

**FLORIDA
STATE UNIVERSITY SYSTEM
OPTIONAL RETIREMENT PROGRAM
PLAN DOCUMENT**

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1. DEFINITION OF THE TERMS USED.

The following words and terms, when used in the State University System Optional Retirement Program (SUSORP) Plan Document, have the meaning set forth below, unless a different meaning is plainly specified or required by the context.

- 1.1 **Account:** The account maintained for the benefit of any Member or Beneficiary under an Annuity Contract or a Custodial Account.
- 1.2 **Account Balance:** The total benefit to which a Member or the Member's Beneficiary is entitled under an Investment Arrangement, taking in account all Contributions made to the Investment Arrangement and all earnings or losses (including expenses) that are allocable to the Member's Account, any rollover contributions or transfers held under the Member's Account and any Distribution made to the Member, the Member's Beneficiary, or any Alternate Payee. The Account Balance includes any part of the Member's Account that is treated under the Plan as a separate contract to which section 403(c) applies (or another applicable provision of the Internal Revenue Code, hereafter referred to as the Code).
- 1.3 **Accumulated Benefit:** The sum of a Member's or Beneficiary's Account Balances under all Investment Arrangements under the Plan.
- 1.4 **Administrator:** Florida Department of Management Services; also referred to as the Department.
- 1.5 **Annuity Contract:** A nontransferable group or individual contract as defined in section 403(b)(1) and 401(g) of the Code, established for each Member by the Employer or Administrator, or by each Member individually, that is issued by an insurance company or other company qualified to issue annuities in Florida and that includes payment in the form of an annuity.
- 1.6 **Beneficiary:** The designated person who is entitled to receive Benefits under the Plan after the death of a Member, subject to such additional rules as may be set forth in the Individual Agreements with a Service Provider.
- 1.7 **Benefit:** A Distribution of any or all of the Member's account balance that is requested by the Member or surviving Beneficiary funded in part or in whole by Employer or required Member Contributions, plus earnings, and includes rolling a Distribution over to another qualified plan.
- 1.8 **Internal Revenue Code:** The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered, also referred to as the Code unless quoted in the Florida Statutes.
- 1.9 **Compensation:** As defined in section 121.021(22) Florida Statutes (F.S.) means "the monthly salary paid a member by his or her employer for work performed arising from that employment."
 - (a) Compensation shall include:
 1. Overtime payments paid from a salary fund.
 2. Accumulated annual leave payments.
 3. Payments in addition to the employee's base rate of pay if all the following apply:

- a. The payments are paid according to a formal written policy that applies to all eligible employees equally;
 - b. The policy provides that payments shall commence no later than the 11th year of employment;
 - c. The payments are paid for as long as the employee continues his or her employment; and
 - d. The payments are paid at least annually.
- 4. Amounts withheld for tax sheltered annuities or deferred compensation programs, or any other type of salary reduction plan authorized under the Plan.
 - 5. Payments made in lieu of a permanent increase in the base rate of pay, whether made annually or in 12 or 26 equal payments within a 12-month period, when the member's base pay is at the maximum of his or her pay range. When a portion of a member's annual increase raises his or her pay range and the excess is paid as a lump sum payment, such lump sum payment shall be compensation for retirement purposes."
- 1.10 **Contributions:** Employer and Member Contributions provided by the Department to the Service Provider for investing in the SUSORP.
- 1.11 **Custodial Account:** The group or individual Custodial Account or accounts, as defined in section 403(b)(7) of the Code, established for each Member by the Employer, Administrator or by each Member individually, to hold assets of the Plan.
- 1.12 **Contract Exchanges:** To allow Members to change the investment of their account balances among the Service Providers under the Plan.
- 1.13 **De Minimis Distributions:** According to the group or individual Custodial Account or Accounts, an automatic Distributions made when an inactive Member's Account is below a certain balance. The member receiving a De Minimis Distribution is not considered a Retiree based on the payment.
- 1.14 **Distribution:** The Benefits payable to any Member under the optional retirement program and any contribution accumulated under the optional retirement program.
- 1.15 **Distribution Eligibility Requirement:** To be eligible for a Distribution the Member must terminate employment and cease all employment relationships, independent contractor relationships and third-party relationships for three (3) calendar months with all Employers that participate in the Florida Retirement System. The Member must also meet the Termination requirements and reemployment limitations after receiving a Distribution in accordance with 121.051(2)(c)5 F.S.:
- "Members of the program are subject to the same reemployment limitations, renewed membership provisions, and forfeiture provisions applicable to regular members of the Florida Retirement System under ss. 121.091(9), 121.122, and 121.091(5), respectively. A member who receives a program distribution funded by employer and required employee contributions is deemed to be retired from a state-administered retirement system if the member is subsequently employed with an employer that participates in the Florida Retirement System."
- 1.16 **Effective Retirement Date:** The initial date of Distribution of required Member and/or Employer contributions, excluding a Required Minimum Distribution (RMD), Qualified Domestic Relations Order (QDRO) or De Minimis Distributions.

- 1.17 **Elective Deferral:** Are Voluntary Employee Contributions considered to be Employer Contributions made to the Plan at the election of the Member in lieu of receiving cash compensation.
- 1.18 **Eligible Employee:** Each employee eligible to participate and benefit from this Plan in accordance with section 121.35(2), F. S.:
- “2(a) Participation in the optional retirement program provided by this section shall be limited to persons who are otherwise eligible for membership or renewed membership in the Florida Retirement System and who are employed in one of the following State University System positions:
1. Positions classified as instructional and research faculty which are exempt from the career service under the provisions of s. 110.205(2)(d).
 2. Positions classified as administrative and professional which are exempt from the career service under the provisions of s. 110.205(2)(d).
 3. The Chancellor and the university presidents.
- 2(b) For purposes of this section, both the appointees and employees are referred to as “employees,” and the “employer” of an appointee or employee is the individual institution within the State University System or the Board of Governors of the State University System, whichever is appropriate with respect to the particular employee or appointee.
- 2(c) For purposes of this section, the Department of Management Services is referred to as the “department.
- 2(d) For purposes of this section, the authority granted to the Board of Governors of the State University System may be exercised by the Board of Governors or by the Chancellor of the State University System.”
- 1.19 **Employee:** Each individual, whether appointed or elected, who is a common law Employee of the Employer performing services for a state university system as an Employee of the Employer. This definition is not applicable unless the Employee’s compensation for performing services is paid by the Employer. Further, a person occupying an elective or appointive public office is not an Employee performing services for a state university system unless such office is one to which an individual is elected or appointed only if the individual has received training, or is experienced, in the field of education. A public office includes any elective or appointive office of a state or local government.
- 1.20 **Employer:** An entity that is part of the Florida Retirement System (FRS) and actively contributes on behalf of its Employees. To the extent provided in 121.021 (10) F.S., “Employers are not agents of the department, the state board, or the Division of Retirement (division), and the department, the state board, and the division are not responsible for erroneous information provided by representatives of Employers.” “Employer” also includes all Related Employers that are eligible Employer within the meaning of section 1.403(b)-2(b)(b) of the Treasury Regulations. See also Related Employer 1.31
- 1.21 **Florida Retirement System:** A 401(a) general multiple-employer retirement system established on December 1, 1970 by Chapter 121, F.S. (Florida Retirement System (FRS) Act). To the extent provided in 121.021(3), F.S. the FRS includes, “but is not limited to, the defined benefit program administered under Chapter 121, F.S. part I, referred to as the “Florida Retirement System Pension Plan” or “pension plan,” and the defined contribution program administered under part II of

this chapter, referred to as the “Florida Retirement System Investment Plan” or “investment plan.” Abbreviated as FRS.

- 1.22 **Florida Statutes:** The Florida Statutes, as now in effect or as hereafter amended. All citations to section of the Florida Statutes are to such sections as they may from time to time be amended or renumbered (abbreviated as F.S.).
- 1.23 **Individual Agreement:** The agreements between a Service Provider and a Member that constitute or govern a Custodial Account or an Annuity Contract.
- 1.24 **Investment Arrangement:** An Annuity Contract or Custodial Account that satisfies the requirement of section 1.402(b)-3 of the Treasury Regulations and that is issued or established for funding amounts held under the Plan.
- 1.25 **Members:** Employees for whom Contributions are currently being made or for whom Contributions have previously been made under the Plan and who have not received a Distribution of their Benefits under the Plan as referenced in Regs. s. 1.403(b)-2(b)(12), and s. 1.403(b)-4(b)(4). Also referred to as a Participants.
- 1.26 **Participants:** See Members 1.25.
- 1.27 **Plan:** The Florida’s State University System Optional Retirement Program (SUSORP), or Optional Retirement Program for the State University System of Florida.
- 1.28 **Plan Employer:** An FRS employer that is part of the State University System of Florida or other FRS participating Employers, and that makes Contributions to this Plan.
- 1.29 **Plan Year:** The fiscal year commencing each July 1 and running through the following June 30.
- 1.30 **Provider Company:** See Service Provider 1.35.
- 1.31 **Reemployment:** Reemployment of SUSORP Members is permitted to the extent provided for in 121.091(9)(c), F.S., which states: “Any person whose retirement is effective on or after July 1, 2010, or whose participation in the Deferred Retirement Option Program terminates on or after July 1, 2010, who is retired under this chapter, except under the disability retirement provisions of subsection (4) or as provided in s. 121.053, may be reemployed by an employer that participates in a state-administered retirement system and receive retirement benefits and compensation from that employer. However, a person may not be reemployed by an employer participating in the Florida Retirement System before meeting the definition of termination in s. 121.021 and may not receive both a salary from the employer and retirement benefits for 6 calendar months after meeting the definition of termination, except as provided in paragraph (f).”

During the first six calendar months following a SUSORP Member’s Distribution date, a Member cannot provide services (through paid or unpaid arrangements) in any capacity to any FRS-participating employer. Providing services to an FRS-participating employer in any capacity during this six-calendar month period will nullify the SUSORP Member’s eligibility and the Member and the FRS-participating employer will be held jointly and severally liable for the repayment of all benefits. This means that the Member and the FRS-participating employer can be held fully responsible for the repayment of the total amount of retirement benefits. There are no exceptions to the six-calendar month Termination requirement.

Additionally, during the 7th through 12th calendar months following a SUSORP Member's Distribution date, a Member may provide services to an FRS-participating employer if, and only if, the SUSORP Member suspends all benefits during the period of providing services. If the SUSORP Member's benefits are not suspended, the Member and the hiring FRS-participating employer will be held jointly and severally liable to repay all SUSORP benefits received since becoming reemployed. An exception to the reemployment restriction is provided for retired law enforcement officers reemployed as school resource officers in accordance with section 121.091(9)(f), F.S.

- 1.32 **Related Employer:** The Employer as defined in section 121.021(10), F.S.:
"Employer" means any agency, branch, department, institution, university, institution of higher education, or board of the state, or any county agency, branch, department, board, district school board, municipality, metropolitan planning organization, or special district of the state which participates in the system for the benefit of certain of its employees, or a charter school or charter technical career center that participates as provided in s. 121.051(2)(d)."
- 1.33 **Renewed Membership:** Renewed Membership as defined in section 121.122(3) F.S. means "a retiree of the investment plan, the State University System Optional Retirement Program, the Senior Management Service Optional Annuity Program, or the State Community College System Optional Retirement Program who is reemployed with a covered employer in a regularly established position on or after July 1, 2017, shall be enrolled as a renewed member of the investment plan unless employed in a position eligible for participation in the State University System Optional Retirement Program as provided in subsection (4) or the State Community College System."
- 1.34 **Retiree:** A Member who has received a distribution of required Member and Employer Contributions excluding Required Minimum Distribution (RMD), Qualified Domestic Relations Order (QDRO) or De Minimis Distributions.
- 1.35 **Retirement Distribution:** A Benefit payment of required Member and Employer Contributions excluding Required Minimum Distribution (RMD), Qualified Domestic Relations Order (QDRO) or De Minimis Distributions. Benefit payments may not be made until the Member becomes eligible for a Distribution after being terminated for 3 calendar months, except that the Department may authorize by rule for the Distribution of up to 10 percent of the Member's Account Balances after being terminated for 1 calendar month if the Member has reached the normal retirement date as defined in s. 121.021, F.S.
- 1.36 **Service Provider:** The provider of Annuity Contracts or Custodial Accounts, also referred to as a Provider Company. The list of approved Service Providers as amended from time to time is incorporated by reference (See Appendix A - Designated Services Provider Companies).
- 1.37 **Severance from Employment:** For purpose of the Plan, Severance From Employment means Termination as defined in section 121.021(39), F.S.
- 1.38 **State:** The State of Florida.
- 1.39 **Termination:** As defined in section 121.021(39), F.S., "Termination" occurs, except as provided in paragraph (b), when a member ceases all employment relationships with participating employers, however:
 1. For retirements effective before July 1, 2010, if a member is employed by any such employer within the next calendar month, termination shall be deemed

not to have occurred. A leave of absence constitutes a continuation of the employment relationship, except that a leave of absence without pay due to disability may constitute termination if such member makes application for and is approved for disability retirement in accordance with s. 121.091(4), F.S. The department or state board may require other evidence of termination as it deems necessary.

2. For retirements effective on or after July 1, 2010, if a member is employed by any such employer within the next 6 calendar months, termination shall be deemed not to have occurred. A leave of absence constitutes a continuation of the employment relationship, except that a leave of absence without pay due to disability may constitute termination if such member makes application for and is approved for disability retirement in accordance with s. 121.091(4), F.S. The department or state board may require other evidence of termination as it deems necessary.”
- (b) “Termination” for a member electing to participate in the Deferred Retirement Option Program occurs when the program participant ceases all employment relationships with participating employers in accordance with s. 121.091(13), however:
1. For termination dates occurring before July 1, 2010, if the member is employed by any such employer within the next calendar month, termination will be deemed not to have occurred, except as provided in s. 121.091(13)(b)4.c. A leave of absence shall constitute a continuation of the employment relationship.
 2. For termination dates occurring on or after July 1, 2010, if the member becomes employed by any such employer within the next 6 calendar months, termination will be deemed not to have occurred, except as provided in s. 121.091(13)(b)4.c. A leave of absence constitutes a continuation of the employment relationship.
- (c) Effective July 1, 2011, “termination” for a member receiving a refund of employee contributions occurs when a member ceases all employment relationships with participating employers for 3 calendar months. A leave of absence constitutes a continuation of the employment relationship.”

During the first six calendar months following a SUSORP Member’s Distribution date, a Member cannot provide services (through paid or unpaid arrangements) in any capacity to any FRS-participating employer. Providing services to an FRS-participating employer in any capacity during this six-calendar month period will nullify the SUSORP Member’s eligibility and the Member and the FRS-participating employer receiving the services will be held jointly and severally liable for the repayment of all Benefits. This means that the Member and the FRS-participating employer can be held fully responsible for the repayment of the total amount of retirement Benefits. There are no exceptions to the six-calendar month Termination requirement.

Additionally, during the 7th through 12th calendar months following a SUSORP Member’s Distribution date, a Member may provide services to an FRS-participating employer if, and only if, the SUSORP Member suspends all Benefits during the period of providing services. If the SUSORP Member’s Benefits are not suspended, the Member and the hiring FRS-participating employer will be held jointly and severally liable to repay all SUSORP Benefits received since becoming reemployed. An exception to the reemployment restriction is provided for retired

law enforcement officers reemployed as school resource officers in accordance with section 121.091(9)(f), F.S.

- 1.40 **Voluntary Employee Contributions:** A Member's voluntary Elective Deferrals.
- 1.41 **Voluntary Employee Contributions Refund:** A refund of voluntary Elective Deferrals only. A Member must be terminated from employment with all FRS Employers for three (3) calendar months to be eligible to receive a refund of Voluntary Employee Contributions.

2. PLAN ADMINISTRATION

- 2.1 **Plan Name.** State University System Optional Retirement Program (SUSORP).
- 2.2 **Type of Plan.** A state-administered governmental defined contribution retirement plan qualified under section 403(b) of the Code.
- 2.3 **Purpose.** The State of Florida, Department of Management Services (formerly the Department of Administration) established an optional retirement program under which contracts providing retirement and death Benefits may be purchased for eligible Members of the State University System who elect to participate in the program.
- 2.4 **Plan Administrator.** As provided in section 121.35(1) F.S., the Department of Management Services, Division of Retirement, oversees the administration of the SUSORP, an optional retirement program for Eligible Employees of the State University System, whereby these Employees are provided a means to purchase retirement and death Benefits through annuity or other contracts, which may be fixed, variable, or a combination thereof, in accordance with section 403(b) of the Code.
- 2.5 **Administrative Duties.** The Plan Administrator shall be responsible for administering the Plan according to section 121.35, F.S., and for coordinating the provision of various documents consistent with the requirement of section 403(b) of the Code. These provisions and requirements include, but are not limited to:
 - 2.5.1 Determining whether an Employee is eligible to participate in the Plan.
 - 2.5.2 Determining whether Contributions comply with the applicable limitations.
 - 2.5.3 Determining that any transfers and rollovers comply with applicable requirements and limitations.
 - 2.5.4 Maintaining a list of all Service Providers under the Plan.
 - 2.5.5 Determining that the requirement of the Plan and section 403(b) Code are properly applied.
- 2.6 **Plan Benefits.** The Benefits to be provided for or on behalf of Members in such optional retirement program shall be provided through individual contracts or individual certificates issued for group annuity or other contracts, which may be fixed, variable, or a combination thereof, in accordance with section 403(b) of the Code. Any individual contract or certificate shall state the annuity plan on its face page, and shall include, but not be limited to, a statement of ownership, the contract Benefits, annuity income options, limitations, expense charges, and surrender charges, if any. The Plan Employers of the State (also referred to as the State) shall contribute, as provided in section 121.35 (1) F.S., toward the purchase of such optional Benefits.

- 2.7 **Incorporation of Individual Agreements and Florida Statutes.** The Florida Statutes are hereby incorporated by reference into the Plan and shall override any inconsistent provisions of the Plan. The Plan, together with the Individual Agreements and sections 121.35 and 121.355, Florida Statutes, are intended to satisfy the requirements of section 403(b) of the Code and the Income Tax Regulations thereunder. Terms and conditions of the Plan shall be incorporated by reference into the Individual Agreements. If terms of the individual agreement are inconsistent with the Plan or section 403(b) of the Code, the Code and Plan will control.
- 2.8 **Plan Documents.** Plan documents are the Florida Statutes Chapter 121, section 121.35, the Florida Administrative Code 60-U, and the SUSORP Plan documents.
- 2.9 **Governing Law.** The Plan will be construed, administered and enforced according to the laws of the State of Florida and the Internal Revenue Code to the extent provided in Section 121.30 F.S.: "Statements of purpose and intent and other provisions required for qualification under the Internal Revenue Code of the United States - Any other provisions in this chapter to the contrary notwithstanding, it is specifically provided that:
- (1) The purpose of this chapter is to provide pension benefits for the exclusive benefit of the member employees or their beneficiaries.
 - (2) No part of the principal or income of the trust fund created hereunder shall be used or diverted for purposes other than for the exclusive benefit of the member employees or their beneficiaries and for the payment of administrative cost.
 - (3) Forfeitures, if any, shall not be applied to increase the benefits any member employee would otherwise receive under this chapter. See Forfeitures 9.5
 - (4) Upon termination or partial termination, upon discontinuance of contributions, abandonment, or merger, or upon consolidation or amendment of this chapter, the rights of all affected employees to benefits accrued as of the date of any of the foregoing events, or the amounts credited to the Account of any member employee, shall be and continue thereafter to be nonforfeitable except as otherwise provided by law.
 - (5) No benefit payable hereunder for any limitation year shall exceed the maximum amount, including cost-of-living adjustments, allowable by law for qualified pension plans under applicable provisions of the Internal Revenue Code of the United States. In the event of any participation of a Florida Retirement System member in any other plan that is maintained by the participating employer, benefits that accrue under the Florida Retirement System shall be considered primary for any aggregate limitation applicable under s. 415 of the Internal Revenue Code.
 - (6)(a) When computing benefits accrued or contributions to be made on behalf of any person who first becomes a member or participant on or after July 1, 1996, compensation taken into account for any plan year shall not include any amounts in excess of the s. 401(a)(17), Internal Revenue Code limitation (as amended by the Omnibus Budget Reconciliation Act of 1993), which limitation of \$150,000 effective July 1996, shall be adjusted as required by federal law for qualified government plans and shall be further adjusted for changes in the cost of living in the manner provided by s. 401(a)(17)(B) of the Internal Revenue Code.

- (b) When computing benefits accrued or contributions to be made on behalf of any person who first became a member or participant prior to July 1, 1996, compensation for all plan years beginning on or after July 1, 1990, shall not include any amounts in excess of the compensation limitation (originally \$200,000) established by s. 401(a)(17) of the Internal Revenue Code prior to the Omnibus Budget Reconciliation Act of 1993, which limitation shall be adjusted for changes in the cost of living since 1989, in the manner provided by s. 401(a)(17) of the Internal Revenue Code of 1991. This limitation, which has been part of the Florida Retirement System since plan years beginning on or after July 1, 1990, shall be adjusted as required by federal law for qualified government plans.
- (7) Any provision of this chapter relating to an optional annuity or retirement program must be construed and administered in such manner that such program will qualify as a qualified pension plan under applicable provisions of the Internal Revenue Code of the United States.
- (8) The provisions of this section are declaratory of the legislative intent upon the original enactment of this chapter and are hereby deemed to have been in effect from such date.
- (9) The department may adopt any rule necessary to accomplish the purpose of the section which is not inconsistent with this chapter.”

3. ELIGIBILITY

- 3.1 Eligible SUSORP positions include faculty, executive service and administrative and professional positions. To the extent provided in 121.35(2)(b), F.S., “...both the appointees and employees are referred to as “employees,” and the “employer” of an appointee or employee is the individual institution within the State University System or the Board of Governors of the State University System, whichever is appropriate with respect to the particular employee or appointee.”
- 3.2 Each Eligible Employee shall be a Member to the extent provided in section 121.35(2)(a) F.S., “Participation in the optional retirement program provided by this section shall be limited to persons who are otherwise eligible for membership or renewed membership in the Florida Retirement System and who are employed in one of the following State University System positions:
 - 1. Positions classified as instructional and research faculty which are exempt from the career service under the provisions of s. 110.205(2)(d).
 - 2. Positions classified as administrative and professional which are exempt from the career service under the provisions of s. 110.205(2)(d).
 - 3. The Chancellor and the university presidents.”
- 3.3 **Renewed Membership.** Renewed Membership is allowed to the extent provided in section 121.122(4), F.S., “A retiree of the investment plan, the State University System Optional Retirement Program, the Senior Management Service Optional Annuity Program, or the State Community College System Optional Retirement Program who is reemployed on or after July 1, 2017, in a regularly established position eligible for participation in the State University System Optional Retirement Program shall become a renewed member of the optional retirement program. The renewed member must satisfy the vesting requirements and other provisions of this chapter. Once enrolled, a renewed member remains enrolled in the optional retirement program while employed in an eligible position for the optional retirement program. If employment in a different covered position results in the renewed

member's enrollment in the investment plan, the renewed member is no longer eligible to participate in the optional retirement program unless employed in a mandatory position under s. 121.35.

- (a) The renewed member is subject to the limitations on reemployment after retirement provided in s. 121.091(9), as applicable.
- (b) The renewed member must satisfy the requirements for termination from employment provided in s. 121.021(39).
- (c) Upon renewed membership or reemployment of a retiree, the employer and the renewed member shall pay the applicable employer and employee contributions required under s. 121.35.
- (d) Employer and employee contributions, interest, earnings, or any other funds may not be paid into a renewed member's optional retirement program Account for any employment in a regularly established position with a covered employer on or after July 1, 2010, through June 30, 2017, by the renewed member or the employer on behalf of the renewed member.
- (e) Notwithstanding s. 121.4501(4)(f), the renewed member is not eligible to elect membership in the pension plan."

4. PARTICIPATION

4.1 FRS Members participating in the Regular Class may elect to participate in the optional program to the extent provided in 121.35(3)(a) through 121.35(3)(c), F.S.:

4.1.1 **"On or before March 1, 1984** – 121.35(3)(a), F.S., "Any eligible employee who is employed on or before March 1, 1984, may elect to participate in the optional retirement program in lieu of participation in the Florida Retirement System. Such election shall be made in writing and filed with the division and the personnel officer of the employer on or before June 1, 1984. Upon such election, participation in the optional program will take effect July 1, 1984, and election to so participate will terminate the membership of the employee in the Florida Retirement System. Any eligible employee who is employed on or before March 1, 1984, and who fails to make an election to participate in the optional program by June 1, 1984, shall be deemed to have elected to retain membership in the Florida Retirement System."

4.1.2 **March 1, 1984 – December 31, 1992.** As provided in 121.35(3)(b), F.S., "Any employee who becomes eligible to participate in the optional retirement program by reason of initial employment commencing after March 1, 1984, but before January 1, 1993, may, within 90 days after the date of commencement of employment, elect to participate in the optional program. Such election shall be made in writing and filed with the personnel officer of the employer. The eligible employees described in this subparagraph shall be enrolled in the Florida Retirement System at the commencement of employment, with the exception of those employees who file an election with the personnel officer of the employer prior to the submission of the initial payroll for the employee. For such employees, participation will be effective on the first day of employment or on July 1, 1984, whichever is later. If an eligible employee, as described in this subparagraph, files an election to participate in the optional program within 90 days after the commencement of employment, but after the submission by the employer of the initial payroll for the employee, the employee's participation in the optional program will not be effective until the first day of

the month for which a full month's employer contribution may be made, or until July 1, 1984, whichever is later. Any eligible employee who does not within 90 days after commencement of such employment elect to participate in the optional program shall be deemed to have elected to retain membership in the Florida Retirement System."

4.1.3 **On or after January 1, 1993** 121.35(3)(c), F.S. states: "Any employee who becomes eligible to participate in the optional retirement program on or after January 1, 1993, shall be a compulsory participant of the program unless such employee elects membership in the Florida Retirement System. Such election shall be made in writing and filed with the personnel officer of the employer. Any eligible employee who fails to make such election within the prescribed time period shall be deemed to have elected to participate in the optional retirement program.

1. Any employee whose optional retirement program eligibility results from initial employment shall be enrolled in the program at the commencement of employment. If, within 90 days after commencement of employment, the employee elects membership in the Florida Retirement System, such membership shall be effective retroactive to the date of commencement of employment.

2. Any employee whose optional retirement program eligibility results from a change in status due to the subsequent designation of the employee's position as one of those specified in paragraph (2)(a) or due to the employee's appointment, promotion, transfer, or reclassification to a position specified in paragraph (2)(a) shall be enrolled in the optional retirement program upon such change in status and shall be notified by the employer of such action. If, within 90 days after the date of such notification, the employee elects to retain membership in the Florida Retirement System, such continuation of membership shall be retroactive to the date of the change in status.

3. Notwithstanding the provisions of this paragraph, effective July 1, 1997, any employee who is eligible to participate in the Optional Retirement Program and who fails to execute a contract with one of the approved companies and to notify the department in writing as provided in subsection (4) within 90 days after the date of eligibility shall be deemed to have elected membership in the Florida Retirement System, except as provided in s. 121.051(1)(a). This provision shall also apply to any employee who terminates employment in an eligible position before executing the required Annuity Contract and notifying the department. Such membership shall be retroactive to the date of eligibility, and all appropriate contributions shall be transferred to the Florida Retirement System Trust Fund and the Health Insurance Subsidy Trust Fund."

4.2 **Vesting.** As provided in 123.35(d), F.S., "Participants shall be fully and immediately vested in the optional retirement program only upon execution of a contract."

4.3 **Irrevocability.** As provided in 121.35(e), F.S., "the election by an eligible employee to participate in the optional retirement program shall be irrevocable for so long as the employee continues to meet the eligibility requirements specified in subsection (2), except as provided in paragraph (h) or paragraph (i). In the event that an employee participates in the optional retirement program for 90 days or more and is subsequently employed in an administrative or professional position

which has been determined by the department, under subparagraph (2)(a)2., to be not otherwise eligible for participation in the optional retirement program, the employee shall continue participation in the optional program so long as the employee meets the other eligibility requirements for the program, except as provided in paragraph (h) or paragraph (i).”

- 4.4 **Previous Florida Retirement System Membership.** As provided in 121.35(g), F.S., “an eligible employee who is a member of the Florida Retirement System at the time of election to participate in the optional retirement program shall retain all retirement service credit earned under the Florida Retirement System at the rate earned. Additional service credit in the Florida Retirement System may not be earned while the employee participates in the optional program, and the employee is not eligible for disability retirement under the Florida Retirement System. An eligible employee may transfer from the Florida Retirement System to his or her accounts under the State University System Optional Retirement Program a sum representing the present value of the employee’s accumulated benefit obligation under the pension plan for any service credit accrued from the employee’s first eligible transfer date to the optional retirement program through the actual date of such transfer, if such service credit was earned from July 1, 1984, through December 31, 1992. The present value of the employee’s accumulated benefit obligation shall be calculated as described in s. 121.4501(3). Upon transfer, all service credit earned under the pension plan during this period is nullified for purposes of entitlement to a future benefit under the pension plan.”
- 4.5 **Transfer to the Florida Retirement System.** As provided in 121.35(i), F.S., “effective January 1, 2008, through December 31, 2008, except for an employee who is a mandatory participant of the State University System Optional Retirement Program, an employee who has elected to participate in the State University System Optional Retirement Program shall have one opportunity, at the employee’s discretion, to transfer from this program to the Florida Retirement System Pension Plan or to the investment plan, subject to the terms of the applicable contracts of the State University System Optional Retirement Program.
1. If the employee chooses to move to the investment plan, any contributions, interest, and earnings creditable to the employee under the State University System Optional Retirement Program must be retained by the employee in the State University System Optional Retirement Program, and the applicable provisions of s. 121.4501(4) shall govern the election.
 2. If the employee chooses to move to the pension plan of the Florida Retirement System, the employee shall receive service credit equal to his or her years of service under the State University System Optional Retirement Program.
 - a. The cost for such credit must be in an amount representing the actuarial accrued liability for the affected period of service. The cost must be calculated using the discount rate and other relevant actuarial assumptions that were used to value the Florida Retirement System Pension Plan liabilities in the most recent actuarial valuation. The calculation must include any service already maintained under the pension plan in addition to the years under the State University System Optional Retirement Program. The actuarial accrued liability of any service already maintained under the pension plan must be applied as a credit to total cost resulting from the calculation. The

division must ensure that the transfer sum is prepared using a formula and methodology certified by an enrolled actuary.

- b. The employee must transfer from his or her State University System Optional Retirement Program account, and from other employee moneys as necessary, a sum representing the actuarial accrued liability immediately following the time of such movement, determined assuming that attained service equals the sum of service in the pension plan and service in the State University System Optional Retirement Program.”

4.6 **Dual Employment.** To the extent provided in 121.35(h), F.S.” a participant in the optional retirement program may not participate in more than one state-administered retirement system, plan, or class simultaneously. Except as provided in s. 121.052(6)(d), a participant who is or becomes dually employed in two or more positions covered by the Florida Retirement System, one of which is eligible for the optional program and one of which is not, may remain a member of the optional program and contributions shall be paid as required only on the salary earned in the position eligible for the optional program during the period of dual employment; or, within 90 days after becoming dually employed, he or she may elect membership in the Regular Class of the Florida Retirement System in lieu of the optional program and contributions shall be paid as required on the total salary received for all employment. At retirement, the average final compensation used to calculate any benefits for which the member becomes eligible under the Florida Retirement System must be based on all salary reported for both positions during such period of dual employment. If the member ceases to be dually employed, he or she may, within 90 days, elect to remain in the Florida Retirement System class for which he or she is eligible or to again become a participant in the optional retirement program. Failure to elect membership in the optional program within 90 days shall result in compulsory membership in the Florida Retirement System, except that a member filling a faculty position at a college that has a faculty practice plan at the University of Florida, at the Medical Center at the University of South Florida, or other state university shall again participate in the optional retirement program as required in s. 121.051(1)(a).”

4.7 **Ineligible for Participation.** As provided in 121.35(f), F.S., “If an employee becomes ineligible to continue participation in the optional retirement program under subsection (2), the employee shall thereafter participate in the Florida Retirement System if he or she is otherwise eligible.”

5. CONTRIBUTIONS

5.1 **Employer Contributions.** In accordance with section 121.35(4)(a), F.S., “The employer shall contribute on behalf of each such member an amount equal to the difference between 8.15 percent of the employee’s gross monthly compensation and the amount equal to the employee’s required contribution based on the employee’s gross monthly compensation.”

In accordance with section 121.35(4)(a)5, F.S., “...the payment of the contributions, including contributions by the employee, shall be made by the employer to the department, which shall forward the contributions to the designated company or companies contracting for payment of benefits for members of the program. However, such contributions paid on behalf of an employee described in paragraph (3)(c) may not be forwarded to a company and do not begin to accrue interest until the employee has executed a contract and notified the department. The department

shall deduct an amount from the contributions to provide for the administration of this program.”

5.2 **Employee Contributions.**

5.2.1 **Required Employee Contribution.**

- A. Effective July 1, 2011, each Member shall contribute Employee Contributions in accordance with section 121.35(4), F.S.
- B. Effective July 1, 2012, each Member of the optional retirement program shall contribute an amount equal to the Employee Contribution required in section 121.71(3), F.S.
- C. Effective July 1, 2011, the required Employee Contribution rate for the Regular Class membership is 3.00% of gross compensation.

5.2.2 **Elective Deferrals.** Members may choose to have Elective Deferrals (Voluntary Employee Contributions) made on their behalf immediately upon becoming employed by the Employer. Contributions shall be an amount not greater than the amount specified in section 121.35(4)(e), F. S.:

- A. “Each member shall have the option to contribute a percentage of the employee’s gross compensation as provided in section 121.35(4)(e), F.S., ”each member of the optional retirement program who has executed a contract may contribute by way of salary reduction or deduction a percentage amount of the employee’s gross compensation not to exceed the percentage amount contributed by the employer to the optional program, but such contribution may not exceed federal limitations.”
- B. “Payment of the employee’s contributions shall be made by the financial officer of the employer to the division which shall forward the contributions to the designated company or companies contracting for payment of benefits for members of the program.”
- C. “A member may not make, through salary reduction, any voluntary employee contributions to any other plan under s. 403(b) of the Internal Revenue Code, with the exception of a custodial account under s. 403(b)(7) of the Internal Revenue Code, until they have made employee contributions to their optional program equal to the employer contribution.”
- D. “An employee is responsible for monitoring his or her individual tax-deferred income to ensure they do not exceed the maximum deferral amounts permitted under the Internal Revenue Code.”
- E. The Plan will not accept Roth Elective Deferrals.

5.3 **Information Provided by the Member.** Each Member shall provide to the Plan Administrator at the time of initial enrollment, and later, if there are any changes, any such just and true information necessary or advisable for the Plan Administrator to administer the Plan, including any information required under the terms governing the Investment Arrangement.

5.4 **Change in Elective Deferrals Election.** Subject to the provisions of the applicable Individual Agreements, Members may at any time revise their Contribution election, including changes in the amount of their Elective Deferrals, investment direction and designated Beneficiary. A change in the investment direction shall take effect as of the date provided by the Administrator on a uniform basis for all Members. A change

in the Beneficiary designation shall take effect as provided for in the Individual Agreement between the Service Provider and Member.

- 5.5 **Timing of Contributions.** Plan Contributions received by the Department under the Plan shall be transferred to the applicable Service Providers within a reasonable time following the receipt of Contributions, and the information necessary, including but not limited to the proper enrollment documentation, to allow the forwarding of the funds.
- 5.6 **Leave of Absence.** Unless a Compensation reduction election is otherwise revised, when a Member is absent from work by leave of absence, Elective Deferrals under the Plan shall continue to the extent that compensation continues.

6. LIMITATIONS ON COMPENSATION AND AMOUNTS DEFERRED

- 6.1 **Includible Compensation.** An Employee's compensation received from the Employer that is includible in the Member's gross income for federal income tax purposes (computed without regard to section 911 of the Code, relating to United States citizens or residents living abroad), including differential wage payments under section 3401(h) of the Code for the most recent period that is a Year of Service. Includible Compensation also includes any Elective Deferral or other amount contributed or deferred by the Employer at the election of the Employee that would be includible in gross income but for the rules of section 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Code. Includible Compensation does not include any Compensation received during a period when the Employer was not an eligible Employer within the meaning of section 1.403(b)-2(b)(8) of the Treasury Regulations. The amount of Includible Compensation is determined without regard to any community property laws. Except as provided in section 1.401(a)(17)-1(d)(4)(ii) of the Treasury Regulations with respect to eligible Members in governmental plans, the amount of Includible Compensation of each Member taken into account in determining Contributions shall not exceed \$265,000, as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code for periods after 2015.
- 6.2 **Limitations on Elective Deferrals.** The maximum amount of the Elective Deferral under the Plan for any calendar year shall not exceed \$19,500, which is the applicable dollar amount established under section 402(g)(1)(B) of the Code and adjusted for cost-of-living to the extent provided under section 402(g)(4) of the Code for periods after 2020. Section 402(g) of the Code provide a limitation on Elective Deferrals and further provides that the limitation be adjusted each year for cost-of-living increases.
- 6.3 **Special Section 403(b) Catch-up Limitations.** Special Section 403(b) Catch-up Limitation shall not apply to the Plan.
- 6.4 **Age 50 Catch-up Contributions.** Age 50 Catch up Contributions shall not apply to the Plan.
- 6.5 **Special Rule for a Member Covered by another Section 403(b) Plan.** For purposes of this section, if the Member is or has been a Member in one or more other plans under section 403(b) of the Code (or any other plan that permits Elective Deferrals under section 402(g) of the Code, then that Plan and all such other plans shall be considered as one plan for purposes of applying Special Section 403(b) Catch-up Limitations.
- 6.6 **Correction of Excess Elective Deferrals.** If the Elective Deferral on behalf of a Member for any calendar year exceeds the limitations described above, when

combined with other amounts deferred by the Member under another plan of the Employer under section 403(b) of the Code (and any other plan that permits Elective Deferrals under section 402(g) of the Code for which the Member provides information that is accepted by the Administrator), then the Elective Deferral, 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 Member.

7. **HARDSHIP DISTRIBUTIONS**

- 7.1 Hardship Distributions shall not be permitted under the Plan.
- 7.2 To the extent provided in section 121.35(5)(b), F.S., “Benefits, including employee contributions, are not payable for employee hardships, unforeseeable emergencies, loans, medical expenses, educational expenses, purchase of a principal residence, payments necessary to prevent eviction or foreclosure on an employee’s principal residence, or any other reason a requested distribution for retirement, a mandatory de minimis distribution authorized by the Administrator, or a required minimum distribution provided pursuant to the Internal Revenue Code.”

8. **LOANS**

- 8.1 Loans shall not be permitted under the Plan (notwithstanding any such outstanding loan present on the effective date of this written plan).
 - 8.1.1 **Prior to July 1, 2011**, With respect to loans from the portion of an employee’s Account attributable to Elective Deferrals or rollover contributions to the Plan and loans entered into prior to that date, no loan to any Member or Beneficiary can be made to the extent that such loan, when added to the outstanding balance of all other loans to the Member or Beneficiary, would exceed the lesser of (a) \$50,000 reduced by the excess (if any) of the highest outstanding balance of loans during the one year period ending on the day before the loan is made, over the outstanding balance of loans from the Plan on the date the loan is made, of (b) one-half the present value of the nonforfeitable accrued Benefit of the Member or, if greater, the total accrued Benefit up to \$10,000. For the purpose of the above limitation, all loans from all plans of the employer and Related Employers are aggregated. Any loan shall by its terms require that repayment (principal and interest) be amortized in level payments, not less frequently than quarterly, over a period not extending beyond five years from the date of the loan. If such loan is used to acquire a dwelling unit which within a reasonable time (determined at the time the loan is made) will be used as the principal residence of the Member, the amortization period shall be in accordance with the terms of the Individual Agreements. An assignment or pledge of any portion of the member’s interest in the Plan and a loan, pledge, or assignment with respect to any insurance contract purchased under the Plan, will be treated as a loan under this paragraph. Repayment of any loan shall be through the method of repayment specified under the original loan terms.
 - 8.1.2 **Effective July 1, 2011 through June 20, 2012**. Benefits, including Employee Contributions, are not payable for employee hardships, unforeseeable emergencies, loans, medical expenses, educational expenses, purchase of a principal residence, payments necessary to prevent eviction or foreclosure on an employee’s principal residence, or any other reason before termination from all employment relationships with participating Employers for 3 calendar months.

- 8.1.3 **Effective July 1, 2012.** To the extent provided in 121.35(5)(b), F.S., “Benefits, including employee contributions, are not payable for employee hardships, unforeseeable emergencies, loans, medical expenses, educational expenses, purchase of a principal residence, payments necessary to prevent eviction or foreclosure on an employee’s principal residence, or any other reason a requested distribution for retirement, a mandatory de minimis distribution authorized by the Administrator, or a required minimum distribution provided pursuant to the Internal Revenue Code.”

9. **BENEFIT DISTRIBUTIONS**

- 9.1 **Benefit Distribution Date.** The initial Benefit Distribution date is the Members’ Effective Retirement Date. It is the initial date of a Members Distribution comprised of required Member and/or Employer contributions plus gains/losses, excluding a Required Minimum Distribution (RMD), Qualified Domestic Relations Order (QDRO) or De Minimis Distributions. This initial Benefit Distribution is also referred to as a Retiree Distribution.

- 9.2 **Benefit Distributions at Severance from Employment or Other Distribution Event.** Benefit Distributions are payable to the extent provided in 121.35(5)(a)-(h), F.S.
121.35(5)(a) F.S. which states : “Benefits are payable under the optional retirement program only to vested members participating in the program, or their beneficiaries as designated by the member in the contract with a provider company, and such benefits shall be paid only by the designated company in accordance with s. 403(b) of the Internal Revenue Code and the terms of the Annuity Contract or investment contracts applicable to the Member. A benefit under the optional retirement program is a distribution requested by the Member or surviving beneficiary funded in part or in whole by employer or required employee contributions, plus earnings, and includes rolling a distribution over to another qualified plan. Benefits accrue in individual accounts that are member-directed, portable, and funded by employer and employee contributions and the earnings thereon. The Member must be terminated for 3 calendar months from all employment relationships with all Florida Retirement System employers to begin receiving the benefit. The department may authorize a distribution of up to 10 percent of the member’s account after being terminated from employment with all participating employers for 1 calendar month if the member has reached the normal retirement date as defined in s. 121.021. The department may adopt rules to implement this paragraph. Benefits funded by employer and required employee contributions are payable in accordance with the following terms and conditions:”

1. “Benefits shall be paid only to participating members, their beneficiaries, or to his or her estate, as designated by the member.”
2. “Benefits shall be paid by the provider company or companies in accordance with the law, the provisions of the contract, and any applicable department rule or policy.”
3. “In the event of a member’s death, moneys accumulated by, or on behalf of, the member, less withholding taxes remitted to the Internal Revenue Service, if any, shall be distributed to the member’s designated beneficiary or beneficiaries, or to the member’s estate, as if the member retired on the date of death, as provided in paragraph (d). No other death benefits are available to survivors of members under the optional retirement program except for such benefits, or coverage for

such benefits, as are separately afforded by the employer, at the employer's discretion."

121.35(5)(b), F.S. which states: "Benefits, including employee contributions, are not payable for employee hardships, unforeseeable emergencies, loans, medical expenses, educational expenses, purchase of a principal residence, payments necessary to prevent eviction or foreclosure on an employee's principal residence, or any other reason except a requested distribution for retirement, a mandatory de minimis distribution authorized by the Administrator, or a required minimum distribution provided pursuant to the Internal Revenue Code."

121.35(5)(c), F.S. which states: "Upon receipt by the provider company of a properly executed application for distribution of benefits, the total accumulated benefit is payable to the participating member as:

1. A lump-sum distribution to the member;
2. A lump-sum direct rollover distribution whereby all accrued benefits, plus interest and investment earnings, are paid from the member's account directly to an eligible retirement plan, as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the member;
3. Periodic distributions;
4. A partial lump-sum payment whereby a portion of the accrued benefit is paid to the member and the remaining amount is transferred to an eligible retirement plan, as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the member; or
5. Such other distribution options as are provided in the member's optional retirement program contract."

121.35(5)(d), F.S. which states: "Survivor benefits are payable as:

1. A lump-sum distribution payable to the beneficiaries or to the deceased member's estate;
2. An eligible rollover distribution on behalf of the surviving spouse of a deceased member, whereby all accrued benefits, plus interest and investment earnings, are paid from the deceased member's account directly to an eligible retirement plan, as described in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the surviving spouse;
3. Such other distribution options as are provided in the member's optional retirement program contract; or
4. A partial lump-sum payment whereby a portion of the accrued benefit is paid to the deceased member's surviving spouse or other designated beneficiaries, less withholding taxes remitted to the Internal Revenue Service, if any, and the remaining amount is transferred directly to an eligible retirement plan, as described in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the surviving spouse. The proportions must be specified by the member or the surviving beneficiary.

This paragraph does not abrogate other applicable provisions of state or federal law providing payment of death benefits."

121.35(5)(e), F.S. which states: "The benefits payable to any person under the optional retirement program, and any contribution accumulated under such

program, are not subject to assignment, execution, or attachment or to any legal process.”

121.35(5)(f), F.S. which states: “A participating member who chooses to receive benefits must be terminated for 3 calendar months to be eligible to receive benefits funded by employer and employee contributions. The member must notify the provider company of the date he or she wishes benefits funded by required employer and employee contributions to begin and must be terminated as defined in s. 121.021 after the initial benefit payment or distribution is received. Benefits may be deferred until the member chooses to make such application.”

121.35(5)(g), F.S. which states: “Benefits funded by the participating member’s voluntary personal contributions may be paid out after termination from employment with all participating employers for 3 calendar months and in any form within the limits provided in the contract between the member and the provider company. The member shall notify the provider company regarding the date and provisions under which he or she wants to receive the employee-funded portion of the plan.

121.35(5)(h), F.S. which states: “For purposes of this section, “retiree” means a former participating member of the optional retirement program who has terminated employment and has taken a distribution as provided in this subsection, except for a mandatory distribution of a de minimis account authorized by the department.”

- 9.3 **Timing of Distribution.** Distributions shall be made in accordance with section 121.35(5), F.S. in section 9.1. Except as permitted under section 6.6 (relating to excess Elective Deferrals), Distributions from a Member’s Account shall not be made earlier than the earliest of the date on which the Member has a Termination from employment or dies.
- 9.4 **Small Account Balances.** To the extent permitted under the terms governing the applicable Investment Arrangement, small Account Balances or De Minimis Distributions may be made in the form of a lump-sum payment, without the consent of the Member or Beneficiary, but not without the consent of the Member or Beneficiary if the Member’s Accumulated Benefit (determined without regard to any separate Account that holds rollover contributions) exceeds \$5,000 or any lesser amount specified in the Investment Arrangement (“Small Account Balance”). 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).
- 9.5 **Required Minimum Distributions.** Required Minimum Distributions apply only to Members who have terminated. Actively employed Members are not required to withdraw minimum Distributions.
- 9.5.1 The Plan shall comply with the minimum Distribution requirements of section 401(a)(9) of the Code and the regulations thereunder in accordance with the terms governing each Investment Arrangement, unless and to the extent otherwise permitted by law and in regulations or other rules of general applicability published by the Department of the Treasury or the Internal Revenue Service. For purposes of applying the Distribution rules of section 401(a)(9) of the Code, each Investment Arrangement is treated as an individual retirement account (IRA) and Distributions shall be made in accordance with the provisions of section 1.408-8 of the Treasury Regulations, except as provided in section 1.403(b)-6(e) of the Treasury Regulations.

- 9.5.2 Distribution of the Member Accumulated Benefit will begin no later than the first day of April following the later of the calendar year in which the Member attains age 72 or the calendar year in which the Member retires from employment (the "required beginning date") over (1) the life of the Member, (2) the lives of the Member and Beneficiary, or (3) a period certain not extending beyond the life expectancy of the Participant or the joint and last survivor expectancy of the Member and Beneficiary.
- 9.6 **Forfeitures.** SUSORP Members are subject to forfeitures as provided in section 121.091(5)(f) – (k), F.S. which states:
- “(5)(f) Any member who has been found guilty by a verdict of a jury, or by the court trying the case without a jury, of committing, aiding, or abetting any embezzlement or theft from his or her employer, bribery in connection with the employment, or other felony specified in chapter 838, except ss. 838.15 and 838.16, committed prior to retirement, or who has entered a plea of guilty or of nolo contendere to such crime, or any member whose employment is terminated by reason of the member’s admitted commitment, aiding, or abetting of an embezzlement or theft from his or her employer, bribery, or other felony specified in chapter 838, except ss. 838.15 and 838.16, shall forfeit all rights and benefits under this chapter, except the return of his or her accumulated contributions as of the date of termination.
- (g) Any elected official who is convicted by the Senate of an impeachable offense shall forfeit all rights and benefits under this chapter, except the return of his or her accumulated contributions as of the date of the conviction.
- (h) Any member who, prior to retirement, is adjudged by a court of competent jurisdiction to have violated any state law against strikes by public employees, or who has been found guilty by such court of violating any state law prohibiting strikes by public employees, shall forfeit all rights and benefits under this chapter, except the return of his or her accumulated contributions as of the date of the conviction.
- (i) The division may not pay benefits to any member convicted of a felony committed on or after October 1, 2008, defined in s. 800.04 against a victim younger than 16 years of age, or defined in chapter 794 against a victim younger than 18 years of age, through the use or attempted use of power, rights, privileges, duties, or position of the member’s public office or employment position. However, the division shall return the member’s accumulated contributions, if any, that the member accumulated as of the date of conviction.
- (j) Any beneficiary who by a verdict of a jury or by the court trying the case without a jury is found guilty, or who has entered a plea of guilty or nolo contendere, of unlawfully and intentionally killing or procuring the death of the member forfeits all rights to the deceased member’s benefits under this chapter, and the benefits will be paid as if such beneficiary had predeceased the decedent.
- (k) Benefits shall not be paid by the division pending final resolution of such charges against a member or beneficiary if the resolution of such charges could require the forfeiture of benefits as provided in paragraph (f), paragraph (g), paragraph (h), paragraph (i), or paragraph (j).”

10. ROLLOVERS, TRANSFERS, AND EXCHANGES

10.1 Rollover Contributions and Distributions.

10.1.1 **Eligible Retirement Plans.** An eligible retirement plan is a qualified plan described in section 401(a), an annuity plan described in section 403(a), an Annuity Contract described in section 403(b), or an eligible plan under section 457(b) of the Code which is maintained by a State. The definition of eligible retirement plan shall also apply in the case of a Distribution to a surviving spouse, or to a spouse or former spouse who is the Alternate Payee under a qualified domestic relations order as defined in section 414(p) of the Code. In no event will the Plan accept a rollover contribution from a Roth Elective Deferral account under an applicable retirement plan described in section 402A(e)(1) of the Code or a Roth IRA described in section 408A of the Code.

10.1.2 **Eligible Rollover Contributions.** A Member who is entitled to receive an Eligible Rollover Distribution from a previous employer's 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 Service Provider may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with section 402 of the Code and to confirm that such plan is an Eligible Retirement Plan.

10.1.3 **Separate Accounts.** The Service Provider shall establish and maintain for the Member a separate Account for any Eligible Rollover Distribution paid to the Plan.

10.1.4 **Eligible Rollover Distribution.** For purposes of 10.1.1, an Eligible Rollover Distribution means any Distribution of all or any portion of a Member's Benefit from a previous employer's eligible retirement plan. If a Member has a separate Account attributable to rollover contributions to the Plan, then, to the extent permitted by the terms governing the applicable Investment Arrangement, the Member may at any time elect to receive a Distribution of all or any portion of the amount held in the rollover Account.

10.2 Plan-to-Plan Transfers.

10.2.1 **To the Plan.** Effective January 1, 2009, no transfers to this Plan, other than rollovers, as provided in section 10.1.1 shall be permitted.

10.2.2 **From the Plan.** Effective January 1, 2009, no plan-to-plan transfers from this Plan shall be permitted except as provided in section 10.1.4.

10.3 Transfers to Purchase Service Credit.

10.3.1 Effective January 1, 2009, the Plan no longer allows transfers to purchase service credit.

10.3.2 **January 2008 – December 2008.** As provided in section 121.35 (3)(i), F.S. "Effective January 1, 2008, through December 31, 2008, except for an employee who is a mandatory participant of the State University System Optional Retirement Program, an employee who has elected to participate in the State University System Optional Retirement Program shall have one opportunity, at the employee's discretion, to transfer from this program to the Florida Retirement System Pension Plan or to the investment plan, subject to the terms of the applicable contracts of the State University System Optional Retirement Program.

1. If the employee chooses to move to the investment plan, any contributions, interest, and earnings creditable to the employee under the State University System Optional Retirement Program must be retained by the employee in the State University System Optional Retirement Program, and the applicable provisions of s. 121.4501(4) shall govern the election.
2. If the employee chooses to move to the pension plan of the Florida Retirement System, the employee shall receive service credit equal to his or her years of service under the State University System Optional Retirement Program.
 - a. The cost for such credit must be in an amount representing the actuarial accrued liability for the affected period of service. The cost must be calculated using the discount rate and other relevant actuarial assumptions that were used to value the Florida Retirement System Pension Plan liabilities in the most recent actuarial valuation. The calculation must include any service already maintained under the pension plan in addition to the years under the State University System Optional Retirement Program. The actuarial accrued liability of any service already maintained under the pension plan must be applied as a credit to total cost resulting from the calculation. The division must ensure that the transfer sum is prepared using a formula and methodology certified by an enrolled actuary.
 - b. The employee must transfer from his or her State University System Optional Retirement Program account, and from other employee moneys as necessary, a sum representing the actuarial accrued liability immediately following the time of such movement, determined assuming that attained service equals the sum of service in the pension plan and service in the State University System Optional Retirement Program.”

10.4 Contract Exchange and Custodial Account Exchanges.

- 10.4.1 Members or Beneficiaries are permitted to change the investment of their Account Balances among the Service Providers under the Plan, subject to the terms of the Individual Agreements. The change of Member or Beneficiary investment Account Balances among Service Providers under the Plan is referred to as a “Contract Exchange.” However, a Contract Exchange that includes an investment with a Service Provider that is no longer eligible to receive contributions is not permitted.
- 10.4.2 The Plan will not allow Contract Exchanges outside the Plan.
- 10.4.3 If any Service Provider ceases to be eligible to receive Contributions under the Plan, the Administrator will enter into an information sharing agreement with the receiving Service Provider for the other contract or Custodial Account under which the Administrator and the Service Provider will from time to time in the future provide each other with the following information:
 - A. Information necessary for the resulting contract or Custodial Account, or any other contract or Custodial Accounts to which Contributions have been made by the Employer, to satisfy section 403(b) of the Code, including the Employer providing information as to whether the Member’s employment with the Employer is

continuing, and notifying the Service Provider when the Member has had a Severance from Employment (for purposes of the Distribution restrictions in section 9.1).

- B. Information necessary in order for the resulting contract or Custodial Account and any other contract or Custodial Account to which Contributions have been made for the Member by the Employer to satisfy other tax requirements, including information concerning the Member's or Beneficiary's after-tax employee Contributions in order for a Service Provider to determine the extent to which a Distribution is includible in gross income.

11. INVESTMENT OF CONTRIBUTIONS

- 11.1 **Manner of Investment.** All Elective Deferrals or other amounts contributed to the Plan, all property and rights purchased with such amounts under the Authorized Products and all income attributable to such amounts, property or rights shall be held and invested in one or more Annuity Contracts or Custodial Accounts.
- 11.2 **Exclusive Benefit.** Each Annuity Contract and Custodial Account shall provide for it to be impossible, prior to the satisfaction of all liabilities with respect to Member and their Beneficiary, 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 Members and their Beneficiary, except as provided in section 13.2, 13.3 or 13.5.
- 11.3 **Investment of Contributions.** Members or Beneficiaries shall direct the investment of their Accounts among the investment options available under their Annuity Contracts or Custodial Accounts in accordance with the terms of the Individual Agreements.
- 11.4 **Information Sharing.** Each Service Provider and the Administrator shall exchange such information as may be necessary to satisfy section 403(b) of the Code or other requirements of applicable law. In the case of a Service Provider which is not eligible to receive Elective Deferrals under the Plan (including a Service Provider which has ceased to be a Service Provider eligible to receive Elective Deferrals under the Plan and a Service Provider holding assets under the Plan), the Employer shall keep the Administrator informed of the name and contact information of the Member in order to coordinate information necessary to satisfy section 403(b) of the Code or other requirements of applicable law.

12. PLAN AMENDMENT AND TERMINATION

- 12.1 **Termination of Contributions.** The State of Florida has no obligation or liability whatsoever to maintain the Plan for any specific length of time and may discontinue Contributions under the Plan at any time without any liability hereunder for any such discontinuance.
- 12.2 **Amendment and Termination.** The Administrator reserves the authority to amend or terminate this Plan any time.
- 12.3 **Distribution upon Termination of the Plan.** The Administrator may provide that, in connection with a termination of the Plan and subject to any restrictions contained in the Individual Agreements, all Accounts will be distributed, provided that the Employer and any Related Employer on the date of termination do not make Contributions to an alternative 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.

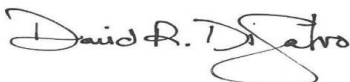
13. OTHER PLAN PROVISIONS

- 13.1 **Non-Assignability.** Except as provided in sections 13.2, 13.3, and 13.5 the interest of each Member or Beneficiary under the Plan are not subject to the claims of the Member's or Beneficiary's creditors; and neither the Member nor any Beneficiary shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.
- 13.2 **Qualified Domestic Relation Orders.** If a judgment, decree, or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Member is made pursuant to the domestic relations law of any state ("domestic relations order"), then the amount of the Member's Accumulated Benefit shall be paid in the manner and to the person or persons so directed in the domestic relations order. Such payment shall be made without regard to whether the Member is eligible for a Distribution of Benefits under the Plan. The Administrator shall direct the Service Provider to establish reasonable procedures for determining the status of any such decree or order and for effectuating Distribution pursuant to the qualified domestic relations order.
- 13.3 **IRS Levy.** The Service Provider may pay from a Member's or Beneficiary's Account Balance the amount that the Service Provider finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Member or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Member or Beneficiary; provided, however, that the United States Government:
- (a) cannot garnish or otherwise collect against a Member's or Beneficiary's Benefit until the Member or Beneficiary has a right to a Distribution (distributable event) under the terms of the Plan;
 - (b) steps into the shoes of either the Members or Beneficiaries and can make an election on their behalf when such persons are eligible for Distributions but has not elected same; and
 - (c) is subject to the joint and survivor annuity rules and other Plan provisions to the same extent as the Member or Beneficiary.
- 13.4 **Military Service.** Notwithstanding any provision of this Plan to the contrary, Contributions, Benefits and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Code. In addition, the survivors of any Member who dies on or after January 1, 2007, while performing qualified military service, are entitled to any additional Benefits (other than Benefit accruals relating to the period of qualified military service) that would have been provided under the Plan had the Member resumed employment and then terminated employment on account of death.
- 13.5 **Tax Withholding.** Contributions to the Plan are subject to applicable employment taxes including, if applicable, Federal Insurance Contributions Act (FICA) taxes with respect to Elective Deferrals, which constitute wages under section 3121 of the Code). Any Benefit payment made under the Plan is subject to applicable income tax withholding requirements (including section 3401 of the Code and the Employment Tax Regulations thereunder). A payee shall provide such just and true information as the Service Provider may need to satisfy income tax withholding obligations, and any other information that may be required by guidance issued under the Code.

- 13.6 **Payments to Minors and Incompetents.** If a Member 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, the Benefits will be paid to such person as may be designated for the discharge for such Benefits, Benefits will be paid to such person as may be designated for the benefit of such Member or Beneficiary. Such payments shall be considered a payment to such Member or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.
- 13.7 **Mistaken Contributions.** If any Contribution (or any portion of a Contribution) is made to the Plan by a good faith mistake of fact, then, upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken Contribution shall be returned directly to the Member or, to the extent required or permitted by law returned to the Employer or held in the Plan for the benefit of the Employer to offset future Employer Contributions.
- 13.8 **Procedure When Distributee Cannot Be Located.** The Service Provider shall make all reasonable attempts to determine the identity and address of a Member or a Member's Beneficiary entitled to Benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on the Service Providers, the Employer's or the Plan Administrator's records, (b) notification sent to the Social Security Administrator or the Pension Benefit Guaranty Corporation (under their program to identify payees under retirement plans), and (c) the payee has not responded within 6 months. If the Service Provider is unable to locate such a person entitled to Benefits hereunder, or if there has been no claim made for such Benefits, the funding vehicle shall continue to hold the Benefits due such person.
- 13.9 **Headings.** Headings of the Plan have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.
- 13.10 **Gender.** Pronouns used in the Plan in the masculine or feminine gender include both genders unless the context clearly indicates otherwise.
- 13.11 **After-Tax Employee Contributions.** The Plan will not accept After-Tax Employee Contributions.

IN WITNESS THEREOF, the State of Florida, Department of Management Services has caused this Plan to be executed by its undersigned official as duly authorized.

DEPARTMENT OF
MANAGEMENT SERVICES



April 15, 2021

David R. DiSalvo
Director

Date

Effective Date of the Plan: Upon signing.

APPENDIX A
DESIGNATED SERVICE PROVIDER COMPANIES

1. AIG (formerly VALIC)
2. Equitable (formerly AXA)
3. TIAA (formerly TIAA-CREF)
4. VOYA (formerly ING)