

COLORADO MESA UNIVERSITY

**401(a) DEFINED CONTRIBUTION PLAN
RESTATED
PLAN DOCUMENT**

ADOPTED: March 14, 2019

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ARTICLE I
NAME AND PURPOSE OF PLAN

This Plan was established by the Trustees of the Colorado Mesa University (the “Employer”) on March 14, 2019, for the exclusive benefit of the Employer’s Eligible Employees at Colorado Mesa University who qualify as Participants and their Beneficiaries. This restated plan shall amend and restate the Plan and be known as the Colorado Mesa University 401(a) Defined Contribution Plan, and may be referred to as the “DCP” or the “Plan.” The Plan is intended to qualify as an optional retirement plan under Article 54.5 of Title 24 of the Colorado Revised Statutes, and as a qualified retirement plan under Section 401(a) of the Internal Revenue Code of 1986, as amended (the “Code”), and is intended to be exempt from income taxation under Section 501(a) of the Code, and all provisions of this Plan shall be construed in accordance with these intentions. This Plan is a “governmental plan” as that term is defined in Code Section 414(d).

ARTICLE II
DEFINITIONS

When used herein, the following words shall have the following meanings, unless the context clearly indicates otherwise:

Section 2.1 “Administrator” -- means the person, persons or entity designated by the Employer to act as Administrator.

Section 2.2 “Anniversary Date” -- means the last day of the Plan Year.

Section 2.3 “Association” -- means the Colorado Public Employee’s Retirement Association established pursuant to Section 24-51-201 of the Colorado Revised Statutes.

Section 2.4 “Beneficiary” -- means the person, trustee, corporation, partnership or entity who becomes entitled to receive a Participant’s interest upon his or her death.

Section 2.5 “Code” -- means the Internal Revenue Code of 1986, as it may be amended, or reenacted or replaced. Any reference to a specific section of the Code shall mean the section in effect at the date of adoption of this Plan, or any successor section.

Section 2.6 “Disability” -- means a permanent mental or physical incapacity which prevents performance of regularly assigned employment duties or comparable full-time employment.

Section 2.7 “Effective Date” -- of this Plan is March 14, 2019.

Section 2.8 “Employee” -- means any individual employed by Employer, but shall specifically exclude any individual who provides services to the employer in the capacity of an independent contractor.

Section 2.9 “Eligible Employee” -- means any Employee of the Employer who meets the participation criteria set forth in the Employer Handbooks or Policy Manuals of Colorado Mesa University participating in this DCP, (which Employer Handbooks or Policy Manuals, as amended from time to time, are hereby incorporated in this Plan by reference), and who is:

(a) Exempt from the Colorado State personnel system under Section 13(2) of Article XII of the Colorado Constitution as a faculty member of an educational institution or department not reformatory or charitable in character; or

(b) Exempt from the Colorado State personnel system pursuant to the provisions of Section 24-50-135 of the Colorado Revised Statutes.

Notwithstanding the foregoing, a “per-credit-per-term” employee shall not be an Eligible Employee for purposes of this Plan. However, in the event the “per-credit-per-term” employee was an eligible employee enrolled in the DCP plan prior to accepting the per-credit-per-term assignment, the employee will remain an eligible employee.

Section 2.10 “Employer” -- means Colorado Mesa University. The Employer has the powers and duties of an Employer described in this Plan. The Employer’s powers include the power to amend the Plan as described in Section 11.4, the power to appoint the administrator, the power to select fund sponsors and investment funds, the power to terminate the Plan as described in Sections 11.1 and 11.3 and the power to merge, consolidate, or transfer assets of this plan to another Plan as described in Section 11.2. Until the Employer chooses otherwise, the Employer’s Plan Administrator is the Employer’s Vice President for Administration and Finance and the fund sponsors and investment funds are those in effect for the Plan on March 14, 2019.

Section 2.11 “Fund Sponsor” -- means an insurance, variable annuity or investment company that provides Investment Funds for the investment of funds held in the Plan and which has agreed to accept the duties, responsibilities and liabilities imposed on a Fund Sponsor under the contracts between or among the Fund Sponsor, the Employer, the DCP or the Participants.

Section 2.12 “Investment Fund” -- means the contract, security or other form of investment offered by a Fund Sponsor to Participants for the investment of funds held in a Participant’s accounts.

Section 2.13 “Normal Retirement Age” -- means the date a Participant attains age 55.

Section 2.14 “Participant” -- means an Eligible Employee or former Eligible Employee who has completed the eligibility requirements for participation in this Plan and whose interest in the Plan has not been fully distributed. Notwithstanding any other provision of this plan, an Eligible Employee who has become a Participant in this Plan shall continue as a Participant in this Plan for all purposes until he or she is no longer eligible to receive the payment of any further benefits from the Plan, or, if earlier and if applicable, until he or she elects to enroll into PERA pursuant to Section 3.1(d)(2) below.

Section 2.15 “Spouse” -- means the person to whom a Participant has been lawfully married, as determined under the Code and according to the law of the state in which the marriage took place (and regardless of the law of the state in which the Participant is domiciled) as of the earlier of the date benefit payments to a Participant commence under this Plan or the Participant’s date of death.

Section 2.16 “Year”, “Plan Year”, and “Limitation Year” -- mean the twelve (12) consecutive month period which shall be the fiscal year of the Plan which ends on December 31st of each year.

ARTICLE III PARTICIPATION OF EMPLOYEES

Section 3.1 Eligible Employees Appointed After Effective Date.

(a) **Eligible Employees Who Are Not Members of the Association.** Each Eligible Employee who is not a member or inactive member of the Association, and who is initially appointed to a position as an Eligible Employee with Employer on or after the Effective Date shall immediately become a Participant in this Plan.

(b) **Members of Association with Less Than One Year of Service Credit.** Any Eligible Employee who is a member or inactive member of the Association with less than one year of service credit and who is initially appointed to a position as an Eligible Employee with Employer on or after the Effective Date, shall immediately participate in this Plan pursuant to the provisions of Article 54.5 of Title 24 of the Colorado Revised Statutes. Within 90 days after the appointment, the Association shall pay to the Plan on behalf of the Eligible Employee an amount equal to the Eligible Employee’s member contributions, if any, plus interest on the contributions from the date of contribution to the date of payment at the rate specified in Section 24-51-101(28)(c) of the Colorado Revised Statutes.

(c) **Members of the Association with at Least One Year of Service Credit.** Any Eligible Employee who is member or an inactive member of the Association with at least one year of service credit and who is initially appointed to a position as an Eligible Employee with Employer on or after the effective date of this Plan, shall elect within 30 days after the appointment, either:

(1) to join the Association in accordance with the provisions of the laws applicable thereto; or

(2) to participate in this Plan pursuant to the terms of this Plan and the provisions of Article 54.5 of Title 24 of the Colorado Revised Statutes.

Any Eligible Employee who elects to participate in this Plan pursuant to the provisions of this subsection (c) of this Section 3.1, shall specify at the time of election one of the following options:

(i) to terminate future Association contributions beginning on the date of the election while maintaining rights as provided by the laws applicable to the Association relative to any contributions or benefits accrued prior to the election; or

(ii) to terminate membership in the Association and to require payment by the Association of all employee contributions and any accrued interest on the contributions. The election shall constitute a waiver of all rights and benefits provided by the Association except as otherwise provided by the provisions of Article 54.5 of Title 24 of the Colorado Revised Statutes. Within 90 days after receipt of notice of an election to terminate membership pursuant to the provisions of this subsection (ii), the Association shall pay to the Plan on behalf of the Eligible Employee an amount equal to the Eligible Employee's member contributions plus accrued interest on the contributions at the rate specified in Section 24-51-101(28)(c) of the Colorado Revised Statutes.

(d) If an employee enrolls in the DCP and subsequently hired into a per-credit-per-term assignment, the employee will:

(1) remain in the DCP plan if the employee had a prior valid election, meaning at the time of their initial enrollment into the DCP, the employee was a Member or inactive Member of the Association with at Least One Year of Services Credit and made an irrevocable election to enroll in the DCP.

(2) if the employee was defaulted into the DCP and was subsequently hired into a per-credit-per-term position, the employee may be given the option of enrolling into PERA or the DCP if at the time of the new assignment the employee was a Member or inactive Member of the Association with at Least One Year of Services Credit.

(3) if the employee was defaulted into the DCP and was subsequently hired into a per-credit-per-term position, the employee will remain in the DCP if at the time of the new assignment the employee was not a Member or inactive Member of the Association with at Least One Year of Services Credit.

Section 3.2 Election to Participate in This Plan.

An election by an Eligible Employee to participate in this Plan pursuant to the provisions of this Article III shall be in writing and shall be filed with Employer in the manner in which Employer shall prescribe, and, if required, the election shall also be filed with the Association. An election by an Eligible Employee to participate in this Plan shall be irrevocable and shall be accompanied by an appropriate application which may be required by Employer. At the time of filing the election, an Eligible Employee shall also select a Fund Sponsor or Fund Sponsors and an Investment Fund or Investment Funds to receive, manage, invest and reinvest all transfers, rollovers and contributions of funds made to the Plan, all subject to such rules and requirements as the Administrator and the Fund Sponsors may impose. An Eligible Employee after becoming a Participant shall be entitled to select from time to time a new or different Fund Sponsor or Fund Sponsors and a new or different Investment Fund or Investment Funds and to transfer funds

between Fund Sponsors and Investment Funds, as authorized by the particular Fund Sponsor, and subject to such limitations as the Administrator and the Fund Sponsor may impose. The election under this Section 3.2 or Section 3.3 shall not be deemed to be a cash or deferred arrangement under Code Section 401(k).

Section 3.3 Election to Join the Association.

An election to join the Association pursuant to the provisions of subsection (b) of Section 3.1 of this Article III shall be in writing, and shall be made in the manner prescribed by the Association and filed with the Association within 30 days after the election.

**ARTICLE IV
CONTRIBUTIONS**

Section 4.1 Pension Contributions.

The Employer shall pay to the Plan for each Plan Year as an employer contribution for the benefit of a Participant an amount equal to 11.4% of the Compensation earned by the Participant. For compensation earned by a PERA retiree (as defined in Article 51 of Title 24 of the Colorado Revised Statutes) who is hired or rehired by the Employer, the Employer contribution under this section 4.1 shall be reduced by any amount the Employer is required to contribute to the Association with respect to the Participant. In addition to the employer contribution, the Employer shall pay to the Plan for each Plan Year as an employee contribution for the benefit of a Participant an amount equal to 8.0% of the Compensation earned by the Participant. Each contribution paid to the Plan pursuant to this Section 4.1 shall be referred to as an Employer Contribution. In no event shall the contributions for any Participant exceed the limitation on allocations set forth in Article VI below.

Section 4.2 Time and Method of Payment of Contribution by the Employer.

The Employer shall determine all Employer Contributions required under Section 4.1 based on the semi-monthly Compensation paid to each Participant. The Employer shall make payment of all Employer Contributions on the fifteenth (15th) and last business day of the calendar month in which the Compensation is paid by the Employer to the Participant. All contributions shall be made in cash. All contributions shall be paid to the Fund Sponsor or Fund Sponsors selected by the Participant for the investment in Investment Funds, and the contributions shall thereupon become a part of the Plan.

Section 4.3 Employee Contribution "Picked Up".

Notwithstanding any other provision of this Plan, any amount paid by the Employer into the Plan as an employee contribution pursuant to Section 4.1, shall be deemed "picked up" by the Employer and shall be treated as an "employer contribution" as provided in Code Section 414(h)(2) for federal income tax purposes as to a Participant, but shall be treated as a contribution made by the Participant for all other purposes. No amount contributed to the Plan under this Article IV will be deemed to be a cash or deferred arrangement under Code Section 401(k).

Section 4.4 Definition of Compensation.

Notwithstanding any other provision of this Plan, and solely for purposes of determining the amount of the contributions made to this Plan under this Article IV the term “Compensation” shall mean compensation for services rendered to Employer, including regular salary or pay; any pay for administrative, sabbatical, annual, sick, vacation or personal leave, and compensation for unused annual leave converted to cash payments; pay for compensatory time or holidays; payments by Employer from grants; amounts deducted from pay pursuant to tax-sheltered savings or retirement programs; amounts deducted from pay for a health savings account as defined in code section 223, as amended, or any other type of retirement health savings account program; performance or merit payments; special pay for work-related injuries paid by Employer prior to termination of participation in this Plan; and retroactive salary payments pursuant to court orders, arbitration awards or litigation and grievance settlements; provided that the term “Compensation” shall not include amounts excluded from gross income under a cafeteria plan defined in code section 125, commissions, compensation for unused sick leave converted at any time to cash payments, housing allowances, uniform allowances, automobile usages, taxable income imputed for leased vehicles or campus housing provided to employees, insurance premiums, dependent care assistance, reimbursement for expenses incurred, tuition or any other fringe benefits, regardless of federal taxation, bonuses for services not actually rendered, including but not limited to early retirement inducements, Christmas bonuses, cash awards, honorariums and severance pay, damages, except for retroactive salary payments paid pursuant to court orders or arbitration awards or litigation and grievance settlements, or payments beyond the date of a Participant’s death; and provided “Compensation” shall not exceed the amount that maybe taken into account under Code Section 401(a)(17). For purposes of this section 4.4, Compensation shall not include elective amounts that are not includible in the gross income of the Participant by reason of Code Section 132(f)(4).

ARTICLE V
DETERMINATION AND VESTING OF PARTICIPANTS’ INTERESTS

Section 5.1 Allocation of Employer Contributions to Pension Plan.

The Employer Contributions made to the Plan pursuant to Section 4.1 shall be allocated to the Contributions Account of each Participant eligible to share in the Employer Contribution. Each Participant’s Contributions Account shall be credited with the amount so allocated. All allocations shall be subject to the limitations set forth in Article VI below.

Section 5.2 Allocation of Earnings, Losses and Changes in Fair Market Value of the Net Assets of the Plan.

Unless specifically authorized by the Administrator, all funds held in a Participant’s accounts, including funds credited to a Contributions Account and a Rollover Account, shall be held by a Fund Sponsor and invested in a separate account for the Participant in an Investment Fund. All funds invested in a Participant’s account in an Investment Fund shall alone share in the income, gains or losses of such account in the Investment Fund, and shall alone bear the expenses resulting from the maintenance of, or allocated to, such account, without regard to the investment of any other funds held by a Fund Sponsor.

Section 5.3 Participant Accounts.

The Administrator, through directives to the Fund Sponsors, shall maintain the accounts provided for in this Section. The accounts shall be maintained for accounting purposes only.

(a) Contributions Account. A separate account shall be maintained for each Participant, to which shall be credited all Employer Contributions and earnings thereon, and the account shall be known as the Contributions Account.

(b) Rollover Account. A separate account shall be maintained for each Participant, to which shall be credited any amount transferred to this Plan from another qualified plan, individual retirement annuity or individual retirement account at the election of the Participant, and the account shall be known as the Rollover Account.

Section 5.4 Valuation of Accounts.

(a) Regular Valuation. The Fund Sponsors shall from time to time, but not less frequently than annually, value the assets held in each Participant's accounts, and determine a Valuation Date for use by the Plan. The regular valuation date shall be the Anniversary Date. The Administrator shall determine on each regular valuation date, the value of the assets of the Plan, at fair market value thereof less all liabilities, as known to the Plan, and the value of contributions to the Plan for the period ending on the Valuation Date.

(b) Special Valuation. If an event occurs between regular valuation dates requiring the distribution of any part of a Participant's interest in the Plan, or if the Administrator segregates a Participant's account pending distribution, the Administrator shall determine the value of the Participant's interest as of the last regular valuation date. Notwithstanding the foregoing, if a Participant has an account invested in an Investment Fund, otherwise segregated or pending distribution, the value of the Participant's interest held in the account shall be the fair market value of the assets in the account.

Section 5.5 Vesting of Participant Accounts.

A Participant's interest in all amounts allocated to or held in the Participant's accounts, including the Participant's Contributions Account and Rollover Account, and all contributions from whatever source, and the earnings, losses and changes in fair market value thereon, shall be fully vested and non-forfeitable at all times. In no event shall a Participant ever suffer a forfeiture of any part of his or her interest in this Plan.

Section 5.6 Directed Investment of Participant Accounts.

Participants shall direct the investment of their accounts into one or more Investment Funds maintained by the Fund Sponsor, as authorized by the Fund Sponsor, and subject to any rules, regulations and limitations imposed by the Fund Sponsor. A Participant shall be entitled to select from time to time a new or different Investment Fund or Investment Funds, and to transfer funds between Investment Funds, as authorized by the Fund Sponsor, and subject to such limitations as the Fund Sponsor may impose. All expenses resulting from the investments made in an Investment Fund and the expenses relating to the maintenance of an account in the Investment Fund shall be

borne by the individual Participant's accounts. Neither the Employer nor the Administrator shall have any liability for any losses or breaches of any fiduciary duty which may result from any investment made at the direction of a Participant.

ARTICLE VI LIMITATIONS ON ALLOCATIONS AND CONTRIBUTIONS

Section 6.1 General Rule.

(a) Limitation. In no event may a Participant receive an allocation for any Limitation Year which, when combined with his or her allocation under any other defined contribution plan maintained by the Employer, exceeds the lesser of one hundred percent (100%) of his or her Compensation for the year or \$56,000, or any greater amount which may be in effect for the Plan Year under Code Section 415(c)(1). If a short Limitation Year is created as a result of a change in the Limitation Year, the dollar limitation for the short Limitation Year shall be the dollar limitation set forth in this subsection multiplied by a fraction, the numerator of which is the number of months in the short year and the denominator of which is twelve (12). For purposes of this subsection 6.1(a), Compensation shall include elective amounts that are not includible in the gross income of the Participant by reason of Code Section 132(f)(4).

(b) Allocations. For the purpose of applying the limitations of this Article VI, the allocation to the Participant shall include the following amounts allocated to the account of a Participant for a Limitation Year: (i) Employer contributions and (ii) contributions made by the Participant.

(c) Excluded Amounts. Any amount not set forth in subsection (b) shall not be considered an allocation, except as otherwise provided in Section 6.3. The amounts not considered as allocations include deductible participant contributions, rollover contributions and transfers from other qualified plans allocated to the account of a Participant.

Section 6.2 Definitions; Transition and Other Special Rules.

(a) This Plan incorporates by reference the final Treasury Regulations under Code section 415. If a Participant's annual addition under this Plan and all other plans that must be aggregated with this Plan in accordance with the final Treasury Regulations under Code section 415 exceed the limit under such Regulations for a limitation year, the excess shall be attributed to this Plan.

ARTICLE VII DISTRIBUTIONS FROM THE PLAN

The Employer has delegated all matters pertaining to distributions from the Plan to the Fund Sponsor. In particular, the Fund Sponsor shall provide all required information and notices, comply with the annuity distribution rules and otherwise take any and all steps that may be necessary or appropriate in making distributions to Participants and their Beneficiaries under this Article VII. The Fund Sponsor and the Participants and their Beneficiaries shall be jointly responsible for compliance with the distribution provisions and other requirements of this Article VII, and neither the Employer nor the Administrator shall have any such responsibility.

Section 7.1 When Interests Become Distributable.

The interest of a Participant shall become distributable as provided in this Article VII as soon as feasible following the date the Participant dies, suffers a disability, terminates his or her employment at any time for any reason, or retires. Distribution shall not be permitted prior to the occurrence of one of the foregoing events other than to comply with the distribution commencement date requirements of Section 7.3, or to comply with a domestic relations order under Section 7.7. For purposes of this Plan, a Participant may retire by terminating his or her employment at any time following attainment of his or her normal retirement age.

Section 7.2 Time of Distributions.

(a) In General. Unless the Participant elects otherwise pursuant to subsection (b) below, the Participant's interest shall be distributable commencing no later than an administratively feasible period following the applicable event described in Section 7.1, provided that the Participant's interest shall be distributable no later than the required distribution commencement date set forth in Section 7.3(a).

(b) Participant Consent. No distribution under this Plan may be made to a Participant prior to the later of the Participant's Normal Retirement Age, or the Participant's sixty-second (62nd) birthday, without the Participant's written consent. A Participant may elect, with the consent of the Fund Sponsor, to have the commencement of the benefit deferred until a date later than the date specified in subsection (a) of this Section 7.2, but in no event shall the commencement of distribution be later than the required distribution commencement date specified in Section 7.3. An election shall be made by submitting to the Fund Sponsor a written request, signed by the Participant, which describes the benefit and the date on which the payment of the benefit shall commence. If the Participant has been married during the one year period ending with the date specified in subsection (a), the Participant's spouse must consent to the election to defer commencement of the Participant's benefit. Notwithstanding the foregoing, the failure of a Participant (and his or her spouse, if applicable) to consent to a distribution of a benefit which is immediately distributable, as determined under subsection (a), shall be deemed to be an election to defer commencement of distributions.

(c) Involuntary Cash Out Distributions. Notwithstanding any other provisions of this Plan, if a Participant terminates employment with the Employer and the value of the Participant's vested Account balance does not exceed \$1,000, the Trustee may distribute the value of the entire vested portion of such Account balance in a single lump sum. If a Participant would have received a distribution under the preceding sentence but for the fact that the Participant's vested Account balance exceeded \$1,000 when the Participant terminated employment and if at a later time such Account balance is reduced such that it is not greater than \$1,000, the Participant will receive a distribution of such Account balance. If the value of a terminated Participant's vested Account balance exceeds \$1,000, but does not exceed \$5,000, the procedures above may be followed provided that distribution is made in a direct rollover to an individual retirement plan.

(d) Automatic Rollover of Involuntary Cash-Out Distributions. An involuntary cash-out distribution in an amount greater than \$1,000 made under Section 7.2(c) to a terminated Participant will be paid in a direct rollover to an individual retirement plan designated by the

Administrator unless the Participant elects to have such distribution paid directly to an eligible retirement plan in a direct rollover or elects to receive the distribution directly.

Section 7.3 Required Distribution Commencement Date.

(a) Required Beginning Date. Distribution of a Participant's interest must begin no later than April 1 of the calendar year following the calendar year in which the latest of the following occurs: (i) the Participant attains the age of seventy and one-half (70 ½), (ii) the Participant retires. The provisions of this section 7.3 shall apply notwithstanding the application of any other provisions of this plan or any Participant election to defer the commencement of distributions.

(b) Minimum Distributions. All distributions from the plan will be made in accordance with the requirements of Code section 401(a)(9), including the incidental death benefit requirements of Code section 401(a)(9)(g), and final treasury regulations sections 1.401(a)(9)-1 through 1.401(a)(9)-9, as applicable to this governmental plan. The preceding sentence overrides any distribution options in the plan that are inconsistent with Code section 401(a)(9).

Section 7.4 Manner of Distribution.

When a Participant's interest becomes distributable, the Participant, or the Participant's Beneficiary after the Participant's death, shall elect the manner of distribution. Subject to Section 7.3 and subject to limitations imposed by a Fund Sponsor, distribution may be made in one or more of the following methods:

(a) Lump Sum Distribution. The Participant's interest may be paid to the Participant, or Beneficiary after the Participant's death, by the distribution of the total balance of the Participant's account in one lump sum.

(b) Installments. The Participant's interest may be paid to the Participant or his or her Beneficiary in substantially equal periodic installments.

(c) Transfer to Other Plans. The Participant's interest may be transferred to another qualified plan or individual retirement account as authorized in Sections 7.9 and 11.1 below.

(d) Partial Distributions. A Participant or his or her Beneficiary may elect to have any portion of the Participant's interest distributed, unless an annuity distribution is provided to the Participant or Beneficiary.

(e) Annuities. The Participant's interest may be distributed in the form of an annuity other than as provided under the terms of this Plan.

(f) Methods Authorized by Fund Sponsors. Subject to section 7.3 and in addition to the other distribution methods authorized by this Section 7.4, the Participant's interest may be distributed in any other manner or under any other method of distribution authorized by the Fund Sponsor for the Investment Fund in which an account of a Participant is invested.

Section 7.5 Distributions After Death.

Distributions after the death of a Participant shall be subject to the following rules:

(a) Determination of Designated Beneficiary

(1) Married Participants. The Beneficiary of a married Participant shall be the Participant's Spouse unless the Participant, with the written consent of the Spouse, has designated another beneficiary pursuant to paragraph (2). The written consent of the Spouse must acknowledge the effect of the beneficiary designation.

(2) Designation of Beneficiaries. Subject to the limitations set forth in paragraph (1) above, a Participant shall have the right to designate a Beneficiary or Beneficiaries and one or more contingent beneficiaries to receive the Participant's interest in the Plan upon the Participant's death, the designation to be made on the form prescribed by and delivered by the Participant to the Fund Sponsor. The Participant shall have the right to change or revoke any designation from time to time. A change can be made at any time before or after the benefit is in pay status by filing a new designation or notice of revocation with the Fund Sponsor. Notwithstanding the foregoing, if any annuity contract has been purchased, the change must be permitted pursuant to the terms of the annuity contract.

(3) Disclaimer by Beneficiary. Any Beneficiary of the Participant may disclaim all or any portion of the interest of that Beneficiary by a written disclaimer filed with the Fund Sponsor. In the event of a disclaimer, the Beneficiary of the disclaimed interest shall be the next contingent Beneficiary and if there is none, the Beneficiary shall be determined under paragraph (4) below.

(4) Determination of Beneficiary When There Is No Designated Beneficiary. If a Participant, who has not been married throughout the one year period ending on the date of the Participant's death, shall have failed to designate a beneficiary, or if all designated beneficiaries or contingent beneficiaries should die, cease to exist or disclaim their interests prior to distribution, the Fund Sponsor shall pay the Participant's interest first to the Participant's surviving spouse, if any, or if none, to his or her descendants per stirpes, if any, and if none, then to the Participant's personal representative. If no personal representative has been appointed, and if the benefit payable does not exceed the minimum amount for which an estate or inheritance tax release is required under applicable state law, or for which a personal representative must be appointed under applicable state law, the Plan Administrator may direct the Trustee to pay the benefit to the person or persons entitled to it under the laws of the state where the Participant was domiciled at the date of his or her death. The Plan Administrator may require proof of right or identity. If the benefit exceeds the minimum amount for which an estate or inheritance tax release or the appointment of a personal representative is required under applicable state law, the Plan Administrator may direct the Trustee to hold the benefit in a segregated suspense account until a personal representative has been appointed.

(5) Insurance Policies. The beneficiary of any insurance contract on a Participant's life shall be determined and designated as provided in Article IX below.

Section 7.6 Domestic Relations Order.

Distributions or withdrawals from the Plan may be made pursuant to a Domestic Relations Order meeting all of the requirements of Section 14-10-113(6) of the Colorado Revised Statutes, provided the form of distribution provided by the order is permitted under the Plan. The distribution may be made prior to the termination of employment of the Participant, even if the Plan does not otherwise permit distributions prior to termination of employment. The alternate payee of the distribution shall be subject to the consent requirements of this Article (other than pursuant to Section 7.6 above). The alternate payee can elect any form of benefit available under the plan, other than a joint and survivor annuity payable to a subsequent spouse of the alternate payee. The Plan Administrator shall establish any reasonable procedures as are necessary to determine whether a Domestic Relations order complies with the statutory requirements and terms of the plan, and to administer distributions under Domestic Relations orders. The Fund Sponsor shall be responsible for making all payments under a Domestic Relations Order.

Section 7.7 Spendthrift Provisions.

All amounts payable hereunder shall be paid only to the Participant or Beneficiary entitled thereto, and all payments shall be paid directly into the hands of the person or persons and not into the hands of any other person, corporation, trustee or entity whatsoever except for transfers to other qualified retirement plans or individual retirement accounts at the written direction of a Participant, and the payments shall not be liable for the debts, contracts or engagements of any person or persons or anyone claiming by or through them, or taken in execution by attachment or garnishment or by any other legal or equitable proceedings (including bankruptcy); nor shall any person or persons have any right to alienate, anticipate, commute, pledge, encumber or assign any payments or the benefits, proceeds or avails thereof, either voluntarily or involuntarily.

This Section shall not apply to the creation, assignment or recognition of a right to any benefit payable with respect to a Participant pursuant to a Domestic Relations Order under Section 7.6 above.

Section 7.8 Direct Rollover Provisions.

(a) This Section applies to all distributions. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section 7.8, a distributee may elect, at the time and in the manner prescribed by the Fund Sponsor, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) Definitions

(1) Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: 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 often years or more; and any distribution to the extent the distribution is required under Code Section 401(a)(9).

(2) Eligible Retirement Plan. An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, 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. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. An eligible retirement plan shall also mean an annuity contract described in Code Section 403(b) and an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. 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 Domestic Relations Order, as defined in Code Section 414(p).

(3) Distributee. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a Domestic Relations Order, as defined in Code Section 414(p), are distributees with regard to the interest of the spouse or former spouse.

(4) Direct Rollover. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

Section 7.9 Distribution to IRA of Non-Spouse Beneficiary.

A Participant's Non-Spouse Beneficiary may elect to have any portion of an eligible plan distribution paid in a direct trustee-to-trustee transfer to an individual retirement account or annuity described in Section 402(c)(8)(B)(i) or (ii) of the code that is established to receive the plan distribution on behalf of the Beneficiary. For purposes of this Section 7.9, a trust maintained for the benefit of one or more designated Beneficiaries may be the Beneficiary to the extent provided in rules prescribed by the Secretary of Treasury. If the Participant dies after the Participant's required beginning date as defined in Section 7.3(a) hereof, the required minimum distribution in the year of death may not be transferred according to this Section 7.9. The requirements of code Section 402(c)(11) apply to distributions under this Section 7.9.

ARTICLE VIII ADMINISTRATION OF PLAN -- PLAN ADMINISTRATOR

Section 8.1 General Duties and Powers of Administrator.

The Administrator shall be charged with the administration of this Plan and shall decide all questions arising in the administration, interpretation and application of the Plan, including all questions relating to eligibility and distributions. The Administrator shall also determine whether or not a Participant has suffered a disability within the meaning of Section 2.6 above. The decisions of the Administrator shall be conclusive and binding on all parties subject to the provisions of Section 8.9 below. The Administrator may from time to time establish reasonable procedures, rules and regulations for the administration of the Plan as it may deem desirable and the procedures, rules and regulations shall be binding on all employees, Participants, former employees and

beneficiaries. All procedures, rules, regulations and reports shall be uniformly and consistently applied to all Participants and Beneficiaries in similar circumstances.

Section 8.2 Standard of Care and Review.

In reviewing the decisions and actions of the Administrator or another Plan fiduciary who is the Employer or an employee, officer or director of the Employer, the arbitrary and capricious standard shall apply except to the extent a higher standard is imposed by law.

Section 8.3 Organization and Operation of Administrator.

The Administrator may appoint agents as it deems necessary to carry out the administration of the Plan. It may delegate to any agent duties and powers, both ministerial and discretionary as it deems appropriate, excepting only that all matters involving interpretation of the Plan and settlement of disputes shall be determined by the Administrator. Any determination of the Administrator, when more than one person is serving as Administrator, may be made by a majority of the persons so serving at a meeting thereof, or without a meeting by a resolution or memorandum signed by a majority of the persons so serving, and shall be final and conclusive on the Employer, all Participants, and beneficiaries claiming any rights hereunder, and as to all third parties dealing with the Administrator.

Section 8.4 Records and Reports of the Administrator.

The Administrator shall keep or cause to be kept all books of account, records and other data as may be necessary or advisable in its judgment for the administration of this Plan, to properly reflect the affairs thereof, to determine the amount of vested and/or forfeitable interests of the respective Participants in the Plan, and the amount of all benefits hereunder. As a part thereof, the Administrator shall maintain or cause to be maintained separate accounts for Participants provided for in Article V hereof. The Administrator shall also prepare and file, or cause to be prepared and filed, all federal and state reports and returns which may be required by law and shall provide to the Participants and their beneficiaries all notices, reports and descriptions that may be required by law or regulation, and any report may be signed by any person serving as Administrator. The Administrator may delegate any of its responsibilities identified herein to any one or more of the Fund Sponsors.

Section 8.5 Compensation and Expenses of Administrator.

Any person serving as Administrator who is an employee of the Employer shall serve without compensation. Any person serving as Administrator who is not an employee of the Employer shall be entitled to reasonable compensation for services actually rendered. The Administrator shall be reimbursed for any necessary expenditures incurred in the discharge of its duties as Administrator. The compensation of any non-employee Administrator, all agents, counsel or other persons retained or employed by the Administrator shall be fixed by the Administrator subject to the approval of the Employer. All expenses, reimbursements and compensation authorized by this Section shall be chargeable to and paid from the Plan, provided that the Employer may pay all or any part of the expenses, reimbursements or compensation in its sole discretion.

Section 8.6 Action by Administrator upon Failure by Employer.

If at any time the Employer fails to carry out in a timely manner any responsibility assigned to it by the Plan, or by law with respect to the Plan, the Administrator in its sole discretion may carry out the responsibility as though it were the Employer (with possession of any powers of the Employer which the Administrator in its sole discretion deems necessary or appropriate to the carrying out of the responsibility), or may apply to a court of competent jurisdiction for appropriate instructions, or may otherwise act or refrain from acting as it deems appropriate in its sole discretion.

Section 8.7 Resignation and Removal of Administrator; Appointment of Successor.

Any person serving as Administrator may resign at any time by giving written notice to the Employer and to any other person who may be serving as Administrator, effective as therein stated, otherwise upon receipt of the notice. Any person serving as Administrator may, at any time, be removed by the Employer without cause. Upon the death, resignation or removal of any person or entity serving as Administrator, the Employer shall appoint a successor Administrator.

Section 8.8 Claims Procedures.

Upon a Participant's termination of service with the Employer for any reason, the Participant's Beneficiary will be advised by the Administrator of the Participant's rights to benefits under the Plan. If at any time the Participant or the Beneficiary believes that the Participant or Beneficiary is entitled to benefits, he or she may make a claim for benefits by writing a letter to the Administrator requesting the benefits and stating why the Participant or Beneficiary feels entitled to benefits.

If the claim for benefits under the Plan of any Participant or Beneficiary has been denied, the Administrator shall provide adequate notice, in writing, to the Participant or Beneficiary within ninety (90) days after the claim is filed. The notice shall set forth the specific reasons for the denial, specific reference to pertinent Plan provisions on which the denial is based, a description of any additional material or information necessary for the claimant to perfect the claims, if any, and an explanation of why the material or information is necessary, and appropriate information as to the steps to be taken if the Participant or Beneficiary wishes to submit the claim for review. If a notice of the denial of a claim is not furnished within ninety (90) days, the claim shall be deemed to be denied and the claimant shall be permitted to submit the claim for review at that time. Each claim submitted for review shall be entitled to a full and fair review by the Administrator (or by a person designated by the Administrator) of all the facts and circumstances and the preliminary decision denying the claim. The participant or beneficiary may submit issues and comments in writing. Any review must be requested within seventy-five (75) days of the original claim denial, and a decision on the claim shall be made not later than sixty (60) days after the Plan's receipt of the request. The decision on review shall be in writing and shall include the specific reasons for the decision, written in a manner calculated to be understood by the claimant as well as specific references to the pertinent Plan provisions on which the decision is based.

Section 8.9 Role of Fund Sponsor.

Notwithstanding any other provision of this Article VIII to the contrary, the Fund Sponsor may be delegated some or all of the duties of the Administrator described in this Article VIII. The Fund Sponsor shall assume those duties and powers of the Administrator which are necessary for the Fund Sponsor to fulfill its duties as set forth in Article X below. Additionally, the Fund Sponsor may be delegated all of the duties and powers otherwise held by the Administrator to the extent needed for the Fund Sponsor to comply with its contractual obligations as described in all contracts between the Fund Sponsor and the Employer and/or the Administrator.

**ARTICLE IX
CUSTODIAL ACCOUNTS**

All the assets of this Plan shall be held by the Fund Sponsors in one or more custodial accounts (including investments in mutual funds), annuity contracts or other contract issued by a Fund Sponsor. Each custodial account or contract shall be treated as a qualified trust under Code Section 401, and the person holding the assets of such account or holding such contract shall be treated as the trustee thereof as provided in Code Section 401(f).

**ARTICLE X
FUND SPONSORS -- DUTIES AND RESPONSIBILITIES**

Section 10.1 General Duties of Fund Sponsor.

The Fund Sponsor shall have the duties and responsibilities delegated to it under the contracts between or among the Fund Sponsor, the Employer, the DCP or the Participants. The Fund Sponsor shall be responsible only for the funds actually received and held by the Fund Sponsor. The Fund Sponsor shall have no duty to collect any funds from the Employer or the Participants.

Section 10.2 Investment Duties of Fund Sponsor.

The Fund Sponsor shall have the duty to hold the funds received from time to time from the Employer and on behalf of the Participants, and shall manage, invest and reinvest the funds and the income therefrom without distinction between principal and income. The Fund Sponsor shall comply with all contractual obligations it might have with the Employer.

Section 10.3 Administrative Duties of Fund Sponsor.

The Fund Sponsor shall be solely responsible for communicating with Participants regarding all matters pertaining to the investment of their accounts in Investment Funds. A Fund Sponsor shall provide directly to Participants or if requested by the employer, for distribution by the employer to participants, all forms, applications, prospectuses, disclosure materials, contracts and other documents which the Fund Sponsor requires for the enrollment and investment of a Participant's account in a particular Investment Fund. The Fund Sponsor also shall be solely responsible for all matters pertaining to the redemption or sale of an interest in an Investment Fund and the transfer of assets between Investment Funds, including providing Participants, or if so

requested by the employer, to the employer for distribution to participants, with all necessary forms or other documents.

Section 10.4 Reporting by Fund Sponsor.

The Fund Sponsor shall at least annually provide each Participant with a statement showing the assets held in an Investment Fund for the Participant, including a statement of all contributions, distributions, income, losses, and expenses and charges properly allocated to the Participant's account in the Investment Fund for the Plan Year. The Fund Sponsor shall provide a copy of each such statement to the Administrator, if requested. The Fund Sponsor shall also provide the Administrator with an annual statement with respect to all Participants investing in an Investment Fund showing the total beginning balance of all accounts as of the first day of the Plan Year, all contributions received and distributions made during the Plan Year, the total of all income, losses, and expenses and charges for the Plan Year, and the total ending balance of all accounts as of the last day of the Plan Year for the Investment Fund. The Fund Sponsor shall provide all statements required by this Section 10.4 within 90 days after the close of the Plan Year.

Section 10.5 Distributions by Fund Sponsor.

The Fund Sponsor shall be responsible for all administrative matters pertaining to distributions from the Plan. In particular, the Fund Sponsor shall provide all required information and notices, comply with the annuity distribution rules and otherwise take any and all steps that may be necessary or appropriate in making distributions to Participants and their Beneficiaries pursuant to the terms of Article VII, including withholding of federal and state income taxes when such withholding is required under the Code, or applicable state law. The Fund Sponsor, and the Participants and their Beneficiaries, shall be jointly responsible for compliance with the distribution provisions and other requirements of Article VII and this Article X, and neither the Employer nor the Administrator shall have any such responsibility. Notwithstanding any other provision of this Plan, the Fund Sponsor shall only have responsibility for assets held in a Participant's account to the extent the Participant's account is invested in an Investment Fund sponsored by the Fund Sponsor.

Section 10.6 Bonding.

No bond or other security shall be required of the Fund Sponsor.

**ARTICLE XI
CONTINUANCE, TERMINATION AND
AMENDMENT OF THE PLAN**

Section 11.1 Continuance of the Plan Not a Contractual Obligation of the Employer.

It is the expectation of the Employer that it will continue this Plan indefinitely, but the continuance of the Plan is not assumed as a contractual obligation by the Employer, and the right is reserved to the Employer to discontinue this Plan at any time. The discontinuance of this Plan by the Employer shall in no event have the effect of returning any part of the assets of the Plan to the Employer.

Section 11.2 Merger, Consolidation, or Transfer of Assets.

The Employer may merge or consolidate this Plan with any other qualified retirement plan and may transfer the assets and liabilities of the Plan to another plan, provided that each Participant in the Plan would (if the Plan then terminated) receive a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit the Participant would have been entitled to receive immediately before the merger, consolidation, or transfer (if the Plan had been terminated).

Section 11.3 Distribution from Plan on Termination of Plan.

If the Plan shall, at any time, be terminated by the terms of this article, the value of the interest of each respective Participant or beneficiary in the Plan shall be vested in its entirety and non-forfeitable as of the date of the termination of the Plan. In event of the termination of the Plan, all distributions shall be subject to the distribution requirements of Article VII. The rules of this Section 11.3 that apply to termination of the Plan shall also apply to Participants affected by a partial termination of the Plan.

Section 11.4 Amendments to Plan.

(a) Amendments by Employer. The Employer may at any time and from time to time amend this Plan.

(b) Limitations. No amendment shall be made at any time by the Employer pursuant to which any assets of the Plan may be diverted to purposes other than for the exclusive benefit of the Participants and their Beneficiaries. All amendments shall be in writing.

(c) Accrued Benefits. No amendment shall decrease a Participant's account balance. Furthermore, no amendment to the Plan shall have the effect of decreasing a Participant's vested interest determined without regard to the amendment as of the later of the date the amendment is adopted or the date it becomes effective.

(d) Amendments by the Administrator. The Administrator is authorized to make any amendments to the Plan, by written resolution that may be required to ensure continued tax qualification of the Plan under Section 401(a) of the Internal Revenue Code, or to ensure the continued compliance of the Plan with any other applicable legal requirement.

If any early retirement benefits or other optional forms of benefit are changed by amendment, the benefits accrued to the date of amendment will not be reduced for any Employee except to the extent otherwise permitted by the Code. If optional benefits subject to Employee election are eliminated by amendment, the forms will be preserved with respect to benefits accrued as of the date of amendment except to the extent otherwise permitted by the Code.

Section 11.5 Return of Contributions if Plan Not Approved by Internal Revenue Service.

If the Commissioner of Internal Revenue, upon the initial application, determines that this Plan is not qualified under the provisions of Code Section 401(a) and the Treasury Regulations thereunder, the Fund Sponsors shall, upon the request of the Employer, return to the Employer all

contributions (and earnings thereon) to the Plan made by the Employer prior to the initial determination of the Commissioner as to qualification, provided the amounts are returned within one (1) year after the date the initial qualification is denied but only if the application for the determination is made no later than the time prescribed by law for filing the Employer's federal income tax return for the taxable year in which the Plan is adopted, or any later date as the Secretary of the Treasury may prescribe.

ARTICLE XII MISCELLANEOUS

Section 12.1 Transfers Between Qualified Plans.

The Administrator is authorized to receive and add to the interest of any Participant his or her vested interest in the assets held under any other qualified employee retirement plan or individual retirement account if the transfer satisfies the requirements under law for transfers between qualified plans or rollover contributions. The assets so received shall be fully vested and shall be held in a separate account and shall be administered and distributed pursuant to the provisions of this Plan concerning Employer contributions. The Administrator is authorized to transfer the Participant's vested interest which has become distributable under Article VII hereof, directly to another qualified plan or an individual retirement account or individual retirement annuity for the benefit of the Participant, provided the transfer satisfies the requirements under law for the transfers. No assets held as after-tax contributions under any other qualified employee retirement plan or individual retirement account shall be accepted as a transfer or rollover contribution to this plan.

Section 12.2 Benefits To Be Provided Solely From the Plan.

All benefits payable under this Plan shall be paid or provided for solely from the Plan, and the Employer assumes no liability or responsibility therefor.

Section 12.3 Notices From Participants To Be Filed With Administrator.

Whenever provision is made herein that a Participant may exercise any option or election or designate any Beneficiary, the action of each Participant shall be evidenced by a written notice thereof signed by the Participant on a form, if any, furnished by the Administrator for that purpose and filed with the Administrator, which shall not be effective until received by the Administrator. Without limiting the scope of the preceding sentence, the participant shall provide the administrator with notice of the exercise of each of the following options or elections: (1) the participant's election to participate in this plan, and (2) the participant's election to receive a distribution of benefits from the plan which requires the administrator's confirmation of an event described in Section 7.1. Notwithstanding any other provision of this plan, the exercise of an option or an election by a participant shall be of no force or effect unless and until the participant provides the administrator with notice of the exercise of the option or election as required by this Section 12.3.

Section 12.4 Agent for Service of Process.

The agent for service of process for the Plan shall be the Administrator unless a different agent shall be designated by the Employer. The agent and the Participant's address shall be set forth in the Summary Plan Description distributed to the Participants.

Section 12.5 Text To Control.

The headings of Articles and Sections are included solely for convenience of reference. If there shall be any conflict between the headings and the text of this Plan, the text shall control.

Section 12.6 Law Governing and Severability.

This Plan shall be construed, regulated and administered under the laws of the jurisdiction of the place of the Plan's administration to the extent the laws are not preempted by federal laws, and rulings and regulations issued thereunder. All contributions received by the Fund Sponsor shall be deemed to have been received in the jurisdiction in which is located the place of the Plan's administration. In the event the Plan's administration is located in more than one jurisdiction, the laws of each place of administration shall govern the portion of the Plan located in a jurisdiction unless the Employer designates the laws of one jurisdiction to govern the entire Plan's administration. In the event any provision of this Plan and shall be held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining provisions hereof. On the contrary, the remaining provisions shall be fully severable and this Plan shall be construed and enforced as if said illegal or invalid provisions had never been inserted herein.


Section 12.7 Employer's Obligations.

The adoption and continuance of the Plan shall not be deemed to constitute a contract between the Employer and any Employee or Participant, nor to be a consideration for, or an inducement or condition of, the employment of any person. Nothing herein contained shall be deemed to give any Employee or Participant the right to be retained in the employ of the Employer or to interfere with the right of the Employer to discharge any Employee or Participant at any time, nor shall it be deemed to give the Employer the right to require the Employee or Participant to remain in its employ nor shall it interfere with the right of any Employee or Participant to terminate employment at any time.

Section 12.8 Plan for Exclusive Benefit of Participants: Reversion Prohibited.

This Plan has been entered into for the exclusive benefit of the Participants and their beneficiaries. Under no circumstances shall any funds contributed to Plan hereunder at any time revert to or be used by or enjoyed by the Employer, nor shall any funds or assets at any time be converted to or used other than for the exclusive benefit of the Participants or their beneficiaries, subject to Section 11.5 concerning initial qualification of the Plan.

IN WITNESS WHEREOF, Employer has executed this Plan, as amended, as of this 14th day of March, 2019.

	Colorado Mesa University By 
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