

**Article IX: Amendment and Termination**

9.1 **Amendment and Termination.**

(a) **Right to Amend, Modify or Terminate Plan.** While it is expected that this Plan will continue indefinitely, the Institution reserves the right to amend, otherwise modify, or terminate the Plan, or to discontinue any further contributions or payments under the Plan, by resolution of its Board. In the event of a termination of the Plan or complete discontinuance of Plan Contributions, the Institution will notify all Participants of the termination. As of the date of complete or partial termination, all Accumulation Accounts will become nonforfeitable to the extent that benefits are accrued.

(b) **Limitation On Power To Amend.** No amendment to the Plan shall be effective to the extent that it has the effect of decreasing a Participant's accumulated benefit. For purposes of this paragraph, a Plan amendment which has the effect of decreasing a Participant's Accumulation Account with respect to benefits attributable to service before the amendment shall be treated as reducing an accumulated benefit.

9.2 **Distribution upon Termination of the Plan.** The Employer may provide that, in connection with a termination of the Plan and subject to any restrictions contained in the Individual Agreements, all Accounts will be distributed, provided that the Employer and any Related Employer on the date of termination do not make contributions to an alternative Code Section 403(b) contract that is not part of the Plan during the period beginning on the date of plan termination and ending 12 months after the distribution of all assets from the Plan, except as permitted by the Treasury Regulations.

**Article X: Miscellaneous**

10.1 **Plan Not a Commitment to Future Employment.** Nothing in this Plan will be construed as a commitment or agreement on the part of any person to continue his or her employment or rate of compensation with the Institution for any period, and all employees of the Institution will remain subject to discharge to the same extent as if the Plan had never been put into effect.

10.2 **Claims of Other Persons.** The provisions of the Plan will not be construed as giving any Participant or any other persons, firm or corporation, any legal or equitable right against the Institution, its officers, employees, or directors, except the rights as specifically provided for in this Plan or created in accordance with the terms and provisions of this Plan.

10.3 **Merger, Consolidation, or Transfers of Plan Assets.** In the event of a merger or consolidation with, or transfer of assets to, another plan, each Participant will receive immediately after such action a benefit under the plan that is equal to or greater than the benefit he or she would have received immediately before a merger, consolidation, or transfer of assets or liabilities.
10.4 **Non-Alienation of Retirement Rights or Benefits.** Except as provided in Section 10.5 and 10.6, the interests of each Participant or Beneficiary under the Plan are not subject to the claims of the Participant's or Beneficiary's creditors; and neither the Participant nor any Beneficiary shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.

10.5 **Qualified Domestic Relation Orders.** Notwithstanding Section 10.4, if a judgment, decree or order (including approval of a property settlement agreement) that satisfies the requirements for a Qualified Domestic Relations Order, then the amount of the Participant’s Accumulation Account shall be paid in the manner and to the person or persons so directed in the Domestic Relations Order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Fund Sponsors shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order.

10.6 **IRS Levy.** Notwithstanding Section 10.4, Fund Sponsors may pay from a Participant's or Beneficiary's Accumulation Account the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

10.7 **Incorporation of Individual Agreements.** The Plan, together with the Individual Agreements and Adoption Agreement, is intended to satisfy the requirements of Section 403(b) of the Code and the Treasury Regulations thereunder. Terms and conditions of the Individual Agreements are hereby incorporated by reference into the Plan, excluding those terms that are inconsistent with the Plan or Section 403(b) of the Code.

10.8 **Conflicts Between Document Terms.** In the event of any conflict between the terms of this Plan and the terms of any document that is made a part of the Plan, the Administrator shall resolve the conflict. In the event of any conflict between this Plan and the terms of any document that is not part of the Plan, the Plan provisions shall control. Notwithstanding the foregoing, in no event will the terms of the Plan expand or change the benefits, rights or features available under the Funding Vehicles or Individual Agreements.

10.9 **Governing Law.** The Plan will be construed, administered and enforced according to the Code and, where not preempted by the Code, the laws of the State of California.

10.10 **Headings.** Headings of the Plan have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

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

Employer Identification Number: 94-1156599
Plan Number: 001
IN WITNESS WHEREOF, the Employer has caused this Saint Mary's College of California Defined Contribution Retirement Plan, January 1, 2009 Restatement, to be executed this ___ day of June, 2009.

Employer: ________________________________

By: ________________________________

Title: ________________________________

Date signed: ________________________________

Effective Date of the Restated Plan: January 1, 2009