

**ADOPTION AGREEMENT FOR THE  
403(b) PLAN DOCUMENT FOR PUBLIC HIGHER EDUCATION INSTITUTIONS**

Employer hereby establishes a 403(b) plan by adopting the 403(b) Plan Document for Public Higher Education Institutions plan document (the "Plan") as modified by this Adoption Agreement and agrees that the following provisions shall be incorporated as part of the Plan document.

EMPLOYER INFORMATION

**Name of Employer:** \_\_\_\_\_

**Federal Tax ID:** \_\_\_\_\_

**Employer's Address:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Telephone Number:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**Contact Person:** \_\_\_\_\_

Telephone/Extension: \_\_\_\_\_ E-mail \_\_\_\_\_

**Type of Organization:**

- Public Community College     Public College/University

**Note:** If Employer is not a public education institution, this document may not be used.

PLAN INFORMATION

**Name of Plan:** \_\_\_\_\_ 403(b) Plan

**Effective Date:** This Adoption Agreement:

- establishes a Plan effective as of \_\_\_\_\_ (the "Effective Date") and is the first 403(b) plan document established by the Employer.
- amends and restates a previously established 403(b) Plan document of the Employer. The effective date of this amended Plan is \_\_\_\_\_ (the "Effective Date").

**Eligibility:** Except as otherwise selected below, all employees are immediately eligible to make contributions under the Plan. Eligibility for Employer Contributions is based on applicable employment agreements or collective bargaining agreements to which an employee is subject. The plan shall not include:

- Employees who are eligible to participate in one or more plans described under Section 403(b)(12)(A) of the Code during the calendar year sponsored by the Employer.
- Employees who are students and regularly attending classes at the Employer institution during the calendar year (limited to Employers that are educational institutions).
- Employees who normally work fewer than \_\_\_ hours per week (must be 20 or less; equivalent to 1,000 hours or less in a year except as otherwise provided under applicable 403(b) regulations generally effective January 1, 2009) during the calendar year.
- Employees who are nonresident aliens and perform no services in the U.S. during the calendar year.

**Additional Eligibility Exclusions:** Notwithstanding the above, employees in the classes selected below are excluded for taxable years beginning prior to January 1, 2010 but shall be eligible for participation under the plan for taxable year beginning on or after January 1, 2010.

- Employees who make a one-time election to participate in a governmental plan described in Code section 414(d) instead of a 403(b) plan

- Professors who are providing services on a temporary basis to another school for up to one year and for whom section 403(b) contributions are being made at a rate no greater than the rate each such professor would receive under the section 403(b) plan of the original school
- Employees who are affiliated with a religious order and who have take a vow of poverty where the religious order provides for the support of such employees in their retirement

**Note: The inclusion of all common law employees will prevent an inadvertent violation of the eligibility requirements of Section 403(b)(A)(ii).**

**Contributions into the Plan:**

**Employee Contributions** (in addition to salary reduction contributions):

- Roth 403(b) Contributions to the Plan are permitted beginning on \_\_\_\_\_.
- Roth 403(b) Contributions are NOT permitted under the Plan

*(Default: If no election is made, Roth 403(b) Contributions are not permitted)*

**Employer Contributions** ( if any):

- No Employer Contributions will be made.
- Employer Contributions will be made in accordance with applicable employment agreements and collective bargaining agreements, or as may be determined from year to year by the Employer.

*(Default: If no election is made, Employer Contributions are permitted)*

Notwithstanding any contrary language in the Plan, including this Adoption Agreement, the following Employer elections shall apply to Employer Contributions, After-tax Employee Elective Contributions, and Nonelective Employee Contributions under the Plan.

**EMPLOYER CONTRIBUTIONS** (Check one or more)

- Basic non-matching contribution up to \_\_\_\_\_% of compensation
- Matching contributions up to \_\_\_\_\_% of compensation
- Other \_\_\_\_\_

**AFTER-TAX EMPLOYEE ELECTIVE CONTRIBUTIONS**

**NONELECTIVE EMPLOYEE CONTRIBUTIONS** up to \_\_\_\_\_% of compensation

**VESTING** (Check one of a – c to apply for all employer contribution sources. Check d if applicable.) Non-vested amounts shall be accounted for separately in accordance with applicable requirements of Code Section 403(c).

Forfeitures will be used to reduce future employer contributions or pay plan expenses.

- 100% Immediate
- 3 Year Cliff (0% Years 1-2, 100% at end of 2nd year)
- 6 Year Graded
 

After Year (of service) — Percent	
1 Year	0%
2 Years	20%
3 Years	40%
4 Years	60%
5 Years	80%
6 Years	100%
- 100% vesting at death, disability, early and normal retirement

**LOANS FROM EMPLOYER CONTRIBUTIONS.** *Applicable if loans are permitted under the terms of the Plan and underlying investment product.*

- Allowed from Employer non-matching contributions
- Allowed from Employer matching contributions
- No loans from Employer contributions

**WITHDRAWALS FROM EMPLOYER CONTRIBUTIONS ALLOWED AT** *(Check all that apply. Applicable if withdrawals are permitted under the terms of the Plan and underlying investment product.)*

- Attainment of age 59½
- Disability
- Severance from employment
- Hardship
- No in-service withdrawals allowed
- Allowed on all vested funds upon attainment of age \_\_\_\_\_
- Allowed upon full vesting of all employer contributions and attainment of age \_\_\_\_\_

**OTHER PROVISIONS RELATED TO EMPLOYER CONTRIBUTIONS (NOT-OPTIONAL.)** *Applicable to the vested portion of the participant's account only.*

- Transfers permitted to purchase service credits
- No involuntary cash-outs

**15 Years of Service Catch Up Contributions:** The Plan will  or will not  permit employees with 15 years of service with the Employer that satisfy the conditions for the Special Section 403(b) Catch-up Limitation for Employees With 15 Years of Service (Section 3.2 of the Plan) to increase their Elective Deferrals limitation.

*(Default: If no election is made, Catch Up Contributions are permitted)*

**Investment Options:** Any Annuity Contracts and/or Custodial Accounts provided by Vendors authorized on Appendix A, which may be revised from time to time, are authorized to accept contributions under the Plan.

**Exchanges Within the Plan:** The Plan will  or will not  permit Participants to make Exchanges. If permitted, Exchanges may occur between:

- Those organizations listed on Appendix A only *(default if no election made)*
- Those organizations listed on Appendix A and any other organization offering annuity contracts and or custodial accounts that satisfy the requirements of Section 403(b) of the Code who execute an information sharing agreement with Employer or its appointee for purposes of satisfying applicable compliance requirements.

*(Default: if no election made, Exchanges between organizations listed on Appendix A are: permitted)*

**Transfers Into the Plan :** The Plan will  or will not  accept Transfers from another employer's 403(b) plan.

*(Default: If no election is made, Transfers will be accepted)*

**Transfers From the Plan :** The Plan will  or will not  permit Transfers from the Plan to another employer's 403(b) plan, if requested by a former Participant.

*(Default: If no election is made, Transfers will be sent to another 403(b) plan.)*

**Financial Hardship Distributions:** Hardship Distributions are  or are not  available under the Plan subject to availability and any additional conditions that may apply under a Participant's 403(b) Individual Agreement(s) and as provided in Appendix A.

*(Default: If no election made, Hardship Distributions are permitted)*

**Loans:** Loans are  or are not  available under the Plan subject to availability and any additional conditions that may apply under a Participant's 403(b) Individual Agreement(s) and as provided in Appendix A.

*(Default: If no election made, loans are permitted)* **Note: The Plan prohibits loans to any Participant who has an existing outstanding defaulted loan under any retirement or deferred compensation plan sponsored by the Employer.**

**Direct Roth Rollovers:** If Roth 403(b) Contributions are permitted to the Plan (above), direct rollovers from other Roth 403(b) or Roth 401(k) plans are  are not  accepted into the Plan or

Not Applicable because Roth Contributions are not permitted to the Plan.

*(Default: If no election made, direct rollovers of Roth contributions will be permitted),*

**Plan Administration:** The Plan shall be administered:

By Employer

Jointly by Employer and Vendors. Unless otherwise agreed to by the affected parties, Employer and the provider/issuer of each Funding Vehicle shall jointly act as Administrator of the Plan. Employer shall be responsible for matters relating to eligibility (including providing notice of the Plan to Employees), enrollment opportunities, Contributions authorizing disbursements in accordance with Section 5, and proper tax reporting on Contributions, Plan document maintenance and payroll related issues. The Funding Vehicles are responsible for matters relating to investing Contributions as directed by Participants, beneficiary designations, distributions authorized by the Employer, Exchanges, Transfers, Rollovers, loans, withdrawals and post-employment compliance, such as tax reporting, notice requirements and withholding on distributions.

By a designated Administrator. The Employer has named \_\_\_\_\_  
\_\_\_\_\_ to act in this capacity.

**The following section may be used to insert provisions for which there were no acceptable alternatives provided. It may be used to modify any portion of the Plan or Adoption Agreement.**

**NOTE: Any modifications should be carefully reviewed by Employer’s legal counsel to ensure that changes do not adversely affect the Plan’s qualification under Section 403(b) of the Code.**

Other provisions of the Plan (Attach additional pages as necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EMPLOYER ACKNOWLEDGEMENTS AND SIGNATURES**

Employer acknowledges that it is an eligible public higher education institution under Section 170(b)(1)(A)(ii) of the Code and is authorized to offer a program qualified under Section 403(b) of the Internal Revenue Code

EMPLOYER

By: \_\_\_\_\_

Print Name of Signer: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

**APPENDIX A**  
**AUTHORIZED 403(b) VENDOR LIST**

This list identifies the Vendors available under the designated 403(b) Plan maintained by the Employer, on or after the effective date of this Appendix A ("Effective Date"). Vendors on this Appendix A shall be subject to requirements and restrictions under the written plan, if any, provided however that such requirements and restrictions are not intended to enlarge the rights and benefits otherwise set forth in the Individual Arrangements.

Employer: \_\_\_\_\_ Plan Name: \_\_\_\_\_

Effective Date: \_\_\_\_\_

A. Vendors authorized to receive contributions and transfers under the Plan:

<u>Name of Vendor</u>	<u>Contact Name</u>	<u>Contact Phone</u>	<u>Approved for hardship distributions if available, under the Individual Arrangement(s)?</u> (indicate yes or no)	<u>Approved for loans if available, under the Individual Arrangement(s)?</u> (indicate yes or no)
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

(Use an additional page for additional listings.)

B. Vendors included in the Plan (as specified in applicable regulations) but which are not authorized to receive new contributions under the Plan:

<u>Name of Vendor</u>	<u>Contact Name</u>	<u>Contact Phone</u>	<u>Approved for hardship distributions if available, under the Individual Arrangement(s)?</u> (indicate yes or no)	<u>Approved for loans if available, under the Individual Arrangement(s)?</u> (indicate yes or no)
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

(Use an additional page for additional listings. These products may receive transfers unless the Plan provides otherwise.)

C. Vendors that may receive transfers under the Plan pursuant to an information sharing agreement, which may remain a part of the plan but are not authorized to receive new contributions under the Plan (but may receive transfers unless the Plan provides otherwise):

<u>Name of Vendor</u>	<u>Contact Name</u>	<u>Contact Phone</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Use an additional page for additional listings. Listings effective prior to January 1, 2009 are presumed to reflect a commitment by the Vendor and the Employer to enter into an information sharing agreement, as required in final 403(b) regulations, not later than January 1, 2009.)

**Important Notes:**

1. As provided under the Plan, any authorized Vendor named in Appendix A agrees to share information necessary for compliance purposes with Employer, an Administrator and/or with any other 403(b) provider as may be required or desirable to facilitate compliance with the Plan and all applicable laws and regulations.
2. Each Vendor named above is required to maintain records of the Funding Vehicles offered under the Plan to comply with the information sharing requirements of the Plan and applicable information sharing agreements.

This Appendix is dated: \_\_\_\_\_