

UNIVERSITY SYSTEM OF MARYLAND
SUPPLEMENTAL 401(a) MATCHING PLAN AND TRUST
(MASTER PLAN DOCUMENT)

Effective January 1, 2005

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UNIVERSITY SYSTEM OF MARYLAND
SUPPLEMENTAL 401(a) MATCHING PLAN AND TRUST

(Master Plan Document)

Effective January 1, 2005, the University System of Maryland hereby adopts and restates the University System of Maryland Supplemental 401(a) Matching Plan (hereinafter called the "Plan"), a defined contribution plan under Section 401(a) of the Internal Revenue Code. The University System of Maryland is an instrumentality of the State of Maryland and governed by the laws of the State of Maryland. The Plan is established pursuant to the authority of Sections 30-210(d) and 35-701 of the Annotated Code of Maryland (1978, 2004 Repl. Vol). The Plan shall be funded by a Trust, which is contained in this document.

ARTICLE I. DEFINITIONS

- 1.01. "Account"** means the Account maintained for a Participant by the Administrator.
- 1.02. "Administrator"** means the Plan Administrative Committee as designated by the Board, or such other person, persons, or entity designated by the Board, to perform the basic administrative duties and functions under the Plan.
- 1.03. "Applicable Form"** means the appropriate form as designated and furnished by the Administrator to make an election or provide a notice as required by the Plan. If a written election or consent is not specifically required by the Code, the Administrator may prescribe a verbal, electronic or telephonic instruction in lieu of or in addition to a written form.
- 1.04. "Beneficiary"** means the person or persons designated by a Participant to receive any benefit payable upon the Participant's death in accordance with Section 10.05.
- 1.05. "Board"** means the University System of Maryland Board of Regents.
- 1.06. "Code"** means the Internal Revenue Code of 1986, as amended, and where appropriate, the Internal Revenue Code of 1954.
- 1.07. "Compensation"** means remuneration paid to an Employee out of funds controlled by an Employer before any pretax deductions allowed by state or federal law are made. Pretax deductions allowed by federal law include any elective deferral to a Code Section 403(b) plan, any deferrals by reason of Code Sections 125, 457 or 132(f), and picked-up contributions under Code Section 414(h)(2). Compensation does not include remuneration in excess of the limits under Code Section 401(a)(17).
- 1.08. "Disability or Disabled"** means a total and permanent disability, based on the Participant's inability to perform services due to medical reasons, as determined by the Employer.
- 1.09. "Eligible Employee"** means any Employee who (a) is a member of the Employees' Pension System as set forth in Title 23, Subtitle 2 of the State Personnel and

Pensions Article of the Annotated Code of Maryland (1978, 2004 Repl. Vol.), as may be amended from time to time, and (b) makes salary deferrals to a Supplemental Retirement Plan.

1.10. "**Employee**" means any individual who performs services for an Employer for Compensation on a regular basis.

1.11. "**Employer**" means the University System of Maryland Office, the constituent institutions of the University System of Maryland, and the centers or institutions of the University of Maryland, which are all governmental entities.

1.12. "**Employer Contribution**" means the Employer contributions made pursuant to Article III.

1.13. "**Investment Fund**" means an investment fund which forms part of the Trust Fund as established by the Trustees.

1.14. "**Participant**" means an Eligible Employee who maintains an Account balance.

1.15. "**Plan Year**" means the calendar year.

1.16. "**Separation from Service**" means severance of a Participant's employment with the Employer for any reason, including retirement, within the meaning of Code Section 402(d)(4)(A)(iii). A Participant shall be deemed to have severed employment with the Employer for purposes of the Plan when, in accordance with the established personnel practices of the Employer, the employment relationship is considered actually terminated. When a Participant has not performed services for the Employer for a period of six consecutive months and is not otherwise considered an Employee under the Employer's established personnel practices, the Participant shall be deemed to have a Separation from Service for purposes of this Plan at the end of the six month period.

1.17. "**Service Manager**" means the person(s) or organization(s) appointed by the Administrator to perform service and administrative functions.

1.18. "**Supplemental Retirement Plan**" means a Code Section 403(b) or Code Section 457(b) plan authorized by Title 35 of the State Personnel and Pensions Article of the Annotated Code of Maryland (1978, 2004 Repl. Vol.), as may be amended from time to time.

1.19. "**Trust**" means the trust established by the Board under this Plan.

1.20. "**Trust Fund**" means the Trust Fund established under Maryland State law to hold assets of the Plan.

1.21. "**Vested**" means the nonforfeitable portion of any Account maintained on behalf of a Participant that is legally enforceable against the Plan and is irrevocably vested in such Participant or his Beneficiary.

1.22. "**Construction**". If a term is defined in the Supplemental Retirement Plan, that definition applies to the term as used in this Plan. 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 or singular where appropriate.

ARTICLE II. PARTICIPATION

2.01. Participation. An Eligible Employee shall begin participation in the Plan on the date that he or she begins to make contributions to a Supplemental Retirement Plan, provided, however, that the State legislature has provided for Matching Contributions during the State budget process for the fiscal year.

2.02. Cessation of Plan Participation. A Participant shall cease to be a Participant on the distribution of the Participant's entire interest in the Plan.

ARTICLE III. CONTRIBUTIONS

3.01. Contributions. Contributions shall be made to the Plan in accordance with this Article and subject to the limitations under Article IV.

3.02. Matching Contributions. During each fiscal year, the State of Maryland shall contribute to the Participant's Account in this Plan an amount equal to the Participant's contributions to the Supplemental Retirement Plan during the same fiscal year. The maximum amount contributed by the State will be determined each fiscal year in the State budget process.

3.03. Employee Contributions. Employee contributions under the Plan are not required or permitted.

ARTICLE IV. LIMITATIONS ON EMPLOYER CONTRIBUTIONS

4.01. Applicability of Article. Notwithstanding any provision of the Plan to the contrary, in addition to the limitations on contributions set forth in Section 3.02, contributions to the Plan and additions to the Accounts of each Participant shall be limited as provided in Code Section 415 as set forth in this Article.

4.02. Limitation under Code Section 415. Notwithstanding anything in the Plan to the contrary, the following limitations shall apply:

(a) To the extent required under Code Section 415(c), in no event shall the "annual addition," as defined in this Section for a Participant for any Plan Year, exceed the lesser of:

- (1) Thirty Thousand Dollars (\$30,000), as adjusted for inflation, or
- (2) Twenty-five percent (25%) of the "compensation," as defined in this Section, of such Participant received during the Plan Year.

(b) For Plan Years beginning on or after January 1, 2002, see Addendum One.

(c) The Plan shall be administered so as to comply with the limitations of Code Section 415.

(d) For purposes of this Section and subject to Code Section 415(h), all defined contribution plans of the Employer and all affiliated employers are to be treated as a single defined contribution plan, and the Employer and all affiliated employers shall be considered as a single employer.

(e) If the annual addition for a Participant under the Plan, determined without regard to the limitation of paragraph (a) or (b), as applicable, would have been greater than the annual addition for such Participant as limited by paragraph (a) or (b), as applicable, then the excess, if due to a reasonable error in estimating compensation or such other circumstances as found by the Secretary of the Treasury to justify application of this paragraph, shall be reduced, to the extent necessary to satisfy such limitation by holding the excess unallocated in a suspense account and using it to reduce Employer Contributions in subsequent Plan Years.

(f) For purposes of this Section, "annual addition" means the annual addition as defined in Code Section 415(c) and as modified in 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 the limitation year under this Plan and any other defined contribution plan maintained by an Employer:

- (1) Employer contributions;
- (2) Employee contributions; and
- (3) Forfeitures.

(g) For purposes of this Section, "compensation" means compensation as defined in Code Section 415(c)(3). In general, Code Section 415(c)(3) defines compensation as all of a Participant's wages as defined in Code Section 3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)); provided, however, compensation shall also include the amount of any elective deferrals, as defined in Code Section 402(g)(3), and any amount contributed or deferred by the Employer at the election of the Employee and which is not includible in the gross income of the Employee by reason of Code Section 125, 132(f)(4) (effective January 1, 2001), or 457. Compensation shall not include picked-up contributions under Code Section 414(h)(2).

4.03. Limitation under Code Section 401(a)(17). The annual compensation of each Participant taken into account in determining the limits under this Section for any Plan Year shall not exceed \$150,000, as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. Annual compensation means compensation received during the Plan Year (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. For Plan Years beginning on or after January 1, 2002, see Addendum One.

ARTICLE V. ACCOUNTS AND REPORTS

5.01. Accounts. A Service Manager shall maintain an Account with respect to each Participant who has identified such Service Manager to receive Employer Contributions on his behalf, and that Account shall be credited with the Participant's Employer Contributions under Article III for each pay period. The balance of such Account shall be adjusted daily to reflect any distribution to the Participant and all interest, dividends, account charges and changes of market value resulting from the investment of the Participant's Account. All Plan records, including individual account information, that are maintained by the Service Manager shall be the exclusive property of the Administrator.

5.02. Statements of Accounts. A written report of the status of each Participant's Account shall be furnished by the Service Manager(s) to Participants within thirty (30) days after the end of each Plan quarter. All reports to Participants shall be based on the fair market value of investments credited to their Accounts as of the reporting dates. Participant reports shall be deemed to have been accepted by the Participant as correct unless written notice to the contrary is received by the Service Manager within sixty (60) days after the mailing or distribution of a report to the Participant.

5.03. Year End Reports. Within ninety (90) days after the end of each Plan Year, a written report shall be prepared by the Service Manager and provided to the Administrator, which shall be maintained on file by the Administrator, showing the assets held under the Plan, a schedule of all receipts and disbursements and all material transactions of the Plan during the preceding year. This report shall be in a form and shall contain other information as the Administrator requires. The report shall also contain such information as is necessary to enable the Trustees to prepare their accounting due under the Trust.

5.04. Account Review. The Administrator's records shall be open to inspection during normal business hours by any Participant or a designated representative of the Employer or a Participant. However, no Participant may review any record specifically relating to any other Participant.

ARTICLE VI. VALUATION OF ACCOUNTS

6.01. Valuation. The Service Manager shall value the investments each business day based on acceptable industry practices. All daily transactions shall be based on that day's closing market values.

6.02. Deposits. In all cases, deposits of contributions shall be treated as actually made only as of the date the funds are accepted as in good order by the Service Manager.

6.03. Report from Administrator to Board. The Service Manager shall provide a report to the Administrator including such valuation and other administrative information as requested by the Administrator within forty-five (45) days after the end of each calendar quarter. The Administrator shall provide such information in a report to the Board within ninety (90) days after the end of the Plan Year.

ARTICLE VII. TRUST

7.01. Trust. The Board hereby enters into a Trust and shall act as the Trustees to hold the Trust Fund. The Trust shall be deemed to form a part of the Plan and all rights of Participants or others under this Plan shall be subject to the provisions of the Trust to the extent such provisions are not contradicted by specific provisions of this Plan.

7.02. Trust Fund. The assets of the Trust Fund shall be received, held in Trust, and disbursed by the Trustees in accordance with the provisions of the Plan. No part of the Trust Fund shall be used for or diverted to purposes other than for the exclusive benefit of Participants and their Beneficiaries under this Plan prior to the satisfaction of all liabilities hereunder with respect to them. No person shall have any interest in or right to the Trust Fund or any part thereof, except as specifically provided for in this Plan. The Trust shall (i) hold, invest, and reinvest the Trust Fund, and (ii) pay moneys from the Trust Fund, including payments to the Participants or their Beneficiaries under the Plan. Such orders shall specify the purpose or application to be made of payments so ordered, and the Trustees shall not be responsible in any way respecting the purpose of such payments or the application thereof. The Trustees shall be under no duty to enforce payment of any contribution from the Employer and shall not be responsible for the adequacy of the Trust Fund to meet and discharge any liabilities under the Plan. All benefits under the Plan shall be distributed solely from the Trust Fund, and the Employer shall have no liability therefore other than the obligation to make contributions to the Trust Fund as provided in the Plan.

7.03. Trustees. The Board shall be the Trustees for the Trust.

7.04. Powers of the Trustees. In administering the Trust Fund, the Trustees or the Administrator acting on their behalf, shall have the power in its discretion:

- (a) To exercise, or to refrain from exercising, all voting rights with respect to any stocks, bonds or other securities and to grant general or special proxies or powers of attorney with or without power of substitution whether discretionary or otherwise, and to enter into any voting trust or similar agreement;
- (b) To register and hold any investment in the name of the Trustees, in the name of one or more of their nominees or in the name of one or more nominees of any system for the central handling of securities, with or without indication of the capacity in which the investment is held, and to hold any investment in bearer form, but the books and records of the Plan shall at all times show that such investments are part of the Trust Fund;
- (c) To collect and receive any and all money and other property due to the Trust Fund and to give full discharge therefore;
- (d) To employ suitable agents, counsel, and investment managers and to pay their reasonable expenses and compensation from the Trust Fund;
- (e) To settle, compromise or submit to arbitration any claims, debts or damages due or owing to or from the Trust, to commence or defend suits or legal proceedings

to protect any interest of the Trust, and to represent the Trust in all suits or legal proceedings in any court or before any other body or tribunal;

- (f) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted; and
- (g) Generally, to do all acts, whether or not expressly authorized, which the Trustees may deem necessary or desirable for the protection of the Trust Fund.

7.05. Expenses. The expenses incurred by the Trustees and the Administrator in the performance of their duties, including fees for legal services rendered to the Trustee, and all other proper charges and disbursements of the Trustee, shall be paid by the Employer. All taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws upon or in respect of the Trust Fund or the income thereof shall be paid from the Trust Fund unless the Employer elects to pay such expenses. Notwithstanding anything contained herein to the contrary, all expenses arising from investment of Plan assets shall be paid from affected Participants' Accounts.

7.06. Counsel. The Trustees may consult with counsel, who may be counsel for the Board, and shall be fully protected in acting upon the advice of counsel.

7.07. Plan Records. On behalf of the Trustees, the Administrator shall keep accurate and detailed accounts of all investments, receipts, disbursements and other transactions of the Trust Fund, and all accounts, books and records relating thereto shall be open to inspection and audit at all reasonable times by any person designated by the Board. Within ninety (90) days following the close of each Plan Year, the Administrator on behalf of the Trustees shall file with the Board a written account setting forth all investments, receipts, disbursements and other transactions effected by them during such Plan Year, which account so filed shall be open to inspection during regular business hours by representatives of the Board for a period of sixty (60) days immediately following the date on which the accounts is filed with the Board. Upon the expiration of such sixty (60) day period, the Trustees shall be forever released and discharged from all liability and accountability to anyone with respect to the propriety of acts and transactions shown in such account, except with respect to any such acts or transactions as to which the Board shall have filed written objections with the Trustees within such sixty (60) day period. The Trustees shall determine the fair market value of the Trust Fund as of the close of business on the last day of the Plan Year by a method uniformly applied. A Participant shall have the right to inspect Trustees minutes and Service Manager information at all reasonable times.

7.08. Successor Trustees. Any Trustee shall be terminated upon ceasing to be a member of the Board. The successor Board member shall be a successor trustee who shall have the same powers and duties as those conferred upon the Trustee hereunder.

7.09. Reliance. Any action by the Board pursuant to any of the provisions of the Plan shall be evidenced by a resolution of the Board certified to the Trustees and the Trustees shall be fully protected in acting in accordance with such resolution so certified to them.

7.10. Authority of Individual Trustees. Any action to be taken by the Trustees shall only be taken on the authorization of a majority of such individual trustees. However, the Trustees may delegate a particular function, power or authority to an individual Trustee by written authorization adopted by the Trustees. When such action is so authorized by the Trustees, no person dealing with the authorized Trustee shall be required to make inquiry as to the authority of the Trustee to do any act hereunder; any such person shall be entitled, conclusively, to assume that the Trustee is properly authorized to do any act which he purports to do hereunder, and any such person shall be under no liability to any person, whomsoever, for any act done hereunder pursuant to such written direction of the Trustee. When such action is so authorized by Trustees, any such person may conclusively assume that the Trustee has full power and authority to receive and give receipt for any money or property becoming due and payable to the Trustees, and no such person shall be bound to inquire as to the disposition or application of any money or property paid or delivered to the Trustee, or paid or delivered in accordance with such written direction of the Trustee.

7.11. Limitations of Responsibility and Indemnification. The Trustees' responsibilities and liabilities, and the Administrator's responsibilities and liabilities when acting on their behalf, shall be subject to the following limitations:

- (a) The Trustees shall have no duties other than those expressly set forth in this Plan and those imposed on the Trustees by applicable laws.
- (b) The Trustees shall be responsible only for money and property actually received by the Trustee. The Trustees shall not be responsible for any insurance contracts or policies issued by an insurance company.
- (c) The Trustees shall have no duty to make recommendations concerning actions to be taken hereunder or to question the propriety of any action they are directed to take hereunder with respect to matters falling within the jurisdiction of the Board, to the extent that the action is consistent with the Plan.
- (d) The Trustees shall not be required to give any bond or other obligation to secure the due performance of the Trust by them, unless required by law.
- (e) The Trustees shall have no liability for the acts or omissions of any predecessors or successors in office.
- (f) The Trustees shall have no liability for (i) following directions, including investment directions of any Participant, that are given to the Trustees in accordance with this Plan; or (ii) any loss of any kind that may result by reason of the manner of investment as directed by the Participant.

7.12. Custodial Accounts and Annuity Contracts. The Trustees, or the Administrator on their behalf, may enter into contracts and/or accounts with a Service Manager that meet the requirements of Code Section 401(f) to hold Plan assets.

ARTICLE VIII. INVESTMENT OF ACCOUNTS

8.01. Investment Options. The Administrator shall determine the available Investment Funds for Participants (or Beneficiaries upon the death of the Participant). The Participants (or Beneficiaries) may direct the investment of their Accounts among the Investment Funds selected by the Trustees. The Service Manager shall follow the Participants' (or Beneficiaries') directions with respect to the investment of the Accounts.

8.02. Remittance of Contributions. All contributions under the Plan shall be transferred by the Employer to the Trust immediately following the payroll date under Section 3.04. In no event, however, shall contributions under the Plan be transferred by the Employer to the Plan later than required by law.

8.03. Investment Default Option. In the event that a Participant does not have a valid investment direction on file for any portion of the amount in that Participant's Account, that portion of the Account shall be invested in any default option or options as determined by the Administrator. In such event, the Participant shall be deemed to have directed that option (or options) for investment of such portion of his Account. The Administrator intends to establish default options based upon various factors, including but not limited to, market risk, stability and rate of return.

ARTICLE IX. VESTING

9.01. Vesting Standards. A Participant shall be one hundred percent (100%) Vested in the Participant's Account at all times.

ARTICLE X. BENEFITS

10.01. Benefit Payments. Benefits shall be paid from the Trust Fund in accordance with this Article following a Participant's Separation from Service, death or Disability. Benefits payable to a Participant or a Beneficiary shall be based upon the value of the Participant's Account.

(a) **Separation from Service.** Upon Separation from Service, a Participant may elect to have benefits commence on a date which is no later than age seventy and one-half (70½). Such election shall be made within forty-five (45) days after Separation from Service. If no election is made, benefits shall commence seventy-five (75) days after Separation from Service. A Participant may elect to change the commencement date of distribution of the Account to a later date otherwise permitted under this Article, so long as the commencement date meets the required distribution commencement date provisions of Code Section 401(a)(9). All benefits shall be paid under a payment option under Section 10.02, subject to the restrictions in Section 10.04.

(b) **Death.** In the event of the Participant's death prior to the commencement of benefits under paragraph (a), the value of the Participant's Account shall be paid to the Beneficiary under a payment option elected by the Beneficiary under Section 10.02, subject to the restrictions in Section 10.06. Such benefits shall be payable commencing within sixty (60) days after receipt by the Administrator of satisfactory proof of the Participant's death. However,

if the Beneficiary is the spouse of the Participant, then the spouse may elect within sixty (60) days of Participant's death to defer distribution to a date not later than the date when the Participant would have attained age seventy and one-half (70½).

(c) **Disability.** Upon Separation from Service with the Employer because of becoming Disabled, a Participant may elect to have benefits commence on a date which is no later than age seventy and one-half (70½). Such election shall be made within forty-five (45) days after becoming Disabled. If no election is made, benefits will commence seventy-five (75) days after becoming Disabled. A Participant may change the commencement date of distribution of the Account to a later date otherwise permitted under this Article, so long as the later commencement date meets the required distribution commencement date provisions of Code Section 401(a)(9). All benefits shall be paid under a payment option under Section 10.02, subject to the restrictions in Section 10.04.

10.02. Payment Options. The election of a payment option by a Participant or a Beneficiary under this Section must be made no later than thirty (30) days before the commencement of such benefits. Subject to restrictions established by the Administrator, the Plan shall permit payout options in the form of lump sums, periodic payments of a fixed amount or fixed duration, or life contingent annuities. Absent such an election, the Account will be paid in a lump sum.

10.03. Lump Sum Settlement. Notwithstanding anything in this Plan to the contrary, if a Participant's Account balance does not exceed \$1,000 at the time of Separation of Service, the Administrator shall effect a lump sum distribution of the Participant's Account.

10.04. Minimum Distribution Rules. Notwithstanding any provision of this Plan to the contrary, any distribution under the Plan shall be made in accordance with Code Section 401(a)(9) and the regulations established thereunder as they are amended and applicable. No payment option may be selected by a Participant unless the amounts payable to the Participant are expected to be at least equal to the minimum distribution required under Section 401(a)(9) of the Code. The amounts payable also must satisfy the minimum distribution incidental benefit requirements of Section 401(a)(9)(G) of the Code. Payment of the Accounts of a Participant shall begin not later than the "required beginning date." For purposes of this Section, "required beginning date" means April 1 of the calendar year following the later of (i) the calendar year in which the Participant reaches age seventy and one-half (70½), or (ii) the calendar year in which the Participant retires. For purposes of this Section, "first distribution year" means the calendar year described in (i) or (ii) of the preceding sentence. The amount to be distributed each year, beginning with distributions for the first distribution year, shall not be less than the quotient obtained by dividing the Participant's benefit by the lesser of (i) the applicable divisor of the Participant or the Participant and his spouse if the spouse is the designated beneficiary, or (ii) if the Participant's spouse is not the designated beneficiary, the applicable divisor specified in Code Section 401(a)(9) or the regulations promulgated thereunder. Distributions after the death of the Participant shall be distributed using the applicable life expectancy as the relevant divisor.

10.05. Designated Beneficiary. A Participant shall have the right to file with the Administrator an Applicable Form designating the Beneficiary or Beneficiaries who shall receive the benefits payable under the Plan in the event of the Participant's death. No Beneficiary

designation shall take effect until an Applicable Form is signed by the Participant and received and accepted by the Administrator. If the Participant fails to make such a designation, the Participant's Beneficiary shall be the Participant's Beneficiary under the Supplemental Retirement Plan. If the Participant dies without a Beneficiary form on file for the Supplemental Retirement Plan, the benefit payments shall be made to the Participant's estate in a lump sum.

A Participant shall have the right to designate at least one primary and contingent Beneficiary and to indicate whether the Beneficiaries in each class are to share equally or according to specified percentages. A contingent Beneficiary shall receive benefit payments only if there is no surviving primary Beneficiary. If a Beneficiary predeceases the Participant, the surviving Beneficiaries in the same class (*i.e.*, primary or contingent) will share among each other all benefits in the same proportion as originally designated by the Participant. In the event of the death of a Beneficiary, after the Beneficiary has become entitled to receive benefits, the remaining benefits shall be paid to the estate of the Beneficiary in a lump sum.

10.06. Payments to Beneficiary. In the event of the Participant's death, any remaining benefit shall be distributed according to the following:

(a) If the Participant had begun receiving periodic payments of a fixed amount or fixed duration from the Plan which were not annuitized, the balance of the Account shall be paid to the Beneficiary at least as rapidly as under the payment option selected by the Participant.

(b) If the Participant had begun receiving payments under an annuity contract, the Beneficiary shall be bound by all restrictions of that contract and the form of payment selected thereunder, and remaining payments, if any, shall be paid to the Beneficiary under the contract.

(c) If the Participant dies before distributions have commenced, a spouse Beneficiary may delay the commencement of benefits until the Participant would have attained age seventy and one-half (70½) and may elect to receive payments at such time over the Beneficiary's life expectancy.

(d) If the Participant dies before distributions have commenced, a non-spouse Beneficiary may take a lump sum or a periodic payment. In the case of a lump sum, payment must be made no later than five years after the date of the Participant's death. In the case of a periodic distribution, payment must commence no later than one year after the date of the Participant's death, but in no event over a period longer than the Beneficiary's life expectancy at the time the distribution commences.

Notwithstanding the foregoing, any payment to an estate shall be made in a lump sum. For Plan Years beginning on or after January 1, 2002, see Addendum One.

10.07. Plan Loans. Plan loans to Participants shall not be permitted.

ARTICLE XI. CHILD SUPPORT ENFORCEMENT ORDERS

Child support enforcement orders which satisfy the requirements of Code Sections 414(p)(1)(A)(i) and 414(p)(1)(B) and the procedures established by the Administrator for such orders shall be honored by the Plan upon the Participant's Separation from Service.

ARTICLE XII. ELIGIBLE ROLLOVERS FROM THIS PLAN

12.01. Plan Distributions and Withholding Requirements. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section, a Distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

12.02. Definitions. The following definitions shall apply to this Section (for Plan Years beginning on or after January 1, 2002, see Addendum One):

(a) An "Eligible Rollover Distribution" is any distribution under Article XI of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; (ii) any distribution to the extent such distribution is required under Code Section 401(a)(9); or (iii) the portion of any distribution that is not includible in gross income.

(b) An "Eligible Retirement Plan" is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), or a qualified trust described in Code Section 401(a), that accepts the Distributee's Eligible Rollover Distribution; provided, however, in the case of an Eligible Rollover Distribution to a surviving spouse, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity.

(c) A "Distributee" includes an employee or former employee, as well as, the employee's or former employee's surviving spouse.

(d) A "Direct Rollover" is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

ARTICLE XIII. ELIGIBLE ROLLOVERS TO THIS PLAN

This Plan does not accept rollovers.

ARTICLE XIV. ADMINISTRATION OF PLAN

14.01. Compliance with Code Section 401(a). At all times, the Plan shall be administered in accordance and construed to be consistent with Section 401(a) of the Code and its accompanying regulations. The Plan is a money purchase plan, whereby contributions are determined pursuant to Article III of the Plan.

14.02. Administrator Duties and Powers. The Administrator shall have the authority to control and manage the operation and administration of the Plan and shall be a named fiduciary of the Plan. The Administrator is authorized to accept service of legal process.

(a) The Administrator shall have such power and authority (including discretion with respect to the exercise of that power and authority) as may be necessary, advisable, desirable or convenient to enable the Administrator to carry out its duties under the Plan. By way of illustration and not limitation, the Administrator is empowered and authorized:

- (1) to establish procedures with respect to administration of the Plan, not inconsistent with the Plan and the Code, and to amend or rescind such procedures;
- (2) to determine, consistent with the Plan, applicable law, rules or regulations, all questions of law or fact that may arise as to the eligibility for participation in the Plan and eligibility for distribution of benefits from the Plan, and the status of any person claiming benefits under the Plan, including without limitation, Participants, former Participants, Beneficiaries, Employees and former Employees;
- (3) pursuant to Article X of the Plan, to make payments from the Trust Fund to Participants, their Beneficiaries and other persons as the Administrator may determine;
- (4) to contract with a Service Manager to perform enrollment and administrative services under this Plan;
- (5) subject to and consistent with the Code, to construe and interpret the Plan as to administrative issues and to correct any defect, supply any omission or reconcile any inconsistency in the Plan with respect to same.

(b) Any action by the Administrator, which is not found to be an abuse of discretion, shall be final, conclusive and binding on all individuals affected thereby. The Administrator may take any such action in such manner and to such extent as the Administrator in its sole discretion may deem expedient and the Administrator shall be the sole and final judge of such expediency.

14.03. Advice. The Administrator may employ one (1) or more persons to render advice with regard to its responsibilities under the Plan.

14.04. Delegation by Administrator. In addition to the powers stated in Section 14.02, the Administrator may delegate to an individual, committee or organization certain of its fiduciary or other responsibilities under the Plan. Any such individual, committee or organization shall remain a fiduciary until such delegation is revoked by the Administrator, which revocation may be without cause and without advance notice. Such individual, committee or organization shall have such power and authority with respect to such delegated fiduciary or other responsibilities as the Administrator has under the Plan.

14.05. Fiduciary Insurance. The Board may require the purchase of fiduciary liability insurance for any of such fiduciaries to cover liability or losses occurring by reason of the act or omission of a fiduciary.

14.06. Payment of Benefits. The Administrator, if in doubt concerning the correctness of its action in making a payment of a benefit, may suspend payment until satisfied as to the correctness of the payment or the person to receive the payment, or may file, in any state court of competent jurisdiction, a suit, in such form as it considers appropriate, for legal determination of the benefits to be paid and the persons to receive them. The Administrator may also bring a suit or take such other action as it deems appropriate in the case of questions involving investment directions. The Administrator shall comply with the final order of the court in any such suit, and Participants, Beneficiaries, Employer and Board shall be bound thereby insofar as such order affects the benefits payable under this Plan or the method or manner of payment.

14.07. Limitation on Recovery. The Participants and Beneficiaries may not seek recovery against the Board or Administrator, or any employee, contractor or agent of the Board or Administrator, for any loss sustained by any Participant or Beneficiary due to the nonperformance of his duties, negligence or any other misconduct of the above-named persons. Participants and Beneficiaries may not seek recovery against the Employer, or any employee, contractor or agent of the Employer, for any loss sustained by any Participant or Beneficiary due to the nonperformance of his duties, negligence or any other misconduct of the above-named persons. This paragraph shall not, however, excuse fraud or a wrongful taking by any person.

ARTICLE XV. CLAIMS PROCEDURE

15.01. Claims Procedure. Any person who believes that he is entitled to any benefit under the Plan shall present such claim in writing to the Service Manager.

(a) The Service Manager shall within ninety (90) days provide adequate notice in writing to any claimant as to the decision of any such claim. Such notice shall be written in a manner calculated to be understood by the Participant. If such claim has been denied, in whole or in part, such notice shall set forth:

- (1) the specific reasons for such denial,
- (2) specific reference to any pertinent provisions of the Plan on which denial is based,
- (3) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary, and
- (4) an explanation of the review procedure for the Plan.

(b) The claimant or a duly authorized representative may review any Plan document which is pertinent to the claim and may submit issues and comments to the Service Manager in writing.

15.02. Appeals Procedure.

(a) Within sixty (60) days after receipt by the claimant of notification of denial, the claimant shall have the right to present a written appeal, including any additional material to the

Administrator. If such appeal is not filed within said sixty (60) day period, the decision of the Administrator shall be final and binding.

(b) The Administrator, in its discretion, may make a decision on appeal without a hearing, in which case a decision by the Administrator shall be made no later than sixty (60) days after its receipt of the appeal. However, if the Administrator decides a hearing at which the claimant or a duly authorized representative may be present is necessary and such a hearing is held, such decision shall be rendered as soon as possible, but not later than one hundred twenty (120) days after its receipt of the appeal. Any such decision of the Administrator shall be in writing and shall provide adequate notice to the claimant setting forth the specific reasons for any denial and written in a manner calculated to be understood by a Participant. Any such decision by the Administrator shall be final.

15.03. Report to Board Concerning Claims and Appeals. The Administrator shall annually present a report to the Board concerning any such claim or appeal.

ARTICLE XVI. AMENDMENT OF THE PLAN

16.01. Amendment of the Plan and the Adoption Agreement.

(a) Subject to the provisions of any applicable law, the Board may at any time amend or modify this Plan without the consent of the Participants (or any Beneficiaries thereof). Any modification, alteration, or amendment of the Plan, made in accordance with this Section, may be made retroactively if deemed necessary or appropriate by the Board, and shall be made in accordance with any requirements established by the Internal Revenue Service applicable to volume submitter plans.

(b) If the Plan is amended or modified, the Administrator shall nonetheless be responsible for the supervision and the payment of benefits resulting from amounts contributed prior to the amendment or modifications in accordance with this Article.

16.02. Amendment for Qualification of Plan. It is the intent of the Board that the Plan shall be and remain qualified for tax purposes under the Code. The Board or its designee shall promptly submit the Plan to the Internal Revenue Service for approval under the Code and all expenses incident thereto shall be borne by the Employer. The Board may make any modifications, alterations, or amendments to the Plan necessary to obtain and retain approval of the Secretary of the Treasury or his delegate as may be necessary to establish and maintain the status of the Plan as qualified under the provisions of the Code or other federal legislation, as now in effect or hereafter enacted, and the regulations issued thereunder. Any modification, alteration, or amendment of the Plan, made in accordance with this Section, may be made retroactively, if necessary or appropriate. A certified copy of the resolution of the Board making such amendment shall be effective as of the date set forth in such resolution, and the Employees, Participants, Beneficiaries, and all others having any interest under the Plan shall be bound thereby.

16.03. Effective Date of Amendments. All amendments shall become effective on the first day of the month following the giving of not less than forty five (45) days prior notice of the amendment to Participants. However, this forty-five (45) day notice requirement shall be

applicable only if the amendment limits or otherwise restricts the distribution rights of the Participants. If the amendment was made by the Board, notice shall be deemed given when the amendment is posted in the office of the Administrator. No amendments shall deprive any Participant of any of the benefits to which the Participant is entitled under this Plan with respect to amounts credited prior to the effective date of the amendment.

ARTICLE XVII. TERMINATION

This Plan may be completely terminated at any time pursuant to the resolution of the Board or in accordance with a change in State law. In such an event, the Administrator shall be responsible for directing distribution of all assets of the Trust Fund to Participants, Beneficiaries or to a successor plan.

ARTICLE XVIII. NONASSIGNABILITY

18.01. Nonassignment. Subject to the provisions of Article XI, no Participant, Beneficiary or designee may commute, sell, assign, transfer or otherwise convey the right to receive any payment under the Plan, provided that such payment and right thereto is expressly declared to be nonassignable and nontransferable.

18.02. Rights. Subject to the provisions of Article XI, the rights of Participants and Beneficiaries under this Plan shall not be subject to the rights of their creditors, and shall be exempt from execution, attachment, prior assignment or any other judicial relief or order for the benefit of creditors or other third person, except to the extent a benefit distributable under Article X is subject to a federal tax levy.

ARTICLE XIX. MISCELLANEOUS

19.01. Federal Taxes. The Board does not guarantee that any particular Federal or State income, payroll or other tax consequence will occur because of participation in this Plan.

19.02. Contract. This Plan, including any properly adopted amendments thereof, shall constitute the total agreement or contract between the Employer and any Participant regarding the Plan. No oral statement regarding the Plan may be relied upon by any Participant or other person.

19.03. Conflicts. In resolving any conflict between provisions of the Plan and in resolving any other uncertainty as to the meaning or intention of any provision of the Plan, the interpretation that (i) causes the Plan to constitute a qualified governmental plan under the provisions of Code Sections 401 and 414(d) and the Trust to be exempt from tax under Code Section 501, (ii) causes the Plan to comply with all applicable requirements of the Code and (iii) causes the Plan to comply with all applicable Maryland statutes and rules, shall prevail over any different interpretation.

19.04. Limitation on Rights. Neither the establishment or maintenance of the Plan, nor any amendment thereof 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 a right or claim against the Trust, Board or Administrator, except to the extent that such right or claim shall be specifically expressed and provided in the Plan;

(b) as creating any responsibility or liability of the Employer for the validity or effect of the Plan;

(c) as being consideration for, or an inducement or condition of, employment of any Participant or other person, or as affecting or restricting in any manner or to any extent whatsoever the rights or obligations of the Employer or any Participant or other person to continue or terminate the employment relationship at any time.

19.05. USERRA Compliance. Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Code Section 414(u), and as required by the Uniformed Services Employment and Reemployment Rights Act ("USERRA").

19.06. Erroneous Payments. If the Administrator makes any payment that according to the terms of the Plan and the benefits provided hereunder should not have been made, the Administrator may recover that incorrect payment, by whatever means necessary, whether or not it was made due to the error of the Administrator, 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 Administrator may deduct it when making any future payments directly to that Participant.

19.07. 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 may condition payment thereof on the delivery by the Participant of the duly executed receipt and release in such form as may be determined by the Administrator.

19.08. Liability. The Administrator shall not incur any liability in acting upon any notice, request, signed letter, telegram or other paper or document or electronic transmission believed by the Administrator to be genuine or to be executed or sent by an authorized person.

19.09. Governing Laws. The law of the State of Maryland shall apply in determining the construction and validity of this Plan.

19.10. Necessary Parties to Disputes. Necessary parties to any accounting, litigation or other proceedings relating to the Plan shall include only the Board. However, the Service Manager is a necessary party for those duties that have been delegated to the Service Manager. The settlement or judgment in any such case in which the Board 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.

19.11. Severability. If any provision of the Plan shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of the Plan shall continue to be fully effective.

19.12. Supersession. The terms of the Plan shall supersede any previous agreement between the parties pertaining to the Plan.

19.13. Counterparts. This Plan may be executed in one (1) or more counterparts, each of which shall constitute an original.

19.14. General Provision. Administrator may adopt procedures for persons to act on behalf of incompetent Participants and Beneficiaries.

IN WITNESS WHEREOF the undersigned have executed this Plan as authorized by the Board on the dates indicated:

CHANCELLOR OF UNIVERSITY SYSTEM OF MARYLAND

William E. Kirwan

Date

ADMINISTRATOR

James E. Sansbury
Associate Vice Chancellor for
Financial Affairs and Human Relations
(Acting USM Director of Human Resources)

Date

**ADDENDUM ONE TO THE UNIVERSITY SYSTEM OF MARYLAND
SUPPLEMENTAL 401(a) MATCHING PLAN AND TRUST
(MASTER PLAN DOCUMENT)**

For Plan Years beginning on or after January 1, 2002, please refer to this Addendum One to the University System of Maryland Supplemental 401(a) Matching Plan and Trust to reflect certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"). This Addendum One is intended as good faith compliance with the requirements of EGTRRA and is to be construed in accordance with EGTRRA and guidance issued thereunder. This Addendum One shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Addendum One.

1. **Section 5.05. Limitation under Code Section 415.** Notwithstanding anything in the Plan to the contrary, the following limitations shall apply:

(a) For Plan Years prior to 2002, to the extent required under Code Section 415(c), in no event shall the "annual addition," as defined in this Section for a Participant for any Plan Year, exceed the lesser of:

- (1) Thirty Thousand Dollars (\$30,000), as adjusted for inflation, or
- (2) Twenty-five percent (25%) of the "compensation," as defined in this Section, of such Participant received during the Plan Year.

(b) Effective for Plan Years beginning on or after January 1, 2002, to the extent required under Code Section 415(c), in no event shall the "annual addition," as defined in this Section for a Participant for any Plan Year, exceed the lesser of:

- (1) Forty Thousand Dollars (\$40,000), as adjusted under Code Section 415(d), or
- (2) One hundred percent (100%) of the "compensation," as defined in this Section, of such Participant received during the Plan Year.

(c) The Plan shall be administered so as to comply with the limitations of Code Section 415.

(d) For purposes of this Section and subject to Code Section 415(h), all defined contribution plans of the Employer and all affiliated employers are to be treated as a single defined contribution plan.

(e) If the annual addition for a Participant under the Plan, determined without regard to the limitation of paragraph (a) or (b), as applicable, would have been greater than the annual addition for such Participant as limited by paragraph (a) or (b), as applicable, then the excess, if due to a reasonable error in estimating compensation or such other circumstances as found by the Secretary of the Treasury to justify application of this paragraph, shall be reduced, to the extent

necessary to satisfy such limitation by holding the excess unallocated in a suspense account and using it to reduce Employer Contributions in subsequent Plan Years.

(f) For purposes of this Section, "annual addition" means the annual addition as defined in Code Section 415(c) and as modified in 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 the limitation year under this Plan and any other defined contribution plan maintained by an Employer:

- (1) Employer contributions;
- (2) Employee contributions; and
- (3) Forfeitures.

(g) For purposes of this Section, "compensation" means compensation as defined in Code Section 415(c)(3). In general, Code Section 415(c)(3) defines compensation as all of a Participant's wages as defined in Code Section 3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)); provided, however, compensation shall also include the amount of any elective deferrals, as defined in Code Section 402(g)(3), and any amount contributed or deferred by the Employer at the election of the Employee and which is not includible in the gross income of the Employee by reason of Code Section 125, 132(f)(4) (effective January 1, 2001), or 457. Compensation shall not include picked-up contributions under Code Section 414(h)(2).

2. **Section 5.03. Limitation under Code Section 401(a)(17).** For Plan Years prior to 2002, the annual compensation of each Participant taken into account in determining the limits under this Section for any Plan Year shall not exceed \$150,000, as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. For any Plan Year beginning after December 31, 2001, the annual compensation of each Participant taken into account in determining the limits under this Section for any Plan Year shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. Annual compensation means compensation received during the Plan Year (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

3. **Section 10.01. Vesting Standards.** A Participant shall be one hundred percent (100%) Vested in the Participant's Account at all times.

4. **Section 13.02. Definitions.** The following definitions shall apply to this Section:

(a) An "Eligible Rollover Distribution" is any distribution under Article XI of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's

designated beneficiary, or for a specified period of ten (10) years or more; (ii) any distribution to the extent such distribution is required under Code Section 401(a)(9); (iii) the portion of any distribution that is not includible in gross income; or (iv) effective January 1, 2002, any distribution which is made upon the hardship of the Distributee.

(b) An "Eligible Retirement Plan" is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), or a qualified trust described in Code Section 401(a), that accepts the Distributee's Eligible Rollover Distribution; provided, however, in the case of an Eligible Rollover Distribution to a surviving spouse, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity. Effective January 1, 2002, an Eligible Retirement Plan shall also include a tax-sheltered annuity or account under Code Section 403(b) and an eligible deferred compensation plan described in Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state which agrees to separately account for amounts transferred into such plan from this Plan that accepts the Distributee's Eligible Rollover Distribution and, in the case of an Eligible Rollover Distribution to a surviving spouse, an Eligible Retirement Plan shall have the same meaning as for a Participant.

(c) A "Distributee" includes an employee or former employee, as well as, the employee's or former employee's surviving spouse.

(d) A "Direct Rollover" is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

IN WITNESS WHEREOF the undersigned have executed this Plan as authorized by the Board on the dates indicated:

CHANCELLOR OF UNIVERSITY SYSTEM OF MARYLAND

William E. Kirwan

Date

ADMINISTRATOR

James E. Sansbury
Associate Vice Chancellor for
Financial Affairs and Human Relations
(Acting USM Director of Human Resources)

Date