

**KANSAS BOARD OF REGENTS  
MANDATORY RETIREMENT PLAN**

**Amended and Restated January 1, 2009**

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**KANSAS BOARD OF REGENTS**  
**MANDATORY RETIREMENT PLAN**

**ARTICLE I.**

**ESTABLISHMENT AND RESTATEMENT OF PLAN**

The Kansas Board of Regents ("Board") established a retirement plan pursuant to Section 403(b) of the Internal Revenue Code ("Code") and K.S.A. §§ 74-4925, *et seq.* and the Board's regulations thereunder, effective January 1, 1962, and as amended from time to time thereafter. The plan was, and is intended to remain, a Code Section 403(b) plan and a governmental plan within the meaning of Code Section 414(d).

The Board reduced the terms of the plan to writing in one document entitled the Kansas Board of Regents Mandatory Retirement Plan ("Plan"), effective January 1, 2006, to comply with all applicable provisions of the Code and Kansas statutes. The Board now desires to amend and restate the Plan, effective January 1, 2009, except as otherwise specifically provided herein, to comply with the final treasury regulations under Code Section 403(b). Except as otherwise specifically provided herein, the Plan as hereinafter set forth establishes the rights and obligations with respect to individuals who are Employees on and after such dates, as applicable, and to transactions under the Plan on and after such dates, as applicable. The rights and benefits, if any, of individuals who are not Employees on or after such dates, as applicable, shall be determined in accordance with the terms and provisions of the Plan that were in effect on the date of their Severance from Employment, except as otherwise specifically provided herein or in a subsequent amendment.

The Plan is funded exclusively through the purchase of Funding Vehicles from the Vendors described in Exhibit A attached hereto, as that Exhibit may be amended from time to

time. The terms and conditions of such Funding Vehicles shall be considered part of, and shall be construed as having been incorporated into, this Plan, except to the extent that there are any provisions that conflict with the Plan. To the extent that there is any conflict between the terms of such Funding Vehicles and the terms of the Plan as provided herein, the terms of the Plan shall govern except as otherwise expressly provided herein.

## ARTICLE II.

### DEFINITIONS AND CONSTRUCTION

#### Section 2.01 Construction and Governing Law.

(a) This Plan shall be construed, administered and enforced according to the Code and, when not inconsistent with the Code or expressly provided otherwise herein, the laws of the State of Kansas without regard to conflict of law principles.

(b) Words used herein in the masculine gender shall be construed to include the feminine gender where appropriate, and words used herein in the singular or plural shall be construed as being in the plural where appropriate.

(c) Notwithstanding any provisions of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended; effective January 1, 2009, the Heroes Earnings Assistance and Relief Tax Act of 2008, as amended; Code Section 401(a)(37); and Code Section 414(u). For this purpose, an Employee whose employment is interrupted by qualified military service under Code Section 414(u) or who is on a leave of absence for qualified military service under Code Section 414(u) may elect to make the Mandatory Participant Contributions upon resumption of employment with his or her Employer that would have been required (at the same level of Compensation) without the

interruption of leave. Except to the extent provided under Code Section 414(u), 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). If the Employee elects to make such additional Mandatory Participant Contributions, the Employer shall make any Employer Contribution that would have been required had the Mandatory Participant Contributions been made during the period of the qualified military service. Effective January 1, 2009, an Employee whose employment is interrupted by qualified military service or who is on a leave of absence for qualified military service and who receives a differential wage payment within the meaning of Code Section 414(u)(12)(D) from the Employer, will be treated as an Employee of the Employer and the differential wage payment will be treated as Compensation and Includible Compensation.

(d) Notwithstanding any provisions of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified leave will be provided in accordance with the Family Medical Leave Act of 1993, 29 U.S.C. Section 2601 *et. seq.*

**Section 2.02 Definitions.** When the initial letter of a word or phrase is capitalized herein the meaning of such word or phrase shall be as follows:

(a) "Account" means the following separate bookkeeping accounts maintained for each Participant under a Funding Vehicle, reflecting his or her interest in such Funding Vehicle as follows:

(1) "Mandatory Participant Contribution Account" means the account maintained to reflect the interest of the Participant in a Funding Vehicle attributable to his or her Mandatory Participant Contributions pursuant to Section 4.01. Such account may be further divided into a "Pre-1987 Mandatory Participant Contribution Account"

reflecting Mandatory Participant Contributions made to the Plan prior to 1987, and a "Post-1986 Mandatory Participant Contribution Account" made to the Plan after 1986, including any earnings on the Pre-1987 Mandatory Participant Contributions.

(2) "Employer Contribution Account" means the account maintained to reflect the interest of the Participant in a Funding Vehicle attributable to his or her Employer Contributions pursuant to Section 4.02. Such account may be further divided into a "Pre-1987 Employer Contribution Account" reflecting Employer Contributions made to the Plan prior to 1987, and a "Post-1986 Employer Contribution Account" made to the Plan after 1986, including any earnings on the Pre-1987 Employer Contributions.

(3) "Disability Employer Contribution Account" means the account maintained to reflect the interest of the Participant in a Funding Vehicle attributable to his or her Disability Employer Contributions pursuant to Section 4.03.

(4) "Rollover Account" means the account maintained to reflect the interest of the Participant in a Funding Vehicle attributable to his or her Rollover Contributions pursuant to Section 4.05.

(b) "Account Balance" means the balance in all Accounts maintained for a Participant which reflects the aggregate amount credited to or debited from the Participant's Accounts, including Mandatory Participant Contributions, Employer Contributions, Disability Employer Contributions, and Rollover Contributions; the earnings or losses of each Annuity Contract or 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 the Account established for a Beneficiary after a Participant's death and any Account established for an alternate payee as defined in Code Section 414(p)(8).

(c) "Administrator" means the Board; provided, however, that to the extent that the Board has delegated any of its responsibilities as Administrator to any other person or persons, the term Administrator shall be deemed to refer to that person or persons.

(d) "Annuity Contract" means a nontransferable contract as defined in Code Section 403(b)(1), established for Participants by the Board, or by each Participant individually, that is issued by a Vendor who is an insurance company qualified to issue annuities in the State of Kansas and that includes payment in the form of an annuity.

(e) "Applicable Form" means the appropriate form as designated and furnished by the Vendor or the Administrator to make the election or provide the notice required by the Plan.

(f) "Beneficiary" means the person, institution, trustee, or estate designated by the Participant on the Applicable Form to receive any benefits payable under the Plan in the event of the Participant's death. Beneficiary also means an alternate payee pursuant to a qualified domestic relations order as defined under Treasury Regulation Section 1.403(b)-10(c).

(g) "Benefits Eligible Position" means an employment position with an Employer with respect to which an Employee is entitled to receive benefits, as determined by each Employer.

(h) "Board" means the Kansas Board of Regents.

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

(j) "Compensation" means all compensation received by an Employee from the Employer for services provided to that Employer that is includible in his or her gross income for Federal income tax purposes for the Plan Year, but not including reimbursement for travel or moving expenses, taxable fringe benefits, or awards and gifts; provided, however, that Compensation shall include any amounts excludable from taxable income because of an election under Code Sections 403(b), 457(b), 125, and 132(f).

(1) Compensation also includes any compensation described in paragraphs (A) or (B), provided it is paid by the later of 2½ months after the Employee's Severance from Employment with the Employer or the end of the calendar year in which the Employee has a Severance from Employment with the Employer.

(A) Any payment that would have been paid to the Employee prior to a Severance from Employment if the Employee had continued in employment with the Employer, and that would be Compensation if paid prior to the Employee's Severance from Employment.

(B) A payment for unused accrued bona fide sick, vacation, or other leave, but only if the Employee would have been able to use the leave if employment had continued and the payment would be Compensation if paid prior to the Employee's Severance from Employment.

(2) Notwithstanding the preceding, Compensation shall have the following meaning:

(A) Compensation for a Participant who is Disabled means the Participant's annual rate of compensation on the date that he or she became disabled within the meaning of the long-term disability program set forth in

K.S.A. § 74-4927, as amended.

(B) Compensation for a Participant elected or appointed as a member of the Kansas State legislature as described in Section 2.02(1)(2) means the Compensation of such Participant in effect on the date immediately preceding his or her leave of absence.

(C) For purposes of Section 4.02 only, Compensation for a Participant who enters into an agreement under the Phased Retirement Program with an Employer means the annual rate of compensation that the Participant would have been entitled to receive based upon the Participant's percentage appointment immediately preceding entry into a Phased Retirement Agreement.

Notwithstanding any other provision in this paragraph, Compensation shall be limited in accordance with Section 6.02.

(k) "Contributions" means Mandatory Participant Contributions, Employer Contributions, Disability Employer Contributions, and Rollover Contributions.

(l) "Cost of Living Adjustment" means the applicable cost of living adjustment prescribed by the Secretary of the Treasury under Code Section 401(a)(17) or 415(d) for any applicable year.

(m) "Custodial Account" means the group or individual custodial account or accounts, as defined in Code Section 403(b)(7), established for Participants by the Board, or by each Participant individually, with a Vendor to hold assets of the Plan.

(n) "Disability Employer Contributions" means the contributions made by an Employer on behalf of a Participant pursuant to Section 4.03.

(o) "Disabled" means the Participant is disabled within the meaning of the long-term disability program set forth in K.S.A. § 74-4927, as amended, and is receiving benefits under such program.

(p) "Eligible Employee" means any Employee appointed half-time or more to a Benefits Eligible Position in the unclassified service under the Kansas Civil Service Act, K.S.A. § 75-2935(1)(f), as amended; provided, however, that Eligible Employee does not include (i) students performing services described in Code Section 3121(b)(10), (ii) health care employees as defined under K.S.A. § 75-2935(1)(f), (iii) Cooperative Extension Service employees covered by a federal retirement plan, (iv) employees of a private Code Section 501(c)(3) entity affiliated with an Employer, (v) employees who are part of any Employer's University support staff, and (vi) any person designated in good faith as an independent contractor regardless of whether such person is later determined to be a common law employee for tax purposes. Notwithstanding the preceding:

(1) An Eligible Employee who became an Eligible Employee after a reclassification or transfer from a position covered by KPERS and who has accrued benefits under KPERS, may file a one-time, irrevocable election on the Applicable Form to continue participation in KPERS. Conversely, a Participant in the Plan who is reclassified or transferred to a position for an Employer that qualifies for participation in KPERS pursuant to K.S.A. § 74-4911(5), as amended, may file a one-time, irrevocable election on the Applicable Form to continue participation in the Plan; provided, however, that a Participant who has terminated employment with an Employer and then subsequently been rehired by an Employer is not eligible to make such an election. Such elections must be filed prior to the first day of the first complete payroll period after the

effective date of the reclassification or transfer, and will be effective on the first day of the first complete payroll period after the effective date of the reclassification or transfer.

(2) A Participant in the Plan who takes an unpaid leave of absence from his or her Employer and is elected or appointed as a member of the Kansas State legislature may file a one-time, irrevocable election on the Applicable Form to continue participation in the Plan for purposes of Employer Contributions only. Such an election must be filed prior to the first day of the first complete payroll period after commencement of service for the legislature and will be effective as of the effective date of such employment.

(3) A Participant who enters into an agreement under the Phased Retirement Program shall continue to be an Eligible Employee until the earlier of the Employee's Severance from Employment or termination of the Phased Retirement Agreement.

(4) A Participant who becomes Disabled shall continue to be an Eligible Employee, but only for the period set forth in Section 4.03.

(q) "Employee" means any common law employee performing services for an Employer.

(r) "Employer" means an Institution or the Board Office.

(s) "Employer Contributions" means the Contributions made by an Employer pursuant to Section 4.02 on behalf of a Participant making Mandatory Participant Contributions.

(t) "Former Vendor" means a provider that was approved by the Board to offer annuity contracts or custodial accounts under the Plan, but that ceases to be eligible to receive new contributions under the Plan; provided, however, that a Former Vendor shall not include any

provider that ceased to be eligible to receive new contributions under the Plan prior to January 1, 2005.

(u) "Funding Vehicles" mean the Annuity Contracts and/or Custodial Accounts issued for funding amounts held under the Plan and specifically approved by the Board for use under the Plan.

(v) "Includible Compensation" means all compensation received by an Employee from the Employer that is includible in his or her gross income for Federal income tax purposes (computed without regard to Code Section 911) for the most recent period that is a Year of 403(b) Service. Includible Compensation also includes any amounts excludable from taxable income because of an election under Code Sections 403(b), 457(b), 125, and 132(f). Includible Compensation also includes any compensation described in paragraphs (1) or (2), provided it is paid by the later of 2½ months after the Employee's Severance from Employment with the Employer or the end of the calendar year in which the Employee has a Severance from Employment with the Employer.

(1) Any payment that would have been paid to the Employee prior to a Severance from Employment if the Employee continued in employment with the Employer and that is regular compensation for services during the Employee's regular working hours, compensation for services outside the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments.

(2) A payment for unused accrued bona fide sick, vacation, or other leave, but only if the Employee would have been able to use the leave if employment had continued and the payment would be Compensation if paid prior to the Employee's Severance from Employment.

The amount of Includible Compensation is determined without regard to any community property laws.

(w) "Individual Agreement" means the agreements between a Vendor and the Board or a Participant that constitutes or governs a Custodial Account or an Annuity Contract.

(x) "Institution" means one of the following Public Schools: Emporia State University, Fort Hays State University, Kansas State University, Pittsburg State University, University of Kansas, University of Kansas Medical Center, or Wichita State University.

(y) "Investment Agreement" means an agreement entered into between an Employee and an Employer pursuant to Section 4.01, which agreement shall be effective only with respect to Compensation earned on or after the first day of the payroll period following the effective date of such agreement and which shall be binding on the parties and irrevocable with respect to Compensation earned while it is in effect.

(z) "Investment Options" means the investment funds available under the Funding Vehicles provided by the Vendors and specifically approved by the Board for use under this Plan in accordance with Article VIII.

(aa) "KPERs" means the Kansas Public Employees Retirement System.

(bb) "Mandatory Participant Contributions" means the Contributions required of Participants pursuant to Section 4.01.

(cc) "Participant" means an individual who is or may become eligible to receive a benefit of any type under the Plan, and who has not received a distribution of his or her entire Account under the Plan.

(dd) "Phased Retirement Program" means the program described in K.S.A. § 76-746, as amended.

(ee) "Plan" means the agreement embodied herein, as amended from time to time, known as the "Kansas Board of Regents Mandatory Retirement Plan."

(ff) "Plan Year" means January 1 through December 31.

(gg) "Public School" means a State sponsored educational organization described in Code Section 170(b)(1)(A)(ii).

(hh) "Related Employer" means the Employer and any other entity which is under common control with that Employer under Code Section 414(b), (c) or (m). For this purpose, the Board 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.

(ii) "Rollover Contributions" means the contributions rolled into the Plan pursuant to Section 4.04.

(jj) "Section" means, when not preceded by the word Code, a section of the Plan.

(kk) "Severance from Employment" means the complete termination of the employment relationship between the Employee and his or her Employer and any Related Employer; provided, however, that a Severance from Employment also occurs on any date on which an Employee ceases to be an employee of an Employer or a Related Employer that is a Public School, even though the Employee may continue to be employed by a Related Employer that is another unit of the State government that is not a Public School or in a capacity that is not employment with a Public School (*e.g.* ceasing to be an employee performing services for an Employer or a Related Employer that is a Public School but continuing to work for the same State government employer). Notwithstanding the preceding, effective January 1, 2009, and for purposes of Section 9.01 only, a Participant will be treated as having had a Severance from

Employment during any period the Participant is performing service in the uniformed services described in Code Section 3401(h)(2)(A).

(ll) "Vendor" means (i) a life insurance company authorized to do business in the State of Kansas or (ii) a bank or approved non-bank trustee or custodian under Code Section 401(f), the assets of which are invested exclusively in regulated investment company stock, that has been approved by the Board to make Funding Vehicles available to Participants under this Plan, and that is set forth in Exhibit A hereto, as amended from time to time.

(mm) "Vested" means the interest of the Participant in his or her Account that is unconditional, legally enforceable, and nonforfeitable.

(nn) "Year of 403(b) Service" means each year during which the Employee is a full-time Employee of the Employer for the entire work period, and a fraction of a year for each part of a work period during which the Employee is a full-time or part-time Employee of the Employer, determined in accordance with the rules under Treasury Regulation Section 1.403(b)-4(e).

(oo) "Year of Service" means a period of 12 consecutive months of employment with an Employer as an Eligible Employee or in a position eligible for benefits under KPERS or other State of Kansas retirement plan with respect to which employee participation is mandatory. A period of employment shall not satisfy this requirement if there is a break without pay for longer than 30 days. An Eligible Employee employed in a faculty position, pursuant to an academic year, shall complete a Year of Service at the expiration of 12 months following his or her initial appointment if he or she is still an Eligible Employee at that time.

## ARTICLE III.

### ELIGIBILITY AND PARTICIPATION

**Section 3.01 Participation Standards.** All Eligible Employees are required to participate in the Plan on the first day of the pay period coinciding with or next one following the completion of one Year of Service. Notwithstanding the preceding:

(a) If at the time an Eligible Employee begins employment with an Employer, the Eligible Employee is covered by a retirement plan or program to which employer contributions have been made and benefits accrued for at least one year as a result of employment with an institution of higher education located in the United States that is not an Employer, and this one year period is completed within the five year period immediately preceding employment with an Employer, then the Eligible Employee shall begin participation in the Plan on the first day of the pay period coinciding with or next following the date that the Eligible Employee provides acceptable documentation of such prior qualifying participation, which documentation must be provided no later than 90 days after the date of his or her appointment.

(b) If an employee in a position eligible for benefits under any mandatory State of Kansas retirement plan (other than this Plan) with respect to which said employee's participation is mandatory and the employee becomes an Eligible Employee, all service while in the position eligible for benefits under such retirement plan (including service during the plan's waiting period) shall be credited toward the Year of Service requirement. An Eligible Employee who has at least one year in a position eligible for benefits under such mandatory retirement plan, provided that this one year period must be completed within the five year period immediately preceding employment with an Employer, shall begin participation in the Plan on the first day of the pay period coinciding with or next following the date that the Eligible Employee provides

acceptable documentation of such prior qualifying participation, which documentation must be provided no later than 90 days after the date of his or her appointment.

(c) For purposes of paragraphs (a) and (b), no employment as a (1) student performing services described in Code Section 3121(b)(10), (2) seasonal or temporary employee, or (3) employee who works less than half-time per year shall count toward the satisfaction of the Year of Service requirement.

**Section 3.02 Reemployment.** An Eligible Employee who is reemployed by an Employer following a prior period of employment in which he or she satisfied the participation requirements set forth in Section 3.01 shall immediately begin participation in the Plan with respect to Mandatory Participant Contributions and Employer Contributions pursuant to Sections 4.01 and 4.02 following his or her subsequent reemployment.

**Section 3.03 Cessation of Contributions.** A Participant shall cease to be eligible to make or have made on his or her behalf Contributions under the Plan when the Participant ceases to be an Eligible Employee or the Plan is terminated.

**Section 3.04 Information Provided by the Employee.** Each Eligible 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.

#### **ARTICLE IV.**

#### **CONTRIBUTIONS AND VESTING**

**Section 4.01 Mandatory Participant Contributions.** Each Participant is required to execute an Investment Agreement to reduce his or her Compensation by 5.5% and have that amount contributed to the Plan on his or her behalf. Such contributions shall be made by payroll

deduction on a tax-deferred basis in accordance with Code Section 403(b), and all other applicable Code sections. Mandatory Participant Contributions shall be allocated to the Mandatory Participant Contribution Account of the Participant as of the date of Contribution, or as soon as reasonably practicable thereafter if the Vendor requires additional information to process the Contribution. Notwithstanding the preceding, a Participant who (i) takes an unpaid leave of absence from his or her Employer to serve as an elected or appointed member of the Kansas State legislature, or (ii) becomes Disabled, shall not be required nor permitted to make Mandatory Participant Contributions to the Plan.

**Section 4.02 Employer Contributions.** For each Participant making Mandatory Participant Contributions to the Plan pursuant to Section 4.01, the Participant's Employer shall contribute an amount equal to 8.5% of the Participant's Compensation to the Plan. The Employer Contribution shall be allocated to the Employer Contribution Account of the Participant as of the date of the Contribution, or as soon as reasonably practicable thereafter if the Vendor requires additional information to process the Contribution.

**Section 4.03 Disability Employer Contributions.** In the event a Participant becomes Disabled, the Employer shall contribute an amount equal to 14% of the Participant's Compensation to the Plan. Contributions under this Section 4.03 shall cease at the earliest of (i) the date that the Participant is no longer entitled to an insured disability benefit under K.S.A. § 74-4927 and amendments thereto, (ii) five years after the date that the Participant becomes Disabled, or (iii) the end of the fifth taxable year following the end of the taxable year in which the Participant has a Severance from Employment. This Section 4.03 shall be construed in a manner consistent with Code Section 403(b)(3) and the regulations thereunder.

**Section 4.04 Rollover Contributions to the Plan.**

(a) To the extent provided in the Individual Agreements, a Participant who is an Eligible Employee who is entitled to receive an eligible rollover distribution from another eligible retirement plan 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 Code Section 402 and to confirm that such plan is an eligible retirement plan within the meaning of Code Section 402(c)(8)(B). However, in no event may the Plan accept a Rollover Contribution from a Roth elective deferral account under an applicable retirement plan described in Code Section 402A(e)(1) or a Roth IRA described in Code Section 408A.

(b) For purposes of rolling over eligible rollover distributions to the Plan, an eligible rollover distribution has the meaning set forth in Code Section 402(c)(4), and generally 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 Eligible Employee, or (3) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Code Section 401(a)(9). An eligible retirement plan means an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), a qualified trust described in Code Section 401(a), an annuity plan described in Code Section 403(a) or 403(b), or an eligible governmental plan described in Code Section 457(b).

(c) The Vendor shall establish and maintain for the Participant a separate Rollover Account for any eligible rollover distribution paid to the Plan (including, if necessary and to the extent permitted under the Individual Agreements, a separate Rollover Account for after-tax amounts rolled into the Plan).

**Section 4.05 Contributions Made Promptly.** Mandatory Participant Contributions under the Plan shall be transferred to the applicable Funding Vehicle within 15 business days following the end of the month in which the amount would otherwise have been paid to the Participant. Employer Contributions under the Plan shall be transferred to the applicable Funding Vehicle within 15 business days following the end of the month in which the amount should be applied.

**Section 4.06 Leave of Absence.** During a paid leave of absence, the Employer shall continue to make Employer Contributions and the Participant shall continue to make Mandatory Participation Contributions. No Plan Contributions shall be made by or on behalf of a Participant who is on an unpaid leave of absence; provided, however, that if a Participant takes an unpaid leave of absence from his or her Employer to serve as an elected or appointed member of the Kansas State Legislature, Employer Contributions shall continue during the unpaid leave of absence as provided under Section 4.02.

**Section 4.07 Vesting.** Participants shall be immediately 100% Vested in all Contributions made to their Accounts under the Plan.

**Section 4.08 Expenses of Plan.** All reasonable expenses of administering the Plan shall be charged against and paid from the applicable Account or Funding Vehicle, subject to the terms of the Funding Vehicle(s), unless paid by the Employer.

## ARTICLE V.

### LIMITATIONS ON CONTRIBUTIONS

#### Section 5.01 Code Section 415(c) Limitation.

(a) Notwithstanding any provision of the Plan to the contrary, annual additions to the Plan and to any other Code Section 403(b) plan (or, if required by Code Section 415 and the regulations thereunder, to any other defined contribution plan) for a Participant shall not exceed the limitation set forth in Code Section 415(c), except to the extent permitted under Code Section 414(v). The limitation on annual additions set forth in Code Section 415(c) for any calendar year is the lesser of :

- (1) \$40,000 increased by the Cost of Living Adjustment; or
- (2) 100% of the Participant's Includible Compensation.

(b) For purposes of this Section, "annual addition" has the meaning provided in Code Section 415(c), as modified by Code Sections 415(l)(1) and 419A(d)(2). In general, Code Section 415(c) defines the annual addition as the sum of the following amounts credited to a Participant's Accounts for any calendar year under this Plan and to any 403(b) plan (or, if required by Code Section 415 and the regulations thereunder, to any other defined contribution plan): (1) employer contributions; (2) employee contributions; and (3) forfeitures. Annual additions shall not include: (1) any elective deferrals made by a Participant who is age 50 or older in accordance with, and subject to, Code Section 414(v); (2) excess elective deferrals distributed in accordance with Treasury Regulation Section 1.402(g)-1(e)(2); or (3) rollover contributions. Annual additions shall include:

(1) amounts allocated to an individual medical account, as defined in Code Section 415(l)(2), which is part of a pension or annuity plan maintained by the Employer or a Related Employer, or both (as applicable); and

(2) mandatory employee contributions to a defined benefit plan maintained by the Employer, unless the contributions are "picked-up" by the Employer pursuant to Code Section 414(h)(2).

**Section 5.02 Excess Annual Additions.** Excess annual additions made to the Plan shall be allocated to a separate excess annual additions Account under the Funding Vehicle in accordance with Treasury Regulation Sections 1.403(b)-3(b)(2) and 1.403(b)-4(f)(2) for the year of excess and each year thereafter. Excess annual additions due to aggregation with a Related Employer's plan shall be treated as an excess annual addition to that other plan.

## **ARTICLE VI.**

### **NONDISCRIMINATION**

**Section 6.01 Compliance with Code Section 403(b)(12).** Contributions to the Plan shall be made in accordance with any applicable requirements of Code Section 403(b)(12) or the regulations thereunder.

**Section 6.02 Compliance with Code Section 401(a)(17).** For Plan Years beginning on or after January 1, 1996, Compensation during any Plan Year shall not exceed the Code Section 401(a)(17) limit (as increased by the Cost of Living Adjustment for the year). Notwithstanding anything in the Plan to the contrary, Compensation during a Plan Year shall be limited as follows:

(a) Effective for Plan Years beginning before January 1, 1996, the limitations on Compensation under Code Section 401(a)(17) shall be deemed to be satisfied in accordance with

the applicable rules and regulations prescribed by the Secretary of Treasury for governmental plans;

(b) For Plan Years beginning on or after January 1, 1996, if and to the extent, required by Code Section 401(a)(17) for a governmental plan, Compensation taken into account under the Plan for any Plan Year for a Participant who was not a Participant on or before December 31, 1995 shall not exceed, (i) for Plan Years beginning after 1995 and before 2002, \$150,000 (as increased by the Cost of Living Adjustment for the year) and, (ii) for Plan Years beginning after December 31, 2001, \$200,000, (as increased by the Cost of Living Adjustment for the year).

(c) For Plan Years beginning on or after January 1, 1996, as provided in the transitional rule of P.L. 103-66, § 13212(d)(3), Compensation taken into account under the Plan for any Plan Year for an individual who became a Participant on or before December 31, 1995 (an eligible participant within the meaning of P.L. 103-66, § 13212(d)(3)(B)) shall be limited to the greater of (i) the maximum amount of Compensation permitted to be taken into account under the Plan as in effect on July 1, 1993, or (ii), (A) for Plan Years beginning after 1995 and before 2002, \$150,000 (as increased by the Cost of Living Adjustment for the year), or, (B) for Plan Years beginning after December 31, 2001, \$200,000, (as increased by the Cost of Living Adjustment for the year). If the terms of the Plan as in effect on July 1, 1993, did not impose a limitation on the maximum amount of Compensation that could be taken into account under the Plan, there shall be no limitation on the maximum amount of Compensation that Participants can make as described in this paragraph.

**ARTICLE VII.**

**ACCOUNTING**

**Section 7.01 Participant Accounts.** The Vendor shall establish and maintain adequate records to reflect the Accounts of each Participant. Credits and charges shall be made to such Accounts to reflect additions, distributions, withdrawals, and to reflect gains or losses pursuant to the terms of each Funding Vehicle. Each Participant shall have a separate Mandatory Participant Contribution, Employer Contribution, Disability Employer Contribution, and Rollover Account, as applicable. The maintenance of individual accounts is for accounting purposes only, and a segregation of Plan assets to each Account shall not be required.

**Section 7.02 Participant Statements.** The Vendor shall provide to each Participant as soon as possible following each calendar quarter and year end, a statement depicting the value of such Participant's Account as of the end of such calendar quarter or year, as appropriate.

**Section 7.03 Value of Account.** The value of the Account of a Participant as of any valuation date is the value of the Account Balance as determined by the Vendor. All transactions and Account records shall be based on fair market value.

**ARTICLE VIII.**

**INVESTMENT OF CONTRIBUTIONS**

**Section 8.01 Vendors and Investment Options.**

(a) Contributions are invested in one or more of the Investment Options available to Participants under this Plan through the current Vendors, as selected by the Board and communicated to Participants. The current Vendors are listed in Exhibit A. The Board's current selection of Vendors and Investment Options is not intended to limit future additions or deletions of Vendors or Investment Options.

(b) On the Applicable Forms, each Participant shall select a Vendor and the Investment Options to which the Participant's Contributions under the Plan are to be deposited. A Participant can select one Vendor at a time to receive current Contributions. Once during each calendar year, the Participant may elect to direct all future Contributions to a different Vendor. The Participant is responsible for following the requirements and restrictions of the Vendor and Investment Options selected.

(c) If a Participant fails to designate a Vendor and/or Investment Options as provided herein, the Contributions shall be deposited in a default fund designated by the Board in its sole and absolute discretion.

**Section 8.02 Funding Vehicle Exchanges.** Subject to an Individual Agreement's rules for exchanges (including application of any fees) and in accordance with the provisions of the Code for maintaining the tax deferral of the Account(s), a Participant or Beneficiary may (i) exchange a Funding Vehicle provided by a Vendor for another Funding Vehicle provided by a Vendor or (ii) exchange a Funding Vehicle provided by a Former Vendor for another Funding Vehicle provided by a current Vendor. An exchange described in this Section must satisfy the following conditions:

(1) The Participant or Beneficiary has an Account Balance immediately after the exchange that is at least equal to the Account Balance of that Participant or Beneficiary immediately before the exchange (taking into account the Account Balance of that Participant or Beneficiary under both Annuity Contracts and/or Custodial Accounts immediately before the exchange).

(2) The Funding Vehicle receiving the Participant's Account Balance is subject to distribution restrictions that are not less stringent than those imposed on the Funding Vehicle being exchanged.

(3) The Funding Vehicle receiving the Participant's Account Balance is issued by a Vendor listed on Exhibit A of the Plan.

**Section 8.03** **General Provisions Regarding Funding Vehicles.** Each Vendor and the Administrator shall exchange such information as may be necessary to satisfy Code Section 403(b) or other requirements of applicable law. All amounts in each Funding Vehicle shall be nontransferable to any other person or entity other than the Participant or his or her Beneficiary, except as provided in Section 15.01.

**Section 8.04** **Former Vendors.** The Board and Former Vendor will, to the extent that any existing agreement between the Board and the Former Vendor does not already provide such, enter into an information sharing agreement providing for mutual sharing of the following information:

(1) Information necessary for the resulting Annuity Contract or Custodial Account, or any other Annuity Contract or Custodial Account to which Contributions have been made by the Board to satisfy Code Section 403(b); and

(2) Information necessary in order for the resulting Annuity Contract or Custodial Account and any other Annuity Contract or Custodial Account to which Contributions have been made for the Participant by the Board to satisfy other tax requirements.

**ARTICLE IX.**

**BENEFIT DISTRIBUTIONS**

**Section 9.01** **Distribution Restrictions.**

(a) Distributions may be made from the Plan if a Participant has a Severance from Employment or enters into an agreement under the Phased Retirement Program; provided, however, that a Participant who has entered into an agreement under the Phased Retirement Program cannot receive a distribution of more than 99% of his or her Account Balance.

(b) Notwithstanding paragraph (a), to the extent any amounts in a Participant's Account are invested by the Vendor in a Custodial Account, no distributions of amounts being so held shall be made prior to the date the Participant (1) attains age 59 ½, (2) has a Severance from Employment, (3) dies, or (4) becomes disabled within the meaning of Code Section 72(m)(7).

(c) A Participant shall be entitled to a distribution of his or her Rollover Account at any time subject to the terms of the Funding Vehicle.

(d) At such time that a Participant is entitled to a distribution under the Plan and requests a distribution of his or her Accounts on the Applicable Form, the Employer employing the Participant at the time of the event entitling the Participant to a distribution shall certify that he or she has satisfied a condition for distribution.

(e) A Participant who begins to receive distributions under Section 9.01(a) after he or she becomes entitled to benefits under the long-term disability program set forth in K.S.A. § 74-4927, as amended, shall no longer be entitled to benefits under such long-term disability program.

**Section 9.02** **Benefit Payable.** The benefit of a Participant or a Beneficiary shall be based on the value of the Participant's Account Balance as of the payment date. Benefits shall be

paid under a payment option elected by the Participant or Beneficiary and available under the Funding Vehicle.

**Section 9.03 Death Benefit.** If a Participant dies before the entire distribution of his or her Account has been made, his or her remaining Account Balance, if any, shall be distributed to his or her Beneficiary as soon as administratively feasible after the Participant's death, unless the Beneficiary elects a later payment date on the Applicable Form, subject to Section 9.04. A Beneficiary may elect to receive the deceased Participant's Account under any payment option available under the Funding Vehicle.

**Section 9.04 Required Distribution Rules.** The provisions of this Section 9.04 take precedence over any inconsistent provisions of the Plan or of any Funding Vehicle. All distributions under this Plan will be made in accordance with Code Section 401(a)(9) and the regulations thereunder, including the incidental death benefit rules under Code Section 401(a)(9)(G). For this purpose, each Individual Agreement shall comply with the minimum distribution requirements of Code Section 401(a)(9) and the regulations thereunder. For purposes of applying the distribution rules of Code Section 401(a)(9), each Individual Agreement is treated as an individual retirement account (IRA) and distributions will be made in accordance with the provisions of Treasury Regulation Section 1.408-8, except as provided in Treasury Regulation Section 1.403(b)-6(e). Notwithstanding the preceding sentence, each Vendor shall separately comply with the minimum distribution requirements under Code Section 401(a)(9) and the regulations thereunder with respect to its Funding Vehicles under the Plan.

**Section 9.05 Transfer to Defined Benefit Governmental Plan.**

(a) If a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in Code Section 414(d)) that provides for the acceptance of plan-

to-plan transfers with respect to the Participant, then the Participant may elect to have any portion of the Participant's Account Balance transferred to the defined benefit governmental plan, subject to the terms of the Funding Vehicle(s). A transfer under this Section may be made before the Participant has had a Severance from Employment.

(b) A transfer may be made under this Section only if the transfer is either for the purchase of permissive service credit (as defined in Code Section 415(n)(3)(A)) under the receiving defined benefit governmental plan or a repayment to which Code Section 415 does not apply by reason of Code Section 415(k)(3).

(c) In addition, if a plan-to-plan transfer does not constitute a complete transfer of the Participant's or Beneficiary's interest in the transferor plan, the 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).

**Section 9.06 Early Distribution Penalties.**

(a) Generally, and except as described in paragraph (b), if a Participant receives any amount under a Funding Vehicle, his or her tax for the taxable year in which such amount is received is increased by an amount equal to 10% of the portion of such amount which is includable in gross income. Such amount shall be included in gross income to the extent allocable to income on the Funding Vehicle and shall not be included in gross income to the extent allocable to the investment in the Funding Vehicle as provided in Code Section 72(e)(2)(b).

(b) The penalty described in paragraph (a) generally does not apply to any distribution (i) made on or after the date on which the Participant attains age 59 ½, (ii) made on

or after the death of the Participant, (iii) attributable to the Participant becoming disabled within the meaning of Code Section 72(m)(7), (iv) which is part of a series of substantially equal periodic payments made (not less frequently than annually) for the life or life expectancy of the Participant or the joint lives (or joint life expectancies) of such Participant and his or her designated Beneficiary, (v) made to a Participant after separation from service following the attainment of age 55, or (vii) any other circumstance permitted by the Code or the Internal Revenue Service.

(c) In the case of an amount received before the annuity starting date, such amount shall be included in gross income to the extent allocable to income on the contract and shall be excluded from gross income to the extent allocable to the investment in the contract, as provided in Code Section 72(e)(2)(B).

## **ARTICLE X.**

### **LOANS**

Loans are not permitted under the Plan.

## **ARTICLE XI.**

### **ROLLOVERS FROM THIS PLAN**

**Section 11.01 Rollover Distributions.** 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 Code Section 414(p)) who is entitled to an eligible rollover distribution may elect to have any portion of an eligible rollover distribution (as defined in Code Section 402(c)(4)) from the Plan paid directly to an eligible retirement plan (as defined in Code Section 402(c)(8)(B)) 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 Code Section 408(d)(3)(C)).

**Section 11.02 Explanation of Plan Distribution and Withholding Requirements.**

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.

**ARTICLE XII.**

**ADMINISTRATION**

**Section 12.01 Authority of the Employers.** The Employers are responsible for advising their respective Eligible Employees of their rights to participate in the Plan and sending Contributions for each Participant to the selected Vendors. Each Employer shall have all power necessary or convenient to enable it to exercise this authority under the Plan.

**Section 12.02 Authority of the Administrator.** The Administrator shall have the power to construe and interpret the Plan, including any ambiguities, and to determine all questions of fact or law arising under the Plan, and to resolve any disputes arising under and all questions concerning the administration of the Plan. The Administrator may correct any defect, supply any omission or reconcile any inconsistency in the Plan in such manner and to such extent as it may deem expedient and, subject to provisions of the Plan regarding claims to benefits, the Administrator should be the sole and final judge of such expediency. The Administrator may provide rules and regulations, not inconsistent with the terms of the Plan, for the operation and

management of the Plan, and may from time to time amend or rescind such rules. The Administrator is authorized to accept service of legal process for the Plan. The Administrator shall have all powers necessary or convenient to enable it to exercise its authority under the Plan.

**Section 12.03 Delegation by Administrator.** The Administrator may delegate to an individual, committee, or organization to carry out its fiduciary duties or other responsibilities under the Plan. Any such individual, committee or organization delegated fiduciary duties shall be a fiduciary until the Administrator revokes such delegation. A delegation of the Administrator duties or responsibilities may be revoked without cause or advance notice. Such individual, committee, or organization shall have the same power and authority with respect to such delegated fiduciary or other responsibilities as the Administrator has under the Plan.

**Section 12.04 Advice to Administrator.** The Administrator may employ or contract with one or more persons to render advice with regard to its duties, responsibilities and authority under the Plan.

**Section 12.05 Limitation on Recovery.** Participants and Beneficiaries may not seek recovery against the Administrator, Employers, or any employee, contractor, or agent of the Administrator or Employers, for any loss sustained by any Participant or Beneficiary due to the nonperformance of their duties, negligence, or any other misconduct of the above-named persons.

**Section 12.06 Benefit Payments.** The Administrator, or its designee, if in doubt regarding the correctness of its action with respect to a benefit payment, may direct suspension of payment until satisfied as to the correctness of the payment or the person to receive the payment. Alternatively, the Administrator, or its designee, may file, in any state court of competent jurisdiction, a suit, in the form it deems appropriate, for legal determination of the

benefits to be paid and the persons to receive them. The Administrator, or its designee, may also bring a suit, or take other action as it deems appropriate, to resolve questions involving investment directions. The Administrator shall comply with the final order of the court in any such suit, and Participants, Beneficiaries, and the Administrator shall be bound by such an order, insofar as it affects the benefits payable under this Plan, or the method or manner of payment.

**Section 12.07 Reliance.** If the Administrator or any other fiduciary with respect to the Plan acts in reliance on an election, consent, or revocation made pursuant to this Plan, the election, consent, or revocation shall be treated as valid for purposes of discharging the Plan from liability to the extent of payments made pursuant to such acts.

### **ARTICLE XIII.**

#### **REQUESTS FOR INFORMATION AND OTHER CLAIMS PROCEDURES**

**Section 13.01 Requests for Information Concerning Eligibility, Participation, Contributions.** Requests for information concerning eligibility, participation, Contributions, or other aspects of the operation of the Plan should be directed in writing to the Employer.

**Section 13.02 Requests for Information Concerning Funding Vehicles.** Requests for information concerning the Funding Vehicles and their terms, conditions, and interpretations thereof, should be directed in writing to the Vendor.

**Section 13.03 Claims for Benefits.** If a Participant makes a written claim for benefits under the Plan to the Employer or Vendor, as applicable, and the written request is denied, the Employer or Vendor, as applicable, shall within a reasonable period of time provide a written denial to the Participant. It shall include the specific reasons for denial, the provisions of the Plan and/or Funding Vehicles on which the denial is based, and how to apply for a review of the denied claim. Where appropriate, it shall also include a description of any material which is

needed to complete or perfect a claim and why such material is necessary. Within 60 days after the Participant receives notification of the denial, a Participant may request in writing a review of a claim denied by the Employer or Vendor, as applicable, and review pertinent documents and submit issues and comments in writing to the Employer or Vendor, as applicable. The Participant shall receive a written decision upon such request for review of a denied claim within a reasonable period of time following receipt of the request.

#### **ARTICLE XIV.**

##### **AMENDMENT AND TERMINATION**

**Section 14.01 Amendment and Termination.** While it is expected that the Plan will continue indefinitely, the Board reserves the right to modify or terminate the Plan at any time.

**Section 14.02 Adverse Effects.** Any termination or modification of the Plan will not adversely affect the benefits accrued by Participants prior to the date of termination or modification.

**Section 14.03 Distribution Upon Termination of the Plan.** The Board may provide that, in connection with a termination of the Plan and subject to any restrictions contained in the Individual Agreements, all Accounts will be distributed, provided that the Board on the date of termination does 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 treasury regulations.

#### **ARTICLE XV.**

##### **MISCELLANEOUS**

**Section 15.01 Non-Alienation.** Participants' Accounts under the Plan shall not be liable for any debt, liability, contract, engagement, or tort of the Participant or his or her Beneficiary,

nor be subject to anticipation, sale, assignment, transfer, encumbrance, pledge, charge, attachment, garnishment, execution, alienation, or any other voluntarily or involuntarily alienation or other legal or equitable process, nor be transferable by operation of law. However, the Plan will comply with any judgment, decree or order which establishes the right of another person to all or a portion of a Participant's benefit under the Plan to the extent that it is a "qualified domestic relations order" under Code Section 414(p). In addition, the Administrator may pay from a Participant's or Beneficiary's Account Balance, provided that the Participant has had a distributable event under Section 9.01, 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.

**Section 15.02 Limitation of Rights.** Neither the establishment nor maintenance of the Plan nor any amendment thereof, nor the purchase of any insurance contract, nor any act or omission under the Plan or resulting from the operation of the Plan shall be construed:

(a) As conferring upon any Participant, Beneficiary, or any other person any right or claim against an Employer or Administrator, except to the extent that such right or claim shall be specifically expressed and provided in the Plan.

(b) As an agreement, consideration, or inducement of employment or as effecting in any manner or to any extent whatsoever the rights or obligations of an Employer or any Participant to continue or terminate the employment relationship at any time.

**Section 15.03 Federal and State Taxes.** It is intended that Contributions under this Plan, plus any earnings thereunder, are excludable from gross income for federal and state income tax purposes until paid to Participants or Beneficiaries. However, the Administrator does

not guarantee that any particular Federal or state income, payroll, or other tax consequence will occur as a result of participation in this Plan.

**Section 15.04 Erroneous Payments.** If the Administrator or Vendor makes any payment that, according to the terms of the Plan and the benefits provided hereunder, should not have been made, the Administrator or Vendor may recover that incorrect payment, by whatever means necessary, whether or not it was made due to the error of the Administrator or Vendor, from the person to whom it was made, or from any other appropriate party. For example, if any such incorrect payment is made directly to a Participant, the Vendor may deduct it when making any future payments directly to that Participant.

**Section 15.05 Release.** Any payment to any Participant shall, to the extent thereof, be in full satisfaction of the claim of such Participant being paid thereby and the Administrator, or its designee, may condition such payment on the Participant delivering the duly executed receipt and release in such form as may be determined by the Administrator, or its designee.

**Section 15.06 Liability.** The Administrator shall incur no liability in acting upon any notice, request, signed letter, telegram, or other paper, document, or electronic transmission believed by the Administrator to be genuine, or to be executed, or sent by an authorized person.

**Section 15.07 Necessary Parties.** The Administrator is the only party necessary to any accounting, litigation, or other proceeding relating to the Plan or Funding Vehicle. The settlement or judgment in any such case in which the Administrator is duly served shall be binding upon all affected Participants in the Plan, their Beneficiaries, estates, and upon all persons claiming by, through, or under them.

**Section 15.08 Headings.** Any headings or subheadings in the Plan are inserted for convenience of reference only and shall be ignored in the construction of any provisions of the Plan.

Signed this 20 day of November, 2008.

**KANSAS BOARD OF REGENTS**

By: Donna L. Shank  
Chair of the Board

By: R. L. Robinson  
President and Chief Executive Officer of the Board

I, Reginald L. Robinson the duly qualified President and CEO of the Board of Regents, State of Kansas, do hereby certify that the Kansas Board of Regents Mandatory Retirement Plan was adopted at the November 20, 2008, meeting of the Board of Regents, State of Kansas.

In Witness Whereof, I have hereunto set my hand and fixed the seal of the Board of Regents, State of Kansas, this 20 day of November, 2008.

(SEAL)

By: R. L. Robinson  
President and Chief Executive Officer of the Board of Regents

**KANSAS BOARD OF REGENTS  
MANDATORY RETIREMENT PLAN**

**EXHIBIT A - LIST OF VENDORS**

The purpose of this Exhibit A is to set forth the approved Vendors, as well as the Former Vendors, under the Plan. This Exhibit A may be amended from time to time; provided, however, that any changes to approved Vendors under the Plan shall be effective on the date that the Board approves such changes, and not on the date that of the amended Exhibit A.

**Approved Vendors.**

Teachers Insurance Annuity Association and College Retirement Equities Fund (TIAA-CREF)  
ING Life Insurance and Annuity Company

**Former Vendors.**

The Lincoln National Life Insurance Company  
Security Benefit Group of Companies.

Dated this 20 day of November, 2008.

**KANSAS BOARD OF REGENTS**

By: Donna S. Shank  
Chair of the Board

By: [Signature]  
President and Chief Executive Officer of the Board

I, Reginald L. Robinson, the duly qualified President and CEO of the Board of Regents, State of Kansas, do hereby certify that the Kansas Board of Regents Mandatory Retirement Plan was adopted at the November 20, 2008, meeting of the Board of Regents, State of Kansas.

In Witness Whereof, I have hereunto set my hand and fixed the seal of the Board of Regents, State of Kansas, this 20 day of November, 2008.

(SEAL)

By: [Signature]  
President and Chief Executive Officer of the Board