

# **Plan Document – TSA**

**ADOPTED by Board of Regents – November 21, 2008**

## **Texas State University System Supplemental Tax Sheltered Annuity Plan**

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## **Texas State University System Supplemental Tax Sheltered Annuity Plan**

**Preamble**





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2.20 "**Public Institution of Higher Education**" Public Institution of Higher Education means a State-sponsored organization of higher education that meets the requirements of section 170(b)(1)(A)(ii)(relating to educational organizations that normally maintain a regular faculty and curriculum and normally have a regularly enrolled body of pupils or students in attendance at the place where educational activities are regularly carried on).

2.21 "**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 Plan Administrator 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.

2.22 "**Related Entity**" For the purposes of the Plan, Related Entity means any other Texas Public Institution of Higher Education.

2.23 "**Severance from Employment**": For purpose of the Plan, Severance from Employment means Severance from all Employment with the Employer and any Related Entity. However, a Severance from Employment also occurs when an Employee ceases to be an employee of a Public Institution of Higher Education even though the Employee may continue to be employed by a Related Employer that is another unit of the State or local government that is not a Public Institution of Higher Education, or in a capacity that is not employment with a Public Institution of Higher Education, (*e.g.*, ceasing to be an employee performing services for a Public Institution of Higher Education but continuing to work for the same State or local government employer). For the purpose of the Plan, Severance from Employment does not occur before a former employee also has a "Break in Service" as defined in Section 2.1 of the Plan.

2.24 "**Vendor**": The provider of an Annuity Contract or Custodial Account.

2.25 "**Valuation Date**": The most recent date on which the vendor would ordinarily have provided the participant with a statement of the value of the account.

2.26 "**Vested**": A status such that an Account maintained on behalf of a Participant is non-forfeitable.

The following additional definitions apply to the Texas State University System and its components.

2.27 "**System**": The Texas State University System.

2.28 "**System Institution**": Any Public Institution of Higher Education that is governed by the Board of Regents of the Texas State University System.

2.29 "**Campus**": Any unit of the Texas State University System that operates a separate Human Resources office or a separate payroll.

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## **Section 3 Administration**

### **3.1 Plan Administrator**

The Plan Administrator shall be the Vice-Chancellor for Finance of the Texas State University System

### **3.2 Deputy Plan Administrators**

The Plan Administrator may appoint Deputy Plan Administrators to assist in the administration of the Plan on the System Campuses. The Plan Administrator may, but is not required to, delegate to Deputy Plan Administrators functions, including but not limited to, approving new participant contracts with vendors, approving transfers from one vendor to another, and certification of Severance from Employment for the purposes of distributions or rollover to an IRA.

### **3.3 Employer Specific Plan Administration**

The Plan Administrator may not exercise any of the discretionary provisions in the Plan in a manner that treats like situated employees differently; provided, however, that because each Employer has separate human resource and payroll administration and systems, decisions may be made, and procedures and options established, separately for each campus; and provided further that this shall not prohibit the Plan Administrator from establishing different rules, procedures and options for participants first enrolling in the plan after a specific date.

### **3.4 Administration and Compliance**

The administrative and compliance functions on each Campus may be performed by employees of that Campus, or the Plan Administrator may approve the appointment of qualified contractors to perform administrative and compliance functions on any Campus or Campuses. The functions to be carried out by such contractors shall be stated in the administrative procedures documents of the Campuses involved.

### **3.5 Administrative Procedure Documents**

Each Campus shall maintain an administrative procedure document or documents detailing all administrative procedures, including procedures employed by contractors, if any, that participants and vendors will need to follow in participating in the Plan on that Campus. The document or documents may be part of a larger Employee or Human Resources Policies and Procedures Manual, and may be provided in electronic form or on the Web, provided electronic or Web access is made available on Campus to all participants.

### **3.6 Vendor Lists.**

Each Employer shall maintain a vendor list( )C4Dat

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## **3.7 Information Sharing**

Each Vendor shall agree to provide the Administrator with all available information that may be reasonably necessary to enable the Administrator to administer the Plan in accordance with the Code, the Income Tax Regulations, and the applicable Rules and Regulations of the State of Texas. The Vendor must agree that such obligation shall extend until April 15 of the year after the year in which there last was an open Contract or Account governed by the Plan, even if the Vendor has not been authorized to open new Accounts or Contracts, or to accept new contributions for a longer period. This agreement shall be evidenced in writing in a form satisfactory to the Administrator, but may be part of another more comprehensive agreement.

## **Section 4 Participation and Vesting**

### **4.1 Eligibility to Elect to Participate**

The following employees are eligible to elect to participate in the Plan

- (a) Any regular employee employed one half time or more.
  
- (b) Any other employee expected to work 1000 hours or more in a year, but not including non-resident aliens as described in the Code, Section 410(b)(3)(c) nor students performing services described in the Code, Section 3121(b)(10).

### **4.2 Election to Participate and Continue or Resume Participation**

Employees shall be eligible to elect to participate from the first day that they are eligible to participate in the plan and, subject to payroll processing deadlines, may enroll at any time. Retirees and former employees may retain accounts previously funded under the plan and thereby continue to be participants in the Plan, but no additional funds may be contributed to such accounts after Severance from Employment has occurred, unless the participant is rehired and qualifies as an Eligible Employee again. Employees not meeting the definition of Severance from Employment by virtue of transferring directly to another Public Institution of Higher Education outside of the Texas State University System may not continue to make contributions under this Plan. Employees transferring to another Employer within the Texas State University System may continue to participate, but new contributions may only be made to Vendors and under an Individual Agreement approved by the Plan Administrator for such Employer.

### **4.3 Manner of Election to Participate**

An Employee elects to become a Participant by executing an election to reduce his or her Compensation (and have that amount contributed as an Elective Deferral and/or Roth 403(b) Contributions in accordance with Section 11 on his or her behalf) and filing it with the Administrator. This Compensation reduction election 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 Administrator may establish an annual minimum deferral amount no

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higher than \$200, and may change such minimum to a lower amount from time to time. The participation election shall also include designation of the Funding Vehicles and Accounts therein to which Elective Deferrals and/or Roth 403(b) Contributions are to be made and a designation of Beneficiary. Any such election shall remain in effect until a new election is filed. 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 Elective Deferrals shall be made on a pre-tax basis. All Roth 403(b) Contributions shall be made in accordance with the terms of Section 11. An Employee shall become a Participant as soon as administratively practicable following the date applicable under the employee's election.

### **4.4 Vesting**

Participants shall be vested in the Plan immediately upon commencing participation.

### **4.5**



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## **5.1 Contributions**

The principal purpose of the Plan is to permit eligible employees to make elective contributions. However, employer discretionary contributions and benefits distributed under a plan authorized under Section 415(m) of the Code

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(B) The total Elective Deferrals, and if applicable, Roth 403(b) Contributions made for the employee by the qualified organization for prior years.

For purposes of this Section 5.2(c), a “qualified employee” means an employee who has completed at least 15 years of service taking into account only employment with the Employer.

**(d) Age 50 Catch-up Contributions.** An Employee who is a Participant who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of Elective Deferrals and/or Roth 403(b) Contributions, up to the maximum age 50 catch-up Elective Deferrals and/or Roth 403(b) Contributions for the year. The maximum dollar amount of the age 50 catch-up Elective Deferrals and/or Roth 403(b) Contributions for a year is \$5,000 for 2007, and is adjusted for cost-of-living after 2007 to the extent provided under the Code.

**(e) Coordination .** Amounts in excess of the limitation set forth in Section 5.2(b) shall be allocated first to the special 403(b) catch-up under Section 5.2(c) and next as an age 50 catch-up contribution under Section 5.2(d). However, in no event can the amount of the Elective Deferrals and/or Roth 403(b) Contributions for a year be more than the Participant’s Compensation for the year.

**(f) Special Rule for a Participant Covered by Another Section 403(b) Plan.** For purposes of this Section 5, if the Participant is or has been a participant in one or more other plans under section 403(b) of the Code (and any other plan that permits Elective Deferrals and/or Roth 403(b) Contributions under section 402(g) of the Code), then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this Section 5. For this purpose, the Administrator shall take into account any other such plan maintained by any Related Employer and shall also take into account any other such plan for which the Administrator receives from the Participant sufficient information concerning his or her participation in such other plan. Notwithstanding the foregoing, another plan maintained by a Related Entity shall be taken into account for purposes of Section 5.2(c) only if the other plan is a §403(b) plan.

**(g) Correction of Excess Elective Deferrals and/or Roth 403(b) Contributions.** If the Elective Deferral and/or Roth 403(b) Contributions on behalf of a Participant for any calendar year exceeds the limitations described above, or the Elective Deferral and/or Roth 403(b) Contributions on behalf of a Participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the Participant under another plan of the employer under section 403(b) of the Code (and any other plan that permits Elective Deferrals and/or Roth 403(b) Contributions under section 402(g) of the Code for which the Participant provides information that is accepted by the Administrator), then the Elective Deferral and/or Roth 403(b) Contributions, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant. Excess Deferrals (and, if applicable, Roth 403(b) Contributions) will be distributed to the Participant, with allocable net income, no later than April 15 of the following taxable year or otherwise in accordance with Section 402(g) of the Code.

### Section 6 Loans



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## **Section 7 Benefit Distributions**

### **7.1 Benefit Distribution at Severance from Employment**

Benefits may only be distributed as provided in the Code and Income Tax Regulations. If immediately after contributions under this Plan cease, a participant transfers directly to another Public Institution of Higher Education such that Severance from Employment as defined in this Plan does not occur, certification of Severance from Employment by the new employer, or any subsequent Public Institution of Higher Education to whom there was a direct transfer, is required before any benefit distribution may occur.

### **7.1 Benefit Distributions At Severance from Employment or Other Distribution Event**

Except as permitted under Section 5.2(g) (relating to excess Elective Deferrals and/or Roth 403(b) Contributions), Section 7.4 (relating to hardship), or Section 10.3 (relating to termination of the Plan), distributions from a Participant's Account may not be made earlier than the earliest of the date on which the Participant has a Severance from Employment as defined in this Plan, dies, becomes Disabled, or attains age 59 1/2. Distributions shall otherwise be made in accordance with the terms of the Individual Agreements. Notwithstanding the foregoing, Elective Deferrals made to an Annuity Contract and corresponding earnings as of December 31, 1988 are "grandfathered" and withdrawal restrictions do not apply to the extent that such amounts can be appropriately identified by the Vendor. Distributions to participants under age 59 1/2 may be subject to additional tax as provided in the Code, Section 72(t)

### **7.2 Small Account Balances**

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 Account Balance does not exceed \$5,000 (determined without regard to any separate account that holds rollover contributions) 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).

### **7.3 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.

### **7.4 Hardship Withdrawals**

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(a) Participants whose current Employer's predecessor Plan did not prohibit hardship withdrawals and who are enrolled in the Plan on its Effective Date, shall be permitted to take hardship withdrawals under the Plan to the extent permitted by the Individual Agreements controlling the Account assets from which the withdrawal is made; provided however that nothing in this provision shall restrict the ability of the Administrator to prohibit hardship distributions by Participants enrolling or re-enrolling in the Plan after the effective date of the Plan, or from establishing a future date after which no new hardship distributions will be permitted for any participant. No Elective Deferrals and/or Roth 403(b) Contributions shall be allowed under the Plan during the 6-month period beginning on the date the Participant receives a distribution on account of hardship.

(b) The Individual Agreements shall provide for the exchange of information among the Employer and the Vendors to the extent necessary to implement the Individual Agreements, including, in the case of a hardship withdrawal that is automatically deemed to be necessary to satisfy the Participant's financial need (pursuant to §1.401(k)-1(d)(3)(iv)(E) of the Income Tax Regulations), the Vendor notifying the Employer of the withdrawal in order for the Employer to implement the resulting 6-month suspension of the Participant's right to make Elective Deferrals and Roth 403(b) Contributions under the Plan. In addition, in the case of a hardship withdrawal that is not automatically deemed to be necessary to satisfy the financial need (pursuant to §1.401(k)-1(d)(3)(iii)(B) of the Income Tax Regulations), the Vendor shall obtain information from the Employer or other Vendors to determine the amount of any plan loans and rollover accounts that are available to the Participant under the Plan to satisfy the financial need.

**7.5 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 pa

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from one Campus to another is permitted to transfer funds to a Vendor on the approved list for the new Employer, subject to the terms of the Individual Agreement.

### **8.2 Plan-to-Plan Transfers to the Plan from other TSA Plans**

(a) The Administrator may, but is not required to, permit a Participant or class of Participants to transfer to this Plan of the Account Balance from another plan which is a plan established under and operated in conformity with Texas Law. Such a transfer is permitted only if (i) the participant transfers to the Employer without meeting the requirements for Severance from Service as defined in this Plan; (ii) the participant is vested in the other plan; (iii) the other plan provides for the direct transfer of each person's entire interest therein to the Plan, and (iv) the participant is an employee or former employee of the Employer. If the Account Balance is held in an account or contract of a Vendor which is already on the approved list of the campus at which the participant is employed, the transfer may be accomplished by the Vendor acknowledging in writing that the account or contract contains, or has been amended to contain, all the distribution restrictions required by Section 403(b) of the Code and will henceforth be part of and under the control of this Plan. Otherwise, the transfer may only be made by trustee to trustee transfer and only to a Vendor on the approved list of the Employer which employs the participant. 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. The Administrator may require the plan administrator of the other plan to agree to exchange in the future any information that may become necessary to satisfy the requirements of the Code and the Income Tax Regulations.

(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) 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.

### **8.3 Plan-to-Plan Transfers from the Plan to another Texas TSA Plan**

(a) The Administrator may, but is not required to, permit a Participant or class of Participants who have transferred to another public institution of higher education in Texas without meeting the requirements for Severance from Service as defined in this Plan to elect to have the Participant's Account Balance transferred to another plan that satisfies Section 403(b) of the Code. A transfer is permitted only if it meets the requirements of §1.403(b)-10(b)(3) of the Income Tax Regulations. A transfer under this section 8.3 is permitted only if the Participant is an employee of the employer under the receiving plan and the other plan provides for the acceptance of plan-to-plan transfers with respect to the Participant and the Participant has an

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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 whose assets are transferred that are not less stringent than those imposed under the Plan.

(c) Upon the transfer of assets under this Section 8.3, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 8.3 (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.

### **8.4 Rollover to an Individual Retirement Annuity or Individual Retirement Account**

An Employee who has a Severance from Employment, as defined in this Plan may elect to rollover all or any portion of his or her accounts to an Individual Retirement Annuity or Individual Retirement Account. Asfer0.0004 TsTo374 -1.15 7mdl RhD 3 BDC (Individu49Tnf the Code and Incom)8(e)-1

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Account shall provide for it to be impossible, prior to the satisfaction of all liabilities with respect to Participants, their Beneficiaries and unvested Employer contributions 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.

## **9.2 Investment of Contributions**

Each Participant or Beneficiary shall direct and shall be solely responsible for selecting 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. The System and the Employer have no fiduciary responsibility for the market value of a participant's investment or the financial stability of the companies chosen by the participant. 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. However, the Plan Administrator may, but is not required to, establish a limit on the number of changes that an employee may make, provided that the limit is at least two changes per year.

## **9.3 Current and Former Vendors**

The Administrator shall maintain a list of all Vendors approved for each Employer under the Plan. Such list is hereby incorporated as part of the Plan. Each Vendor and the Administrator shall exchange such information as may be necessary



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The System may provide that, in connection with a termination of the Plan and subject to any restrictions contained in the Individual Agreements and Texas Law, 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.



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## **12.5 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.

## **12.6 Mistaken Contributions**

If any contribution (or any portion

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(d) The participant and the investment advisor shall enter into a contract for a term of no more than one year. A contract that automatically renews each year shall be considered acceptable as long as both parties have the right to sever the relationship, with reasona

