

**PLAN DOCUMENT
FOR THE
TEXAS A&M UNIVERSITY SYSTEM
OPTIONAL RETIREMENT PROGRAM**

403(b) Program

January 1, 2009

**THE TEXAS A&M UNIVERSITY SYSTEM
SYSTEM BENEFITS ADMINISTRATION
A&M SYSTEM BUILDING, SUITE 1120
200 TECHNOLOGY WAY
COLLEGE STATION, TEXAS 77845-3424**

**The Texas A&M University System
OPTIONAL RETIREMENT PROGRAM**

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Introduction

The Texas A&M University System Optional Retirement Program (ORP) is authorized under Chapter 830, Title 8 of the Texas Government Code and Section 403(b) of the Internal Revenue Code. The Optional Retirement Program is a governmental 403(b) plan and is not covered by the Employee Retirement Income Security Act of 1974 (ERISA).

Section 1 - Definition of Terms Used

The following words and terms, when used in the Plan, have the meaning set forth below.

1.1 "**Account**": The account or accumulation maintained for the benefit of any Participant or Beneficiary under an Annuity Contract or a Custodial Account including the Participant's Deferral Account and Employer Contributions Account.

1.2 "**Account Balance**": 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 Deferrals, any Employer contributions, 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 Account Balance shall be maintained for each Beneficiary. The Account Balance includes any account established under Section 6 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).

1.3 "**Administrator**": System Benefits Administration for The Texas A&M University System.

1.4 "**Annuity Contract**": A nontransferable contract as defined in section 403(b)(1) of the Code, established for each Participant by the Employer, or by each Participant individually, that is issued by an insurance company qualified to issue annuities in Texas and that includes payment in the form of an annuity.

1.5 "**Beneficiary**": The designated person who is entitled to receive benefits under the Plan after the death of a Participant, subject to such additional rules as may be set forth in the Individual Agreements.

1.6 "**Custodial Account**": The group or individual custodial account or accounts, as defined in section 403(b)(7) of the Code, established for each Participant by the Employer, or by each Participant individually, to hold assets of the Plan.

1.7 "**Code**": 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.

1.8 "**Chapter 25**": The Texas Higher Education Coordinating Board's established rules for uniformity in administration of the Texas Optional Retirement Program as directed by Chapter 830, Title 8 of the Texas Government Code.

1.9 "**Compensation**": All cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee's gross income for the calendar year but for a compensation reduction election under section 125, 132(f), 401(k), 403(b), or 457(b) of the Code.

1.10 "**Disabled**": The definition of disability provided in the applicable Individual Agreement.

1.11 "**Deferral**": The Employer contributions made to the Plan for the Participant in lieu of receiving cash compensation. Deferrals are limited to pre-tax salary reduction contributions.

1.12 "**Deferral Account**": The account established and maintained by the Administrator for each Participant with respect to Deferrals (including any earnings or losses attributable thereon) under the Plan resulting from Deferrals.

1.13 "**Employee**": Each individual, whether appointed or elected, who is a common law employee of the Employer performing services as an employee of the Employer. This definition is not applicable unless the employee's compensation for performing services for a public education institution is paid by the Employer. Further, a person occupying an elective or appointive public office is not an employee performing services for a public education institution unless such office is one to which an individual is elected or appointed only if the individual has received training, or is experienced, in the field of education. A public office includes any elective or appointive office of a State or local government.

1.14 "**Employer**": The Texas A&M University System.

1.15 "**Funding Vehicles** ": The Annuity Contracts or Custodial Accounts issued for funding amounts held under the Plan and specifically approved by Employer for use under the Plan offered through a Vendor.

1.16 "**Includible Compensation**": An Employee's actual wages in box 1 of Form W-2 for a year for services to the Employer, but increased (up to the dollar maximum unless the Employee participated in Texas ORP prior to September 1, 1996 for which no maximum applies) by any compensation reduction election under section 125, 132(f), 401(k), 403(b), or 457(b) of the Code or including any Deferral under the Plan. The amount of Includible Compensation is determined without regard to any community property laws. Pursuant to Reg. Section 1.415-2(e)(4) of the Income Tax Regulations, Includible Compensation will include payments made to an individual who does not currently perform services for the Employer by reason of qualified military service (as defined in Section 414(u)(5) of the Code) to the extent those payments do not exceed the amount the individual would have received if the individual had continued to perform services for the Employer rather than enter qualified military service. Employer Contributions pursuant to Section shall be subject to a maximum of \$200,000 (or such higher maximum as may

apply under Section 401(a)(17) of the code) unless the Employee participated in Texas ORP prior to September 1, 1996 for which no maximum applies.

1.17 "**Individual Agreement**": The agreements between a Vendor and the Employer or a Participant that constitutes or governs a Custodial Account or an Annuity Contract.

1.18 "**Participant**": An individual for whom Deferrals are currently being made, or for whom Deferrals have previously been made, under the Plan and who has not received a distribution of his or her entire benefit under the Plan.

1.19 "**Plan**": The Texas A&M University System Optional Retirement Program (ORP).

1.20 "**Plan Year**": September 1st through August 31st.

1.21 "**Related Employer**": 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.

1.22 "**Severance from Employment**": For purpose of the Plan, Severance from Employment means Severance from all Texas public institutions of higher learning.

1.23 "**Vendor**": The provider of an Annuity Contract or Custodial Account as identified in Appendix A, B, and C .

1.24 "**Valuation Date**": Each business day of the Plan Year.

Section 2 - Participation and Contributions

2.1 **Eligibility.** Each eligible Employee as defined in Chapter 25 (Section 25.4 Eligibility to Elect ORP) who chose participation as described in Chapter 25 (Section 25.4 Eligibility to Elect ORP) in the Texas ORP in lieu of active membership in the Teacher Retirement System (TRS) of Texas shall participate in the Plan and have mandatory Deferrals made on his or her behalf hereunder immediately upon choosing ORP participation.

2.2 **Compensation Reduction.** An eligible Employee elects to become a Participant by choosing participation in ORP in lieu of TRS and executing an agreement to reduce his or her Compensation by the amount required at the time by the Texas Legislature (currently 6.65%) and filing it with the Administrator. This Compensation reduction shall be made on the agreement provided by the Administrator under which the Employee agrees to be bound by all the terms and conditions of the Plan. The agreement shall also include designation of the Funding Vehicles and Accounts therein to which Deferrals are to be made and a designation of Beneficiary. The reduction shall remain in effect unless the Participant changes to an ineligible position prior to the end of the vesting period in accordance with the terms in Section 8. Only an individual who performs services for the Employer as an Employee may reduce his or her Compensation under the Plan. Each Employee will become a Participant in accordance with the terms and conditions of the Individual Agreements. All Deferrals shall be made on a pre-tax basis. An Employee shall become a Participant as soon as administratively practicable following the date applicable under

the Employee's selection of ORP in accordance of the rules established in Chapter 25 of the Texas Higher Education Coordinating Board. Once ORP participation is elected, the choice is irrevocable for all Texas institutions of higher education as indicated in Chapter 830, Title 8 of the Texas Government Code. Required ORP participants no designating a funding vehicle in a timely manner will be defaulted into a funding vehicle chosen by the administrator from a vendor listed in Appendix A after a 30-day notification period.

2.3 Information Provided by the Employee. Each Employee enrolling in the Plan should 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.

2.4 Contributions Made Promptly. Deferrals under the Plan shall be transferred to the applicable Funding Vehicle within three business days following legal availability in which the amount would otherwise have been paid to the Participant.

2.5 Leave of Absence. If an Employee is absent from work by leave of absence, Deferrals under the Plan shall continue to the extent that Compensation continues.

2.6 Protection of Persons Who Serve in a Uniformed Service. An Employee whose employment is interrupted by qualified military service under section 414(u) of the Code or who is on a leave of absence for qualified military service under section 414(u) of the Code may elect to make additional Elective Deferrals upon resumption of employment with the Employer equal to the maximum Elective Deferrals that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Elective Deferrals, if any, actually made for the Employee during the period of the interruption or leave. Except to the extent provided under section 414(u) of the Code, this right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

Section 3 - Benefit Distributions

3.1 Benefit Distributions At Severance from Employment or Other Distribution Event. Distributions from a Participant's Account may not be made earlier than the earliest of the date on which the Participation has a Severance from Employment from all Texas public institutions of higher learning, dies, becomes Disabled, or attains age 70½. Distributions shall otherwise be made in accordance with the terms of the Individual Agreements.

3.2 Minimum Distributions. Each Individual Agreement shall comply with the minimum distribution requirements of section 401(a)(9) of the Code and the regulations thereunder. For purposes of applying the distribution rules of section 401(a)(9) of the Code, each Individual Agreement is treated as an individual retirement account (IRA) and distributions shall be made in accordance with the provisions of § 1.408-8 of the Income Tax Regulations, except as provided in § 1.403(b)-6(e) of the Income Tax Regulations.

3.3 Rollover Distributions. (a) A Participant or the Beneficiary of a deceased Participant (or a Participant's spouse or former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Code) who is entitled to an eligible rollover distribution

may elect to have any portion of an eligible rollover distribution (as defined in section 402(c)(4) of the Code) from the Plan paid directly to an eligible retirement plan (as defined in section 402(c)(8)(B) of the Code) 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).

(b) Each Vendor 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.

Section 4 - Rollovers to the Plan and Transfers

4.1 Eligible Rollover Contributions to the Plan.

(a) **Eligible Rollover Contributions.** To the extent provided in the Individual Agreements, an Employee who is a Participant who is entitled to receive an eligible rollover distribution from another eligible retirement plan (Texas ORP as defined in Chapter 25) may request to have all or a portion of the eligible rollover distribution paid to the Plan. Such rollover contributions shall be made in the form of cash only. The Vendor may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with section 402 of the Code and to confirm that such plan is an eligible retirement plan authorized under Chapter 830, Title 8 of the Texas Government Code known as a Texas ORP retirement plan as defined in Chapter 25.

(b) **Eligible Rollover Distribution.** For purposes of Section 4.1(a), an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include (1) any installment payment for a period of 10 years or more, (2) any distribution made as a result of an unforeseeable emergency or other distribution which is made upon hardship of the Employee, or (3) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9) of the Code. In addition, an eligible retirement plan means an annuity plan described in section 403(b) of the Code authorized under Chapter 830, Title 8 of the Texas Government Code known as a Texas ORP retirement plan as defined in Chapter 25 that accepts the eligible rollover distribution.

(c) **Separate Accounts.** The Vendor shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan.

4.2 Plan-to-Plan Transfers to the Plan. (a) At the direction of the Employer, for a class of Employees who are participants or beneficiaries in another plan under section 403(b) of the Code, the Administrator may permit a transfer of assets to the Plan in this Section 4.2. Such a transfer is permitted only if the other plan provides for the direct transfer of each person's entire interest therein to the Plan and the participant is an Employee or former Employee of the Employer. The Administrator and any Vendor accepting such transferred amounts may require that the transfer be in cash or other property acceptable to it. The Administrator or any Vendor

accepting such transferred amounts may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with § 1.403(b)-10(b)(3) of the Income Tax Regulations and to confirm that the other plan is a plan that satisfies section 403(b) of the Code.

(b) The amount so transferred shall be credited to the Participant's Account Balance, so that the Participant or Beneficiary whose assets are being transferred has an accumulated benefit immediately after the transfer at least equal to the accumulated benefit with respect to that Participant or Beneficiary immediately before the transfer.

(c) To the extent provided in the Individual Agreements holding such transferred amounts, the amount transferred shall be held, accounted for, administered and otherwise treated in the same manner as a Deferral by the Participant under the Plan, except that (1) the Individual Agreement which holds any amount transferred to the Plan must provide that, to the extent any amount transferred is subject to any distribution restrictions required under section 403(b) of the Code, the Individual Agreement must impose restrictions on distributions to the Participant or Beneficiary whose assets are being transferred that are not less stringent than those imposed on the transferor plan and (2) the transferred amount shall not be considered a Deferral under the Plan.

4.3 Plan-to-Plan Transfers from the Plan.

(a) At the direction of the Employer, the Administrator may permit a class of Participants and Beneficiaries to elect to have all or any portion of their Account Balance transferred to another plan that satisfies section 403(b) of the Code in accordance with § 1.403(b)-10(b)(3) of the Income Tax Regulations. A transfer is permitted under this Section 4.3(a) only if the Participants or Beneficiaries are Employees or former Employees of the employer (or the business of the employer) under the receiving plan and the other plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.

(b) The other plan must provide that, to the extent any amount transferred is subject to any distribution restrictions required under section 403(b) of the Code, the other plan shall impose restrictions on distributions to the Participant or Beneficiary whose assets are transferred that are not less stringent than those imposed under the Plan. In addition, if the transfer does not constitute a complete transfer of the Participant's or Beneficiary's interest in the Plan, the other plan shall treat the amount transferred as a continuation of a pro rata portion of the Participant's or Beneficiary's interest in the transferor plan (e.g., a pro rata portion of the Participant's or Beneficiary's interest in any after-tax employee contributions).

(c) Upon the transfer of assets under this Section 4.3, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 4.3 (for example, to confirm that the receiving plan satisfies section 403(b) of the Code and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer pursuant to § 1.403(b)-10(b)(3) of the Income Tax Regulations.

4.4 Contract and Custodial Account Exchanges. A Participant or Beneficiary is permitted to change the investment of his or her Account Balance among the Vendors under the Plan identified in Appendix A as an authorized vendor, subject to the terms of the Individual Agreements. However, an investment change that includes an investment with a Vendor that is not identified in Appendix A as an authorized vendor is not permitted.

Section 5 - Investment of Contributions

5.1 Manner of Investment. All Deferrals or other amounts contributed to the Plan, 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 Contract or Custodial Account 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 Income Tax Regulations.

5.3 Current and Former Vendors. The Administrator shall maintain a list of all Vendors under the Plan, hereby incorporated as part of the Plan as appendices. Each Vendor 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 Vendor which is not eligible to receive Deferrals under the Plan (including a Vendor which has ceased to be a Vendor eligible to receive Deferrals under the Plan and a Vendor holding assets under the Plan in accordance with Section 4.2 or 4.4), the Employer shall keep the Vendor 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.

Section 6 - Amendment and Plan Termination

6.1 Termination of Contributions. The Employer has adopted the Plan with the intention and expectation that contributions will be continued indefinitely as authorized under Chapter 830, Title 8 of the Texas Government Code. However, the Employer has no obligation or liability to maintain the Plan if discontinued by the state of Texas.

6.2 Amendment and Termination. The Employer reserves the authority to amend or terminate this Plan at any time as may be permitted or required by the state of Texas.

6.3 Distribution upon Termination of the Plan. The Employer may provide that, in connection with a termination of the Plan as may be permitted by the state of Texas 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 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 Income Tax Regulations.

Section 7 - Miscellaneous

7.1 Non-Assignability. Except as provided in Section 7.2 and 7.3, 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.

7.2 Domestic Relation Orders. Notwithstanding Section 7.1, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made pursuant to the domestic relations law of any State ("domestic relations order"), then the amount of the Participant's Account Balance 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 Administrator shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order.

7.3 IRS Levy. Notwithstanding Section 7.1, if a Participant or Beneficiary is entitled to a distribution in accordance with Section 3, the Administrator may pay from a Participant's or Beneficiary's Account Balance 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.

7.4 Tax Withholding. Contributions to the Plan are subject to applicable employment taxes (including, if applicable, Federal Insurance Contributions Act (FICA) taxes with respect to Deferrals, which constitute wages under section 3121 of the Code). Any benefit payment made under the Plan is subject to applicable income tax withholding requirements (including section 3401 of the Code and the Employment Tax Regulations thereunder). 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.

7.5 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 Administrator, benefits will be paid to such person as the Administrator 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.

7.6 Mistaken Contributions. If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any,

allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the Employer.

7.7 Procedure When Distributee Cannot Be Located. The Administrator 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 Employer's or 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 Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the funding vehicle shall continue to hold the benefits due such person.

7.8 Incorporation of Individual Agreements. The Plan, together with the Individual Agreements, is intended to satisfy the requirements of section 403(b) of the Code and the Income Tax 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.

7.9 Governing Law. The Plan will be construed, administered and enforced according to the Code and the laws of the State of Texas.

7.10 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.

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

Section 8 – Employer Contributions

8.1 Definitions

(a) **“Employer Contributions Account”**: The account established and maintained by the Administrator for each Participant with respect to his total vested interest (including any earnings or losses attributable thereon) under the Plan resulting from Employer Contributions and Employer Supplemental Contributions.

(b) **“Employer Contributions”**: The Employer's contributions to the Plan in accordance with Chapter 830, Title 8 of the Texas Government Code. Currently, Participants who participated in Texas ORP prior to September 1, 1995 will receive an Employer Contribution of 8.5%. Participants who participated in Texas ORP on or after September 1, 1995 will receive an Employer contribution established by the Texas Legislature (currently 6.4%).

(c) **“Employer Supplemental Contributions”**: The Employer's discretionary contribution based on the additional percentage amount established by the Employer to be contributed to the Plan, but only in an amount which, when combined with the Employer Contributions, does not to exceed the maximum statutory rate allowed by the Texas Legislature.

(d) **“Vested”**: The non-forfeitable portion of a Participant’s Employer Contributions Account.

8.2 Employer Contributions. For each Plan Year, the employer will contribute to the Plan Employer Contributions subject to any limitations imposed under applicable law. In addition, the Employer may, in its discretion, contribute Employer Supplemental Contributions to the Plan. Such contributions will be allocated to the Participant’s Employer Contributions Account.

8.3 Maximum Annual Additions

(a) The maximum permissible Annual Additions that may be contributed or allocated to each Participant’s Account under the Plan for any Plan Year will not exceed the lesser of:

- (i) \$40,000 as adjusted for increases in the cost of living under Section 415(d) of the Code, or
- (ii) 100 percent of the Participant’s Includible Compensation for the Plan Year.

(b) For purposes of this Section 8.3, “Annual Additions” means, for any Plan Year, the sum of the Elective Deferrals, Roth 403(b) Contributions, non-Elective Deferrals, Employer Contributions, and Employer Supplemental Contributions to the Plan made to the Participant’s Account and the sum of any employee and employer contributions made on behalf of such individual under any other 403(b) plan, whether or not sponsored by the Employer.

(c) If a Participant has a “controlling interest” in another employer and participates in that employer’s qualified 401(a) defined contribution plan, a welfare benefit fund (as defined in Section 419(e) of the Code), an individual medical account (as defined in Section 415(1)(2) of the Code), or a simplified employee pension (as defined in Section 408(k) of the Code) which provides Annual Additions which may be credited to a Participant’s Account for any Plan Year will not exceed the maximum permissible amount described in subsection (a), taking into account employer contributions that have been allocated to such other plans as described in this subsection.

8.4 Vesting. A Participant will be 100% Vested in his Employer Contributions Account the day following twelve (12) cumulative months of actual participation in the Plan in accordance with Chapter 25.

IN WITNESS WHEREOF, the Employer has caused this Plan to be executed this 18th day of December, 2009.

Employer: Texas A&M University System
By: [Signature]
Title: Director
Date signed: 12/18/2009
Effective Date of the Plan: January 1, 2009

Appendix A

Vendors authorized to receive ongoing contributions, and Exchange and Transfers under the Plan:

<u>Name of Organization</u>	<u>Contact Person</u>	<u>Telephone Number</u>
AIG Retirement	Deltra Hays	(713) 463-3803
Fidelity Investments	Eric Bjurlin	(817) 474-8168
ING	Troy Dryer	(512) 554-7314
Lincoln Financial Group	Rachel Knapp	(866) 266-7972
Metlife Resources	Alicia Shepler	(732) 652-1253
RS Group	Thomas Anderson	(972) 420-7686
TIAA-CREF	Donna Ahrens	(512) 795-7018

Appendix B

Vendors authorized to receive ongoing contributions. Exchanges and Transfers to these Vendors are not permitted under the Plan:

<u>Name of Organization</u>	<u>Contact Person</u>	<u>Telephone Number</u>
Security Benefit	Chris DeGrassi	(785) 438-3298
USAA	Melinee McComas	(800) 531-8292 ext 4669
AXA Equitable	Christopher Zingaro	(732) 452-7310
Great American Life Insurance Co.	Carol Willman	(800) 789-6771 ext 12271
American Century	Doug Baker	(800) 345-3533 ext 42516
Life Insurance Co. of the Southwest	Debbie Hill	(866) 243-7174
Jefferson National Life Insurance Co.	Donna Diachenko	(502) 515-7811
ISC Group	Tarynn Ecton	(800) 888-3520
Commonwealth Annuity	Laura Bryant	(508) 460-2437
Midland National Life	Katie Hull	(877) 586-0240 ext 35884
Ameriprise Financial Services	Jeremy Bly	(612) 678-9018
Waddell & Reed	Allan Browns	(913) 236-1540
Diversified Investors	Brad Warren	(319) 298-3985
AVIVA (Delta Life/American Investors)	Lisa Opitz	(800) 255-2405 ext 457

Appendix C

Vendors authorized to hold account balances. Ongoing contributions, Exchanges, and transfers to these Vendors are not permitted under the Plan.

<u>Name of Organization</u>	<u>Contact Person</u>	<u>Telephone Number</u>
American Funds	Susan O'Riley	(210) 474-4396
Van Kampen Funds	David Goldberg	(212) 296-6621
John Hancock Signature Services	Laong Chanthapho	(617) 572-4669
National Western Life	Jo Morris	(512) 719-2273
Trust Company of America	Greg Jones	(303) 705-6292
Jefferson Pilot	Jim Rooney	(800) 254-6265
Pioneer Investments	Diane Wilcox	(781) 827-8363
Nationwide Life Insurance	Chris Ison	(614) 435-0515
State Farm Insurance	Chris Stengel	(309) 766-6580
John Hancock Mutual Life Insurance Co.	Annuity Service	(800) 422-0237
United Investors Life Insurance Co.	Tom Wilson	(361) 883-3177
Merrill Lynch	John Anderson	(979) 695-3002
ReliaStar Life Insurance	Bonnie Coffey	(701) 858-2445
Symetra Life Insurance	Brian Main	(425) 256-5632
Jackson National Life	Jeff Thompson	(517) 367-3960
American Skandia	Linda Wise	(215) 658-5328
Franklin Templeton	Alvin Hasegawa	(800) 632-2350 ext 53722
Evergreen Funds	Faye Howard	(800) 247-4075
INVESCO/Aim	Brian Houston	(713) 214-1592
Prudential Life Insurance	William Brennan	(800) 458-6333
Fiserv	Brittany Marshall	(303) 294-5967
Sun Life	Greg Fradkin	(800) 752-7215
Transamerica Life	Kileen Martin	(319) 558-5113
US Global	Barrett Schultz	(210) 348-2660
Union Central Life	Nancy King	(800) 825-1551 ext 2928
Wachovia	Andrea Montalvo	(800) 654-1410
Conseco Life Insurance Co.	Don Papp	(800) 689-0240
Western National Life Insurance	Connie Pritchett	(800) 288-4088 ext 7579
ITT Hartford	Don Brown	(818) 715-1876

Appendix D

Administrative Procedures

A. Enrollment Procedures

The following forms must be completed and submitted to the appropriate System Member Human Resources or Payroll Office by either the employee or the vendor representative. All forms are provided on the System Benefits Administration website <http://www.tamus.edu/benefits/retirement/>.

1. System ORP Salary Reduction Acknowledgment/Change of Vendor form (HR 14).
2. A copy of the vendor enrollment/application form.
3. Notice of Election to Participate in the Optional Retirement Program Form (TRS 28) and Application for Refund Form (TRS 29), if the employee is participating in TRS and wants to request a refund.

B. Effective Date of Participation

1. The System will determine the employee's effective date of participation. The effective date will be the first day of the month, provided all necessary and properly executed forms are signed, received by the appropriate Payroll office, and processed before payroll has run for that month. A new employee with an employment date other than the first day of the month may elect to participate as of his/her employment date provided all forms are submitted prior to payroll being processed for that month. Forms received after the monthly payroll calculation will be effective on the first of the following month.
2. Any vendor enrollment/application form or salary reduction acknowledgment that is submitted incorrectly or incompletely will be returned to the submitting party immediately. The employee and representative are responsible for resubmitting the corrected forms within the employee's eligibility period. The final complete and correct application submission will determine the employee's effective date of participation.

D. Withdrawal of Teacher Retirement System (TRS) Contributions

An employee who elects to participate in the ORP may withdraw his or her contributions (plus interest) from TRS. The employee must submit a properly completed Application for Refund Form (TRS 29) to his/her System Member Human Resources or Payroll Office. Rollovers or transfers must be made in compliance with federal and state law.

E. Procedure for Changing the ORP Vendor

1. A change of vendor is the only change a participant can make after the initial election to participate in ORP.

2. Participants can change vendors by submitting a new ORP Salary Reduction Acknowledgment/Change of Vendor Form (HR 14) and application from the new vendor to the appropriate System Member Human Resources or Payroll Office. The change will be effective on the first day of the month, provided all necessary and properly executed forms are signed, received by the appropriate Payroll office, and processed before payroll has run for that month. Forms received after the monthly payroll calculation will be effective on the first of the following month.

F. ORP Distribution Rules

1. A distribution of funds will only be made upon the occurrence of a distributable event, defined in Title 8, Section 830.105 of the Texas Government Code as follows:
 - a. Death
 - b. Retirement
 - c. Termination of employment in all public institutions of higher education in Texas
 - d. Attainment of age 70 ½
2. Distributions may only be made by the vendor upon receipt of a properly completed ORP Notification of Change in Employment Status Form or a letter from the appropriate Payroll Office confirming termination and vesting status. These documents must be signed by an authorized representative of the System. The vendor may not delay distribution by requiring additional paperwork or signatures or through some other means. The distribution confirmation form and check should be sent directly to the former System employee or designated vendor as instructed.
3. Distributions under a Qualified Domestic Relations Order may be made based on the procedures stated below.

G. Qualified Domestic Relations Order (QDRO) Procedures

A Domestic Relations Order is a notice of entitlement that awards an interest in the ORP account value to an alternate payee. Title 8, Chapter 804 of the Texas Government Code, makes the vendor responsible for qualifying a Domestic Relations Order and administering benefits in accordance with the Code. The following procedure should be used when executing a QDRO for a System ORP participant.

1. Employee/alternate payee's responsibility:

Domestic Relations Order decree must be sent to the employee's ORP vendor to determine if the order meets the criteria for a "Qualified" Domestic Relations Order (QDRO).

2. Vendor's responsibilities:
 - a. Determine if the Domestic Relations Order meets the criteria established in Chapter 804. The vendor will communicate the results of its determination to the employee and alternate payee in writing, sending a copy of the determination to the employee's System Member Human Resources or Payroll Office.
 - b. If the Order is "qualified", execute the provisions of the order.
3. System Member Human Resources or Payroll Office responsibilities:

When notified by a vendor that a Domestic Relations Order is a QDRO, the System Member Human Resources or Payroll Office should place a copy of the notice in the employee's payroll file.

H. Contract Exchanges of Existing ORP Funds

Total Contract Exchanges of ORP funds, partial Contract Exchanges, and Contract Exchanges between a 403(b)(7) account (mutual fund) and a 403(b)(1) account are permitted. Transfers are only permitted to active ORP vendors. The following procedure applies to partial as well as total ORP Contract Exchanges:

1. Receiving vendor's/employee's responsibilities:
 - a. The receiving vendor completes its rollover/transfer form, including the account number, address where the funds should be sent, and other information appropriate for each vendor. Employees may only do a Contract Exchanges to a Vendor listed in Appendix A.
 - b. An ORP/TDA Transfer Verification Form (HR 16) must be completed. An ORP account must be exchanged to a corresponding ORP account with the receiving vendor. The ORP/TDA Transfer Verification Form must include the receiving vendor information, including the name of the vendor representative who is authorized by the System. The vendor representative name is not required if the employee is transferring funds to a vendor that does not require individual vendor representatives. (TDA refers to 403(b) Tax-Deferred Account Program.)
 - c. Both the receiving vendor's rollover/transfer form and the ORP/TDA Transfer Verification Form should be forwarded to the appropriate System Member Human Resources or Payroll Office.
2. System Member Human Resources or Payroll Office responsibilities:

- a. Upon receipt of the ORP/TDA Transfer Verification Form and the receiving vendor's rollover/transfer form, the System Member Human Resources or Payroll Office will verify that the receiving vendor is on the list of authorized Vendor (listed in Appendix A). A Contract Exchange may only be made to a Vendor listed in Appendix A.
 - b. The completed ORP/TDA Transfer Verification Form, with the attached receiving vendor's rollover/transfer form, is forwarded by the System Member Human Resources or Payroll Office to the surrendering vendor. The forms will be returned to the employee if the receiving vendor is not an authorized ORP Vendor (listed in Appendix A) or if the representative is not registered with the System.
3. Surrendering vendor's responsibilities:
- a. The surrendering vendor must receive a completed ORP/TDA Transfer Verification Form certified by the appropriate System Member Human Resources or Payroll Office and the receiving vendor's rollover/transfer form, prior to making any Contract Exchanges. If unauthorized Contract Exchanges are made, the System has the right to require the surrendering vendor to recover the funds or make the account whole.
 - b. Upon receipt of the completed ORP/TDA Transfer Verification Form and the receiving vendor's rollover/transfer form, the funds must be transferred directly to the receiving vendor within seven business days. The surrendering vendor may not delay Contract Exchanges by requiring additional paperwork or signatures or through some other means. However, the surrendering vendor may require a signature guarantee or medallion guarantee.
 - c. If a total Contract Exchange is completed by the surrendering vendor (i.e., the total account value is transferred to the receiving vendor) and additional funds are subsequently received by the surrendering vendor, the surrendering vendor is responsible for automatically transferring those funds directly to the receiving vendor.

I. Reporting Procedures

1. Each vendor must submit, quarterly, a report or reports directly to each participant containing:
 - a. For all accounts:
 - (1) Name and address of participant
 - (2) Identifying number
 - (3) Total payments received during the reporting period
 - (4) Expense charges during the reporting period
 - (5) Net payments during the reporting period
 - (6) Total value of account at end of the reporting period

- (7) Net cash surrender value of account at end of the reporting period reflecting all potential charges against the account if it were surrendered for cash as of the last day of this reporting period
 - b. For fixed annuity accounts, submit the following additional information:
 - (1) Interest rate or rates paid on the account from the previous reporting period to the end of the current reporting period
 - (2) Where multi-level rates of interest were paid on an account, a breakdown showing the amount in the participant's account at each interest level, the amount of interest earned at each interest level, and the rates of interest
 - c. For variable annuity and custodial accounts, submit the following additional information:
 - (1) Units of each fund or investment or account purchased during the reporting period
 - (2) Total units of each fund or investment in the account at end of the reporting period
 - (3) The value of each unit of each fund or investment or account at the end of the reporting period
2. Each vendor must submit confirmation of receipt of funds (remittance acknowledgment) directly to each participant at least quarterly. The report shall contain the date and amount of each payment received during the reporting period.
3. Each vendor must, immediately upon execution of a transfer from one fund or investment account to another fund or investment account, submit a confirmation directly to the participant. This confirmation shall include all transfer information, including a statement of the charges made for the transfer, if any.
4. Company literature such as Annual Reports and Proxy Statements will be mailed directly to the participant's permanent address.

J. Solicitation Procedures

1. The System reserves the right to limit or revoke the solicitation privileges of any representative or vendor at its discretion if it determines that any representative or vendor is not properly serving the best interest of System employees or is disruptive to employees or System business.
2. Properly appointed representatives of authorized ORP vendors (listed in Appendix A) are permitted to solicit eligible employees at System facilities only as invited guests of the administration. They must abide by the rules established by System Benefits Administration, the Chief Executive Officer and the individual in charge of each System location.

3. Representatives are allowed to make sales presentations on System premises only at the request of the administration.
4. No unsolicited visits, mailings (including bulk mailings), telephone, or e-mail solicitations are permitted to campus offices.
5. The providing of gifts or monetary rewards in exchange of information on newly hired employees is prohibited.
6. All representatives are expected to abide by the parking regulations in effect at the various System locations. Excessive parking violations may result in the loss of solicitation privileges.
7. System employees are not allowed to provide copying or typing assistance, notary or other clerical service to representatives conducting business in System buildings.
8. Authorized ORP Vendors (listed in Appendix A) may supply sales literature to the System Member Human Resources or Payroll Offices. Brochures may be made available for employees at a location to be designated by the Chief Executive Officer of each System member or the individual in charge of each System component.
9. Informational reports may be purchased by contacting:

The Texas A&M University System
A&M System Building, Suite 2079
200 Technology Way
College Station, Texas 77845-3424
Phone: (979) 458-6144
e-mail: syscomm@tamu.edu

NOTE: The Texas Public Information Act restricts public access to the home addresses, home telephone numbers and social security numbers of employees who designate this information as private. Therefore, address labels and reports described above will only include employees who permit public access to their information.

K. Vendor Administrative Changes

1. Changes to existing information: System Benefits Administration must be notified in writing of any changes to the contact information provided in Appendix A, B, or C.
2. Adding representatives: System Benefits Administration must receive a completed Representative Acknowledgment Form (HR 13) that has been signed by the prospective representative and one of the individuals assigned as a Representative Designator or Primary Contact by the Authorized Vendor (listed in Appendix A). System Benefits Administration will notify the vendor and the

various System Member Human Resources or Payroll Offices of the addition if acceptable. New representatives may not contact System employees until after the vendor has been notified that the addition is accepted.

3. Send a notice of change and/or requests to add or drop representatives to:

Retirement Coordinator
System Benefits Administration
The Texas A&M University System
A&M System Building, Suite 1120
200 Technology Way
College Station, Texas 77845-3424
Phone: (979) 458-6160
Fax #: (979) 458-6190

L. Recertification Procedure

In order to maintain solicitation privileges, the vendor will periodically be required to certify agreement with changes to the vendor requirements or to resubmit the information contained in the application.

1. The System is responsible for initiating the request for recertification. A written notice, including instructions and a response deadline, will be sent to the Primary Contact for the vendor.
2. Failure to respond in a timely fashion may result in loss of privileges.

M. Procedure for Terminating Vendor Participation in the ORP

1. The System may terminate a vendor's participation in the ORP by sending a written notice to the Primary Contact for the vendor at least 30 days in advance of the termination date.
2. A vendor may terminate participation in the ORP by sending a written notice to each participant in the program and System Benefits Administration at least 60 days in advance of the termination date.

**AMENDMENT NO. ONE
TO
THE TEXAS A&M UNIVERSITY SYSTEM
OPTIONAL RETIREMENT PROGRAM**

Amendment made this 11th day of August, 2011 to The Texas A&M University System Optional Retirement Program (ORP) plan document.

W I T N E S S E T H

WHEREAS, the Employer desires to amend The Texas A&M University System ORP plan document to provide that the Participant is permitted to change the investment of his or her Account Balance pursuant to Section 4.4 of the plan document to a Vendor in Appendix B when the Participant is actively contributing to the Vendor in Appendix B.

WHEREAS, pursuant to Section 6.2 of the Plan, The Employer has the authority to amend the Plan.

NOW, THEREFORE, the Plan is amended as follows:

1. Section 4.4 is amended to read as follows:

“4.4 **Contract and Custodial Account Exchanges.** A Participant or Beneficiary is permitted to change the investment of his or her Account Balance among the Vendors under the Plan indentified in Appendix A as an authorized vendor or identified in Appendix B when the Participant is actively contributing to such vendor, subject to the terms of the Individual Agreements. However, an investment change that includes an investment with a Vendor that is not identified in Appendix A as an authorized vendor or identified in Appendix B as a vendor actively receiving contributions from the Participant is not permitted.”

2. Appendix B is amended to read as follows:

“Vendors authorized to receive ongoing contributions. Exchanges and Transfers to these Vendors are not permitted under the Plan unless the Participant is actively contributing to the vendor:”

IN WITNESS WHEREOF, this Amendment has been executed on the date written above, by the Employer.

**EMPLOYER:
THE TEXAS A&M UNIVERSITY SYSTEM**

By: 
Title: Director