

Plan II:

**Excess Benefit Plan of the
Nevada System of Higher Education**



**Restatement Effective
January 1, 2008**

**Excess Benefit Plan Of
Nevada System of Higher Education**

Article I: Establishment of Plan

- 1.1 ***Establishment of Plan.*** This Excess Benefit Plan was authorized by the Board of Regents of the University and Community College System of Nevada (UCCSN) effective on and after January 1, 2000, to provide certain employees of the Nevada System of Higher Education (formerly UCCSN) who qualify for benefits under the Nevada System of Higher Education Defined Contribution Retirement Plan Alternative to be credited with contributions equal to amount in excess of the limitations on contributions imposed by section 415 of the Code on or after such date.

The Plan is intended to qualify as a “qualified governmental excess benefit arrangement” and satisfy all requirements under section 415(m) of the Code. All benefits payable under this Plan shall be paid out of the general assets of the Nevada System of Higher Education. It is intended that benefits under the Plan shall not be income to the Participant under the federal income tax laws until the Participant receives such benefits.

Article II: Definitions

- 2.1 **Beneficiary** means the individual, institution, trustee or estate designated by the Participant to be the Beneficiary in writing to the Institution. If a Participant fails to designate a Beneficiary, the Participant's estate will be designated the Beneficiary by default.
- 2.2 **Board of Regents** means the Nevada System of Higher Education Board of Regents.
- 2.3 **Code** means the Internal Revenue Code of 1986, as amended.
- 2.4 **Discretionary Contributions** mean Discretionary Contributions made under the Retirement Plan by the Institution pursuant to Section 4.2 of the Retirement Plan, as amended effective June 30, 2005.
- 2.5 **Discretionary Contributions Account** means the subaccount under the Retirement Plan to which a Participant's Discretionary Contributions are allocated.
- 2.6 **Employee** means an individual in the employ of the Institution who is a Participant in the Retirement Plan.
- 2.7 **Institution** means the Nevada System of Higher Education (formerly the University and Community College System of Nevada or UCCSN) and includes the following entities: Nevada System of Higher Education System Administration and other "special units"; College of Southern Nevada; Desert Research Institute; Nevada State College; Truckee Meadows Community College; University of Nevada, Las Vegas; University of Nevada, Reno; and Western Nevada College.
- 2.8 **Participant** means any person included in the membership of the Plan as provided in Article III.
- 2.9 **Plan** means the Nevada System of Higher Education Excess Benefit Plan, as described herein or as hereafter amended.
- 2.10 **Plan Year** means January 1 through December 31.
- 2.11 **Retirement Plan** means the Nevada System of Higher Education Defined Contribution Retirement Plan Alternative.
- 2.12 **Retirement Plan Contributions** mean the contributions made to the Retirement Plan by the Institution pursuant to Section 4.1 of the Retirement Plan.

- 2.13 ***Retirement Plan Accumulation Account*** means the Accumulation Account established for a Participant under and in accordance with the terms of the Retirement Plan in any Plan Year.
- 2.14 ***Supplemental Plan Contributions Account*** means the account maintained by the Institution for a Participant that is credited with amounts contributed under Article IV of the Plan.
- 2.15 ***Supplemental Plan Contributions*** mean the Retirement Plan Contributions made by the Institution for the benefit of a Participant under and in accordance with the terms of the Plan for any Plan Year, and includes Supplemental Retirement Plan Contributions and Supplemental Discretionary Contributions, as applicable.
- 2.16 ***System*** means the Nevada System of Higher Education or any successor with respect to its employees.

Article III: Participation

- 3.1 Every Employee in the employ of the Institution who is eligible to receive Retirement Plan Contributions and/or Discretionary Contributions, but for whom the total amount of either such Contributions is reduced by reason of the limitations on contributions imposed by section 415 of the Code, shall be eligible to become a Participant of the Plan.
- 3.2 Participation under the Plan shall terminate if a Participant's employment with an Institution terminates unless at that time the Participant is entitled to a distribution pursuant to the Retirement Plan.
- 3.3 A Participant or his or her Beneficiary shall become entitled to a benefit hereunder only upon attainment of age 65, retirement, death or other termination of employment with an Institution and provided a benefit is payable to or on his or her Accumulation Account under the Retirement Plan.

Article IV: Amount and Payment of Supplemental Plan Contributions

- 4.1 A Participant's excess benefits shall equal the amount of any Supplemental Retirement Plan Contributions and Supplemental Discretionary Contributions and investment income thereon credited to his or her Supplemental Plan Contributions Accounts. Two subaccounts shall be maintained in the case of a Participant who has both Supplemental Retirement Plan Contributions and Supplemental Discretionary Contributions, one for each type of contribution.
- 4.2 The excess benefits under this Plan shall be payable by the System only to a Participant or his or her Beneficiary who, pursuant to Article VII of the Retirement Plan, has retired, died or otherwise terminated employment with the Institution and is entitled to benefits under the Retirement Plan.
- 4.3 The amount of any Supplemental Retirement Plan Contributions to be made by the Institution for the benefit of a Participant for any Plan Year shall be an amount equal to the difference between (a) and (b) below:
- (a) The Retirement Plan Contributions which would have been allocated to the Retirement Plan Accumulation Account of the Participant for the Plan Year, as determined by the provisions of Section 4.1 of the Retirement Plan, without giving effect to the limitations imposed by section 415 of the Code on the Retirement Plan.
 - (b) The actual amount of the Retirement Plan Contributions actually allocated to the Retirement Plan Accumulation Account of the Participant for the Plan Year.
- 4.4 The amount of any Supplemental Discretionary Contributions to be made by the Institution for the benefit of a Participant for any Plan Year shall be an amount equal to the difference between (a) and (b) below:
- (a) The Discretionary Contributions which would have been allocated to the Discretionary Contributions Account of the Participant for the Plan Year, as determined by the provisions of Section 4.2 of the Retirement Plan, without giving effect to the limitations imposed by section 415 of the Code on the Retirement Plan.
 - (b) The actual amount of the Discretionary Contributions actually allocated to the Discretionary Contributions Account of the Participant for the Plan Year.
- 4.5 Amounts credited to a Participant's Supplemental Plan Contributions Account as Supplemental Retirement Plan Contributions under Section 4.3 shall be treated as if they were actually invested in the Retirement Plan Accumulation Account of the Participant and shall be subject to the same Participant investment elections, and be credited with gains and losses at the same time and in the same manner, as is applicable to amounts invested in the Participant's Retirement Plan

Accumulation Account. A change by the Participant in the investment election applicable to amounts in his Retirement Plan Accumulation Account, or a direction to transfer amounts in his or her Retirement Plan Accumulation Account among funding vehicles in the Retirement Plan will also apply to amount credited to his or her Supplemental Plan Contributions Account and will be effective at the same time that such change in election or direction to transfer is applicable to his Retirement Plan Accumulation Account.

- 4.6 Amounts credited to a Participant's Supplemental Plan Contributions Account as Supplemental Discretionary Contributions under Section 4.4 shall be treated as if they were actually invested in the Discretionary Contributions Account of any applicable Employee, subject to the same rules and conditions as apply to the Discretionary Contributions Account.

Article V: Administration

- 5.1 The administration of the Plan, the exclusive power to interpret it, and the responsibility for carrying out its provision are vested in the Institution. The provisions of Article VIII of the Retirement Plan concerning the authority and powers of the Institution shall apply under this Plan.

Article VI: General Provisions

- 6.1 The establishment of the Plan shall not be construed as conferring any legal rights upon any Employee or other person for continuation of employment, nor shall it interfere with the rights of the Institution to discharge any Employee and to treat him or her without regard to the effect which such treatment might have upon him or her as a Participant of the Plan.
- 6.2 In the event that the Institution shall find that a Participant or Beneficiary or other person entitled to benefits hereunder is unable to care for his or her affairs because of illness or accident, the Institution may direct that any benefit payment due him or her, unless claim shall have been made therefore by a duly appointed legal representative, be paid to his or her spouse, a child, a parent or other blood relative, or to a person with who he or she resides, and any such payment so made shall be complete discharge of the liabilities of the Plan therefore.
- 6.3 The Institution shall have the right to deduct from each payment to be made under the Plan any required withholding taxes.
- 6.4 Subject to any applicable law, no benefit under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt so to do shall be void, nor, shall any such benefit be in any manner liable for or subject to the debts, contracts, liabilities, engagements or torts of the Participant, in the event that the Institution shall find that any Participant or Beneficiary or other person entitled to benefits hereunder has become bankrupt or has made any such attempt with respect to any such benefit, such benefit shall cease and terminate, and in the event the Institution shall hold or apply the same to or for the benefit of such Participant or such other person.
- 6.5 In the event that a Participant shall at any time be convicted of a crime involving dishonesty or fraud on the part of such Participant in his relationship with the System, all benefits which would otherwise be payable to him or her under the Plan shall be forfeited.
- 6.6 The Plan shall be construed, regulated and administered under the laws of the State of Nevada.
- 6.8 This Plan is intended to be a “qualified governmental excess benefit arrangement” as such term is defined in section 415(m) of the Code and is not intended to comply with the requirements of section 401(a) of the Code.

Article VII: Amendment or Termination

7.1 The Chancellor of the Institution reserves the right to modify or to amend, in whole or in part, or to discontinue or terminate this Plan at any time. However, no modification, amendment, discontinuance or termination of the Plan shall adversely affect the right of any Participant to receive the benefits granted under the Plan by the Board of Regents in respect of such Participant as of the date of modification, amendment, discontinuance or termination.

Employer Identification Number: F88-60000-22

Plan Number: 002

Chancellor

Date

Witnessed By

Date

4009765v3/09750.002