

**RETIREMENT PROGRAM**  
**Plan "B"**  
**for Non-U.S. Citizen or Resident Alien Employees**  
**of the**  
**American University of Beirut**

**Amended and Restated**

**Generally Effective**

**As Of**

**January 1, 2023**

## **PROGRAM PURPOSE:**

The purpose of this Program is to encourage Employees (as defined in the Program) to make and continue careers with the American University of Beirut. This Program is intended to provide retirement benefits for those non-U.S. citizen or resident alien Employees of the University who are not covered by or subject to any social security, labor law, end-of-service indemnity, death benefit, disability, retirement, termination or similar such program, maintained directly or indirectly by the Government of Lebanon. If an employee who is participating in this Program becomes covered, as of any date, under a social security, labor law, end-of-service indemnity, death benefit, disability, retirement, termination or similar such program, maintained directly or indirectly by the Government of Lebanon, such employee's participation in this Program shall terminate as of the date such coverage commences, and in such event the University shall not be required to credit any further benefit under this Program to the employee in respect of service with the University after such date, and the benefits otherwise payable under this Program reflecting amounts credited to an employee's Account shall be offset and/or reduced by the amounts to which the University is or may be obligated to pay or contribute under such social security, labor law, end-of-service indemnity, death benefit, disability, retirement, termination or other similar such program. The Program was amended and restated effective February 1, 2013, January 1, 2022 and is hereby again amended and restated generally effective January 1, 2023, including certain provisions effective at earlier dates where stated.

## **SECTION 1. DEFINITIONS**

As used herein:

1.1 "Account" means, for each Participant, amounts held in trust or recorded in a memorandum account pursuant to the terms of the Plan.

1.2 "Beneficiary" means the beneficiary or beneficiaries designated pursuant to applicable law to receive the amount, if any, payable under this Program upon his or her death.

1.3 "Board of Trustees" means the Board of Trustees of the University.

1.4 "Committee" means the Employee Benefits Committee provided for in Section 6.1. The Committee shall be the administrator of this Program.

1.5 "Compensation" means, for Employees who are not members of the Faculty of Medicine of the University, the basic salary, as determined in the Employee's letter of appointment, received by an Employee for services to the University for any period under consideration. For Employees who are members of the Faculty of Medicine of the University, "Compensation" means the sum of the amount received by the Employee as basic salary, as determined in the Employee's letter of appointment, unless the Employee participates in the Medical Practice Plan, in which event "Compensation" means the sum of the amounts received by the Employee as Teaching and Administrative Salary, plus any administrative supplement and monthly MPP payments on account, for any period of consideration. In all events, however, Compensation for all Employees is determined before reduction for employee contributions hereunder, but does not include (i) any amounts paid from or contributed to any other group insurance or employee

benefit program or plans established or maintained by the University; or (ii) any other benefit, incentive payment or allowance, including housing, education or travel allowance, or (except with respect to administrative supplement or monthly MPP payments on account, where applicable) any other amount paid by the University relating to the performance of extra duties by an Employee. Notwithstanding the foregoing, Compensation for any calendar year shall not exceed \$305,000 for 2022 and \$330,000 for 2023 (or such other amount that would apply under Section 401(a)(17) of the United States Internal Revenue Code of 1986, were that section to apply to this Retirement Program), with such limit pro-rated where participation is only for a portion of a calendar year and where, for any or all of the same calendar year, the Employee actively participated in the Retirement Program for U.S. Citizen and Resident Alien Employees of the American University of Beirut. Effective on and after January 1, 2023, Compensation, as defined in this Section 1.5, and solely for purposes of Employee contributions and employer contributions, that is paid in Lebanese pounds, will be converted to U.S. dollars using the official Lebanese exchange rate in effect on January 1, 2023.

1.6 "Effective Date" means January 1, 1981.

1.7 "Employee" means (a) any regular full-time faculty member of the University (including for these purposes a member of the Faculty of Medicine of the University with an Unmodified or Suffixed-Track appointment but not a member of the Faculty of Medicine of the University with a Prefixed-Track appointment), or other academic employee of the University, based outside of the United States, as determined by the Committee (or, solely to the extent directed by the Committee a non-academic employee) who (i) receives Compensation and who (ii) is not covered by or subject to a social security, labor law, end of service indemnity, death benefit, disability, retirement, termination or similar such program maintained directly or indirectly by the Government of Lebanon, and who is not a U.S. Citizen or resident alien and (b) any regular full-time employee of the University who is not an academic appointee of the University but whose employment as a non-academic appointee of the University, as of January 1, 2015, was subject to an agreement with the University stipulating participation in this Program and eligibility for employer contributions hereunder even while eligible for benefits or contributions under a program described in clause (a)(ii) above, solely for the period during which such Employee's employment is subject to such an employment agreement stipulating participation in this Program and eligibility for employer contributions hereunder. Notwithstanding the above, effective January 1, 2022, i) prior to March 1, 2023, an Employee's employment as a Research Assistant or an Academic Assistant will not impact whether they are considered an "Employee" for the purposes of Section 1.7, and ii) any Employee who is employed as a Research Assistant or an Academic Assistant will not be considered an "Employee" for the purposes of Section 1.7 on and after March 1, 2023 unless and during the period that such appointment is funded by one or more external grants that have a benefits line in the grant budget; provided, however, that Research Assistants and Academic Assistants who are employed by the University pursuant to the terms of a letter of appointment stipulating eligibility for the Program effective on March 1, 2023 will continue to be considered "Employees" for purposes of Section 1.7 until the termination of such letter of appointment (without regard to any extensions or renewals).

1.8 "Employee Contribution Memorandum Subaccount" means, effective February 1, 2013, the subaccount within a Memorandum Account under the Plan in which employee contributions with respect to a U.S. citizen or resident alien Participant, as well as employee contributions that

had been made by a former U.S. citizen or resident alien during and prior to the period such employee was a U.S. citizen or resident alien, and earnings thereon, if any, are recorded.

1.9 "Employee Contribution Trust Subaccount" means, effective February 1, 2013, the subaccount under the Trust Account for each Participant who is not a U.S. citizen or resident alien in which employee contributions to the Plan with respect to the Participant and earnings thereon, if any, are held (provided, however, that any employee contributions to the Plan made during and prior to the period a Participant became a U.S. citizen or resident alien and earnings thereon, if any, will not be held in the Employee Contribution Trust Subaccount even after such Participant ceases being a U.S. citizen or resident alien).

1.10 "Employer Contribution Memorandum Subaccount" means, effective February 1, 2013, the subaccount within a Memorandum Account under the Plan in which employer contributions with respect to a U.S. citizen or resident alien Participant, as well as employer contributions that had been made to the Account of a former U.S. citizen or resident alien during or prior to the period such individual was a U.S. citizen or resident alien, and earnings thereon, if any, are recorded.

1.11 "Employer Contribution Trust Subaccount" means, effective February 1, 2013, the subaccount under the Trust Account for each Participant who is not a U.S. citizen or resident alien, in which employer contributions to the Plan with respect to the Participant and earnings thereon, if any, are held (provided, however, that any employer contributions to the Plan and earnings thereon, made during or prior to the period a Participant was a U.S. citizen or resident alien will not be held in the Employer Contribution Trust Subaccount). All employer contributions made prior to February 1, 2013, and earnings thereon, will remain in a Memorandum Account until the Transfer Date.

1.12 "Funding Vehicle" means any insurance or trust or custodial or other funding vehicle contract purchased or entered into by the University on behalf of Employees to provide applicable benefits under this Program, together with any certificates of insurance which may be issued thereunder.

1.13 "Memorandum Account" means the unfunded bookkeeping memorandum records denominated in United States dollars and maintained by the University, under which amounts which are not eligible to be held in a Trust Account under the terms of the Plan are recorded in respect of each Participant in order to determine the amount of the Participant's benefit, if any, under Section 5.1 of the Program. For purposes of this Section Compensation paid in Lebanese pounds shall be converted into U.S. dollars at rates prevailing at the time paid, provided, however, that notwithstanding the forgoing, effective on and after January 1, 2023, conversion shall be made using the official Lebanese exchange rate in effect on January 1, 2023, and all entries into the Employee's Memorandum Account, including such conversion of Lebanese pounds into dollars, represent simply bookkeeping transactions for the purpose stated and do not connote actual transfers of cash. Prior to February 1, 2013, and pending any transfers pursuant to the next sentence, Memorandum Accounts reflected the amounts held under these accounts pursuant to the terms of the Plan preceding that date. Effective on or close to the Transfer Date, however, Memorandum Account balances for Participants who are not U.S. citizens or resident aliens shall be transferred to the Trust Accounts (provided, however, that any amounts

contributed by a former U.S. citizen or resident alien during or prior to the period such Employee was a U.S. citizen or resident alien and earnings thereon, if any, will not be transferred and will be recorded in the Employee's Employee Contribution Memorandum Subaccount, and any amounts contributed by the Employer to the Account of a former U.S. citizen or resident alien during or prior to the period such individual was a U.S. citizen or resident alien and earnings thereon, if any, will not be transferred and will be recorded in the Participant's Employer Contribution Memorandum Subaccount), and the only new contributions to a Memorandum Account will be amounts transferred from a Participant's Trust Account if a Participant becomes a United States citizen or resident alien and their Trust Account must be terminated pursuant to Section 4.1.

1.14 "Participant" means an employee or former employee of the University with an Account under the Plan.

1.15 "Program" means the Retirement Program Plan "B" for Non-U.S. Citizen or Resident Alien Employees of the American University of Beirut as set forth herein.

1.16 "Salary Deferral Agreement" means an agreement executed by the Employee and the University authorizing contribution of a designated amount of the Employee's salary to the Program.

1.17 "Transfer Date" means the date when certain employer contributions to the Plan are transferred from the Memorandum Account to the Employer Contribution Trust Subaccount, pursuant to Section 4(c) of the Plan. This transfer will occur on or about February 25, 2013.

1.18 "Trust Account" means a Participant's account held in a trust maintained with respect to the Plan.

1.19 "Trustee" means the trustee under the trust holding assets allocated to Trust Accounts.

1.20 "University" means the American University of Beirut, a non-profit corporation organized under the laws of the State of New York and exempt from Federal income tax as an organization described in Section 501 (c) (3) of the United States Internal Revenue Code of 1986.

## **SECTION 2. ELIGIBILITY**

2.1 Subject to the provisions of Section 3 and except as otherwise provided by the Committee, Employees shall be eligible to participate in this Program as follows:

(a) Each Employee in the active service of the University on the Effective Date shall be eligible to participate in this Program as of such date if the Employee has then attained age 21.

(b) Each other Employee shall be eligible to participate in this Program on the first day of October coincident with or next following the date of employment or the date on which such Employee attains age 21, whichever is later, or such other date or dates permitted by the Committee.

(c) Contributions by the University toward the future service benefit of an Employee who does not choose to participate on the date the Employee first becomes eligible shall commence at the end of the first month following the date on which the Employee opted to participate. Past service benefits shall not accrue to an Employee who opts not to join the Program on the Effective Date.

2.2 Notwithstanding Section 2.1, effective January 1, 2022, i) prior to March 1, 2023, an Employee's employment as a Research Assistant or an Academic Assistant will have no impact on whether he or she is eligible to participate in the Program, and ii) on and after March 1, 2023, any Employee who is employed as a Research Assistant or Academic Assistant will not be eligible to participate in the Program unless, and during the period that, such appointment is funded by one or more external grants that have a benefits line in the grant budget; provided however, that Research Assistants and Academic Assistants who are employed by the University pursuant to the terms of a letter of appointment stipulating eligibility for the Program effective on March 1, 2023 will continue to be eligible to participate in the Program until the termination of such letter of appointment (without regard to any extensions or renewals). Further notwithstanding Sections 2.1 and 3.2, and subject to Section 7.1(a), the Board of Trustees (or a duly authorized committee thereof) or the Committee may modify the conditions upon which participation is authorized or the terms of participation for any person or class of persons.

### **SECTION 3. PARTICIPATION**

3.1 As a condition of participation in this Program, each Employee who is eligible to participate in accordance with Section 2 shall execute and file with the Committee any enrollment form, waiver, Salary Deferral Agreement, and other document or pertinent information concerning such Employee and such Employee's Beneficiary which the Committee or the Trustee or a duly authorized delegatee may require and each non-Lebanese citizen Employee shall authorize the University to obtain on his/her behalf an exemption from making payments into the Lebanese National Social Security Fund where appropriate. If the participation of an eligible Employee in this Program does not commence on the date the Employee first becomes eligible under Section 2, then, regardless of the reason for such delay, and within the same calendar year, such Employee's participation may, if the Employee so elects and to the extent practicable, permitted by the Committee and permitted by law, be commenced retroactively by the Employee paying as a premium or other payment to the Funding Vehicle maintained for such purpose, the aggregate amount of contributions that the Employee would have paid had his/her participation not been delayed.

3.2 Active participation in the Program shall terminate (i) upon termination of service with the University, or, if earlier, upon a Participant's ceasing to be an Employee as defined in Section 1.3, and (ii) upon termination of each Salary Deferral Agreement required by the Committee, in which case active participation may be resumed only upon such terms and conditions as the Committee may decide. In the event a former participant again becomes eligible to participate in the Program, to the extent directed by the Committee, active participation may recommence as soon as practicable after such renewed eligibility. No further contributions or record entries under Section 4 shall be made on behalf of an employee whose participation in the Program shall terminate, except upon such terms and conditions as the Committee may decide.

## **SECTION 4. CONTRIBUTIONS AND FUNDING**

### **4.1 Contributions**

(a) For each month of active participation, each Employee shall contribute 5 percent of his/her Compensation for such month, and may elect to contribute a greater portion of his/her Compensation to the extent permitted by the Committee. Employee contributions shall in each case be withheld by payroll deductions pursuant to a Salary Deferral Agreement. (For the avoidance of doubt, effective on and after January 1, 2023, for these purposes Employee contributions shall be determined with regard to Compensation as defined in Section 1.5, and any amounts paid in Lebanese pounds will be converted to U.S. dollars prior to calculating the amount to be contributed pursuant to the applicable agreement using the official Lebanese exchange rate in effect on January 1, 2023.) Effective on and after January 1, 2010, new Employee contributions shall be paid to and held in an Employee Contribution Trust Subaccount. On January 1, 2010 the existing Employee contributions of Participants who were not U.S. citizens or resident aliens and which had been held in Memorandum Accounts under the Plan pursuant to the terms of the Plan in effect prior to January 1, 2010 were transferred to such Participants' Employee Contribution Trust Subaccounts. On and after January 1, 2010 all Employee contributions made by a Participant who is not a U.S. citizen or resident alien pursuant to a Salary Deferral Agreement shall be remitted to the Trustee or a subcustodian of the trust maintained with respect to the Plan to be allocated to the Employee's Employee Contribution Trust Subaccount, by the University, during the month in which the contribution is made or during the month next following, to be managed, invested, reinvested and distributed in accordance with the terms of this Program and the Funding Vehicle, as applicable.

Participants who are U.S. citizens or resident aliens are not eligible to make new employee contributions. The employee contributions previously made under the Plan and related earnings, if any, of any Participant who is a U.S. citizen or resident alien shall be recorded in and allocated to the Participant's Memorandum Account and maintained in the Participant's Employee Contribution Memorandum Subaccount as a separate subaccount of such Memorandum Account.

If a U.S. citizen or resident alien Participant loses or rescinds his or her U.S. citizenship or resident alien status, any employee contributions made to the Program by that Participant prior to his or her loss of U.S. citizenship or resident alien status and any related earnings on those amounts shall, until distributed, continue to be recorded in and allocated to the Participant's Memorandum Account and maintained in an Employee Contributions Memorandum Subaccount within such Memorandum Account. Any employee contributions made by such Participant under the Program after his or her loss of U.S. citizenship or resident alien status and related earnings on those amounts shall be allocated to the Participant's Employee Contribution Trust Subaccount during the month in which the contribution is made or during the month next following, to be managed, invested, reinvested and distributed in accordance with the terms of this Program and the Funding Vehicle, as applicable.

If a participating Employee becomes a U.S. citizen or resident alien after January 1, 2010, amounts in his or her Employee Contribution Trust Subaccount shall, at the direction of the Committee, be transferred from the Employee Contributions Trust Subaccount to the University,

to be recorded in and allocated to the Employee's Memorandum Account and maintained in an Employee Contributions Memorandum Subaccount within such Memorandum Account.

(b) Effective Prior to February 1, 2013, the following provisions apply to University contributions:

- (i) Prior to February 1, 2013, the University shall record in each participating Employee's Memorandum Account a future service benefit in an amount equal to 12 ½ percent of the Compensation of such Employee for each month in which such Employee contributes a total of 5 percent of his/her Compensation under this Program (pursuant to a Salary Deferral Agreement).
- (ii) Prior to February 1, 2013, the University shall also have recorded in the Memorandum Account of each Employee who became a participant in the Program as of the Effective Date a past service benefit in an amount equal to the lump sum value of the greatest of the following amounts as computed by the Committee:
  - (x) in an amount equal to the Employee's Compensation for the month ending December 31, 1980 multiplied by the Employee's active and continuous years of service with the University in respect of the Employee as of such date;
  - (y) the Employee's aggregate "Retirement Annuity", if any, determined under the provisions of the University's Plan for Pensions and Death Benefits as in effect on December 31, 1980; or
  - (z) 12 ½ percent of the Employee's Compensation for each year of service with the University commencing prior to January 1, 1981 plus an amount of interest thereon calculated at the rates of interest from time to time credited by the Teachers Insurance and Annuity Association of America in respect of its annuity contracts generally in force during the period of such years of service.

(c) Effective on and after February 1, 2013, the University shall contribute to the Employer Contribution Trust Subaccount of each Employee who is not a U.S. citizen or resident alien, a future service benefit in an amount equal to 12 ½ percent of the Compensation of such Employee for each month in which such Employee contributes a total of 5 percent of his/her Compensation under this Program (pursuant to a Salary Deferral Agreement). (For the avoidance of doubt, effective on and after January 1, 2023, for the purposes of this Section 4.1(c), Employee contributions and employer contributions shall be determined with regard to Compensation as defined in Section 1.5, and any amounts paid in Lebanese pounds will be converted to U.S. dollars prior to calculating the amount to be contributed using the official Lebanese exchange rate in effect on January 1, 2023.)

On the Transfer Date, the University shall transfer to the Trustee to be held in the Employer Contribution Trust Subaccount of each Employee who is not a U.S. citizen or resident alien, the amount recorded in such Employee's Employer Contribution Memorandum Subaccount at that time and such Employee's Memorandum Account balance shall be reduced to zero and his Memorandum Account shall be terminated; provided, however, that if any



Employee had employer contributions made to the Plan during or prior to the period he or she was a U.S. citizen or resident alien, such contributions, and any earnings attributable thereto, will not be transferred and will continue to be recorded in the Employee's Employer Contribution Memorandum Subaccount. Therefore, effective on the Transfer Date, Memorandum Accounts shall only be maintained for Participants who are or had been U.S. citizen or resident aliens, reflecting allocations made prior to their becoming U.S. citizens or resident aliens or to periods before U.S. resident aliens were excluded from benefit accruals under the Plan. No ongoing contributions will be made to the Memorandum Accounts.

If a U.S. citizen or resident alien Participant loses or rescinds his or her U.S. citizenship or resident alien status, any Employer Contributions to the Program made with respect to that Participant prior to his or her loss of U.S. citizenship or resident alien status and any related earnings on those amounts shall, until distributed, continue to be recorded in and allocated to the Participant's Memorandum Account and maintained in an Employer Contributions Memorandum Subaccount within such Memorandum Account. Any Employer Contributions made on behalf of such Participant after his or her loss of U.S. citizenship or resident alien status and related earnings on those amounts shall be allocated to the Participant's Employer Contribution Trust Subaccount to be managed, invested, reinvested and distributed in accordance with the terms of this Program and the Funding Vehicle, as applicable.

If at any point a Participant becomes a U.S. citizen or resident alien, his or her Employer Contribution Memorandum Subaccount will be reopened (or newly opened) for him or her, and any amounts in his or her Employer Contribution Trust Subaccount will be liquidated and the liquidated amount will be transferred to the University with an amount equal to that liquidated amount to then be recorded and allocated to his or her Employer Contribution Memorandum Subaccount.

(d) The University may withhold from any contributions made in accordance with this Section 4.1, or may reduce amounts recorded in an Employee's Memorandum Account or held in an Employee's Trust Account, for all taxes and contributions (including but not limited to payments by the University of United States social security taxes or Lebanese social security contributions, if any) as shall be required pursuant to any law or governmental regulation or ruling as determined by the University. Amounts in excess of the portion of a Participant's account balances representing Employee contributions pursuant to this Section 4.1 (as adjusted by earnings and losses) as calculated pursuant to the terms of the Program that are held by the Trustee shall be returned to the University as and to the extent directed by the Board of Trustees or a duly authorized committee thereof or by the Committee.

(e) The Board of Trustees, or a duly authorized committee thereof, as to the extent authorized by the Board of Trustees, or the Committee may elect to fund Participant Accounts through trusts, insurance contracts or other Funding Vehicles and may switch the funding mechanism from time to time and at any time. If such changes are made, appropriate changes shall be made to the Plan.

## 4.2 Investments

(a) Effective on and after January 1, 2010, and solely at the discretion of the Committee, each Employee who is not a U.S. citizen or resident alien may direct the investment of amounts in his or her Employee Contribution Trust Subaccount among such alternatives as are provided by the Committee, in such manner and with such frequency as is determined by the Committee. Amounts which are transferred or otherwise contributed to a Participant's Employee Contribution Trust Subaccount without valid investment direction by the Participant will be invested in a default investment chosen by the Committee. The Committee may provide that expenses will be charged to the relevant Participant's account with respect to any such investments and investment changes.

(b) Effective on and after March 1, 2013, and solely at the discretion of the Committee, each Employee who is not a U.S. citizen or resident alien may direct the investment of amounts in his or her Employer Contribution Trust Subaccount among such alternatives as are provided by the Committee, in such manner and with such frequency as is determined by the Committee. Amounts which are transferred or otherwise contributed to a Participant's Employer Contribution Trust Subaccount without valid investment direction by the Participant will be invested in a default investment chosen by the Committee. The Committee may provide that expenses will be charged to the relevant Participant's account with respect to any such investments and investment changes.

(c) Effective solely prior to January 1, 2010, in addition to the amount recorded pursuant to Section 4.1, each Employee's Memorandum Account was increased annually with an amount of interest calculated at the rate of interest credited by the Teachers Insurance and Annuity Association of America in respect of its annuity contracts generally in force during the applicable year. Effective on and after January 1, 2010, and prior to August 1, 2010, each Participant's Memorandum Account, if any, was deemed invested in a "moderate portfolio" comprised of the following deemed investments: 14% Vanguard Euro Government Bond Index, 26% Vanguard U.S. Government Bond Index, and 60% Vanguard Global Stock Index, or such other portfolio allocation approved by the Board of Trustees or a duly authorized committee thereof.

Effective on and after August 1, 2010, each Participant with a Memorandum Account will be permitted to elect to have 100% of his or her Memorandum Account deemed invested in either the "moderate portfolio" described above or the GS US\$ Liquid Reserves Fund – Admin. Dist., or such other fund approved by the Board of Trustees or a duly authorized committee thereof. Employee elections to change the deemed investment of Memorandum Account amounts will be accepted during the month of December, and will become effective as of January 1 of the following year. Elections to change the deemed investment of Memorandum Account amounts to the GS US\$ Liquid Reserves Fund – Admin. Dist. were also accepted during the period of July 7, 2010 through July 28, 2010, with changes elected during this period becoming effective as of August 1, 2010; and during the period September 1, 2010 through December 31, 2010, with such elections becoming effective as of the first day of the month following the month in which such election was made.

(d) The Committee may, at any time and from time to time, direct that Employee and Employer contributions, and earnings thereon, be transferred from one Funding Vehicle to another Funding Vehicle in accordance with such terms as are determined by the Committee.

4.3 (a) Except as provided in Section (b) below, the expenses of administering the Program, including (i) the expenses incurred by the members of the Committee in the performance of their duties hereunder (including reasonable compensation for any legal counsel, certified public accountants, consultants, and agents and cost of services rendered in respect of Program) and (ii) all other proper charges and disbursements of the members of the Committee (including settlements of claims or legal actions approved by counsel) shall be paid by the University.

(b) Any commissions, fees, taxes, or other expenses incident to the purchase of any insurance contract or annuities thereunder, or the payment of premiums under any insurance contract, or incident to the investment of employee contributions in any trust or other funding vehicle (including any reasonable enrollment or investment fees, sales charges and commissions, administrative charges or fees, trustee fees, bank charges, investment management fees, custodial fees, transfer or other fees, and any premium taxes), shall, unless otherwise directed by the Committee, be deducted by the University, Trustee or duly authorized delegatee from the gross amount paid as premiums or contributions or from account balances reflecting such contributions and earnings thereon in the manner determined by the Committee.

## **SECTION 5. BENEFITS**

5.1 (a) Except as otherwise provided in Section 5.3, a Participant (or, in the event of his death, his beneficiary) shall be entitled upon termination of service (including resignation from the University) to receive a benefit under the Program in an amount equal to the greater of:

- (i) with respect to Employees hired prior to January 1, 1981, the end of service indemnity, if any, payable in accordance with the terms of Vote T6862 of the Board of Trustees and the regulations issued by the University, thereunder, or
- (ii) the balance of (x) the Participant's Employee Contribution Trust Subaccount and the Participant's Employer Contribution Trust Subaccount and/or (y) the Participant's Employee Contribution Memorandum Subaccount and the Participant's Employer Contribution Memorandum Subaccount, whichever of (x) or (y) or combination of (x) and (y), is applicable, as of the date of the Participant's termination of service,

but in all instances, subject to offsets under Section 5.1(c) or 5.3.

(b) (i) Any benefit payable under Section 5.1(a) shall be in the form of a single lump sum cash distribution or in such other form directed by the Committee. Subject to Section 5.1(b)(ii) any benefit payable under Section 5.1(a)(i) shall be payable in the same currency as the Employee's Compensation is paid, as specified in such Employee's letter of appointment, and any benefit payable under Section 5.1(a)(ii) shall be payable in U.S. dollars.

- (ii) The Employee, upon written request to and under procedures adopted by the Committee, may elect to have the amount of the benefit under Section 5.1(a), if any, payable in a currency different from that specified under Section 5.1(b)(i). If

the Employee makes such an election he/she will bear the full cost of conversion to such other currency and will be given a written notice indicating the amount of such cost.

- (iii) Any benefit payable under Section 5.1(a) shall be payable in the manner specified in Sections 5.1(b)(i). Notwithstanding the forgoing, upon written request of the Employee, the Committee shall authorize the transfer of payment of such benefit to another location outside of Beirut, which the Employee requests and the Committee approves if the Employee makes such a request, he/she will bear the full cost of the transfer of the payment of his benefit to another location and will be given a written notice indicating the amount of such cost.

(c) Any payments hereunder shall be subject to the conditions of payment, if any, contained in the relevant trust or other funding vehicle, and shall be in the form of a single lump sum cash distribution unless the Employee (or if applicable, his Beneficiary or other person including heirs) elects, within 60 days after the date of his/her termination of service, to receive a different form of benefit, if any, offered by the trustee and approved by the Committee to the extent not prohibited in light of Section 5.1(d). Research Assistants and Academic Assistants whose eligibility to participate in the Program has terminated will have any benefits due to them under the Program distributed to them in the form of a lump sum as soon as practicable after such eligibility terminates. Any amount required for payment of withholding or other taxes or for Lebanese social security contributions, shall, if directed by the University, serve to reduce the amount of payment hereunder to an Employee or Beneficiary, and shall instead be applied (either by direct payment or by payment to the University to be so applied) to satisfaction of such withholding, contribution or other tax obligation.

(d) To the extent that any amounts held under the Program are subject to Section 409A of the United States Internal Revenue Code of 1986, as amended ("Section 409A"), and with respect to those amount, a "termination of service" means a separation from service within the meaning of Section 409A (a "Separation from Service"), and notwithstanding any other provision of Section 5.1(a), (b) or (c) above, any amounts otherwise payable hereunder due to such a Separation from Service shall be paid to the Employee or Beneficiary, as applicable, in a single lump sum payment, during the month following such Separation from Service.

5.2 (a) Any claim for benefits under a Funding Vehicle shall be submitted to the Trustee, Committee, or other delegatee thereof, such as a recordkeeper, as appropriate, on a form acceptable to such Trustee, Committee, or delegatee. Except to the extent that the appropriate Trustee or other delegatee has sole access to information determinative to the claim, the Committee shall be responsible for deciding such claim, for providing full and fair review of the decision on such claim and for defending any legal action arising out of the denial in whole or in part of such claim. If so directed by the Committee, amounts may be withheld from any payments hereunder, or paid to the University, to satisfy or to enable the University to satisfy any requirements for withholding of any taxes or contributions.

(b) Any disputed claim relating solely to participation, amount of Compensation, time, amount or manner of payment of contributions or other matter of fact relating to this Program

with respect to which the Committee or the University would be the sole source of information (other than the claimant) shall be submitted to, and within a reasonable period of time decided by, one member of the Committee designated in writing by the Chairman. Written notice of the decision on each such claim shall be furnished reasonably promptly to the claimant. If the claim is wholly or partially denied, such written notice shall set forth an explanation of the specific findings and conclusions on which such denial is based. A claimant may review all pertinent documents and may request a review by the Committee of such a decision denying the claim. Such a request shall be made in writing and filed with the Committee within a reasonable period of time, as specified by the Committee in writing from time to time, after delivery to said claimant of written notice of said decision. Such written request for review shall contain all additional information which the claimant wishes the Committee to consider. The Committee may hold any hearing or conduct any independent investigation which it deems necessary to render its decision, and the decision on review shall be made as soon as practicable after the Committee's receipt of the request for review. Written notice of the decision on review shall be promptly furnished to the claimant and shall include specific reasons for such decision. Such decisions on claims (where no review is requested) and decisions on review (where review is requested), subject to the approval of the President of the University, shall be final, binding and conclusive on all interested persons for all purposes.

5.3 Any amount payable to an Employee, a Beneficiary or other person (including heirs) under the Program shall be paid to the Employee, such Beneficiary or other person (including heirs), (i) in lieu of any benefit due or payable to the Employee under the University's Plan for Pensions and Death Benefits, as established on October 1, 1958 and as amended from time to time, and (ii) in lieu of any end of service indemnity (ex-gratia), retirement, disability, termination, severance pay benefit or other payment which the University may make to an employee, his or her beneficiary or other person (including heirs) pursuant to any labor, pension, social security or similar such law, governmental decree, court award contract or personnel policy or regulation maintained by the University, and (iii) in lieu of any contributions or other payments which the University is required to make towards the cost of any old age, retirement, severance pay, disability, and/or death benefit payable to or in respect of such employee under any statutory social insurance or like program. If, notwithstanding any provisions hereunder to the contrary, any payment is required to be made by the University to or with respect to an Employee pursuant to any labor, pension, social security or similar such law providing end of service, retirement, disability, termination, severance pay, old age, social security, death or other similar benefits under any program maintained directly or indirectly by the Government of Lebanon, and all or any portion of such payment is calculated with reference to a period with respect to which amounts were recorded in the Participant's Memorandum Account or contributed to the Participant's Trust Account pursuant to Section 4.1 (the "Program Period"), then the benefits that would otherwise be funded and paid by the University under this Program or from the Trust to or with respect to such Participant shall be offset and/or reduced by the amounts that the University is or may be obligated to pay or contribute under such governmental program, and that the University determines is in relation to the Program Period. Amounts payable under a Participant's Memorandum Account or Employer Trust Account shall also be offset and/or reduced by amounts otherwise owed by the Employee to the University. In the event of any such offset of amounts held in a Participant's Trust Account, the amount so offset shall be paid by the Trustee (or its subcustodian) to the University.

5.4 (a) Prior to an Employee's termination of service, distributions of the Employee's Employee contribution amounts, held or maintained in either the Employee Contribution Trust Subaccount or Employee Contribution Memorandum Subaccount ("Employee Contribution Amounts"), and referred to as 'hardship' distributions, may be approved, effective on and after April 1, 2010 only if the Participant is not a U.S. citizen or resident alien and the program administrator determines that the Participant has an immediate and heavy financial need and the distribution is necessary to satisfy the need. The amount of the need may include any amount necessary to pay any U.S. or Lebanese income or other taxes or penalties reasonably anticipated to result from the distribution. In such cases, there shall be paid to such Participant out of his Employee Contribution Amounts (and the Employee Contribution Amounts shall be reduced to reflect such distributions) only such portion of the amount requested as is necessary to prevent or alleviate the immediate and heavy financial need, and no more than 40% of the Employee's Contribution Amounts including any earnings thereon. In making its determination hereunder, the administrator shall follow uniform and nondiscriminatory practices and its determination shall be final and binding.

(b) For purposes of this Section, only the following financial needs shall be considered immediate and heavy financial needs hereunder:

- (i) The payment of expenses for (or necessary to obtain) medical care described in Section 213(d) of the United States Internal Revenue Code (determined without regard to whether the expenses exceed 7.5% of the Participant's adjusted gross income), or expenses for (or necessary to obtain) medical care described in Section 213(d) of the United States Internal Revenue Code of a Participant's Primary Beneficiary (determined as if the primary beneficiary were the Participant's spouse recognized for purposes of federal law);
- (ii) The purchase (excluding mortgage payments) of the Participant's principal residence;
- (iii) The payment of tuition, related educational fees, and room and board expenses, for up to the next twelve (12) months of post-secondary education for the Participant, his/her Spouse, children, or dependents (as defined in United States Internal Revenue Code Section 152, without regard to Internal Revenue Code Sections 152(b)(1), (b)(2) and (d)(1)(B)) or the post-secondary education of the Participant's Primary Beneficiary;
- (iv) Prevention of the eviction of the Participant from, or a foreclosure on the mortgage of, the Participant's principal residence;
- (v) Payments for burial or funeral expenses for the Participant's deceased parent, Spouse, children, or dependents (as defined in

United States Internal Revenue Code Section 152, without regard to Internal Revenue Code Section 152(d)(1)(B)), or for the Participant's Primary Beneficiary;

- (vi) Expenses for the repair of damage to the Participant's principal residence that would qualify for a casualty deduction under United States Internal Revenue Code Section 165 (determined without regard to whether the loss exceeds 10% of the Participant's adjusted gross income) or
- (vii) Effective as of March 1, 2022, expenses and losses (including the loss of income) incurred by the Participant on account of a disaster declared by the Federal Emergency Management Act (FEMA) under Pub. L. 100-17, provided that the Participant's principal place of residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster.

For these purposes, a Participant's Primary Beneficiary is an individual who, as a beneficiary under the Program, has an unconditional right to all or a portion of the Participant's Program benefit upon the death of the Participant.

(c) Effective as of March 1, 2022, a distribution will be deemed to satisfy an immediate and heavy financial need for purposes of this Section 5.4 solely if (i) the Participant has obtained all other currently available distributions under the Plan and all other plans of deferred compensation maintained by the University, (ii) the distribution amount is not in excess of the amount required to satisfy the financial need (including any amount necessary to pay any income taxes or penalties reasonably anticipated to result from the distribution) and (iii) the Participant has provided a written representation to the Plan administrator in a form acceptable to the Plan administrator (which may, but is not required to, include electronic or other formats, provided such method is legally permitted) that they have insufficient cash or other liquid assets reasonably available to satisfy the financial need and (iv) the Plan administrator does not have actual knowledge that is contrary to such representation.

Prior to March 1, 2022, a distribution on account of hardship will not be made unless the Participant has obtained all other currently available distributions and non-taxable loans under all plans maintained by the University.

(d) The administrator may require the submission of such evidence as it may reasonably deem necessary to confirm the existence of such a hardship. A request for distribution pursuant to this Section shall be approved or denied by written instrument given by the administrator to the Participant within a reasonable period of time after the date the written request, complete

with all evidence with respect thereto requested by the administrator, is given to the administrator by the Participant.

## **SECTION 6. THE COMMITTEE**

6.1 The Board of Trustees has delegated to the Employee Benefit Committee, subject to those powers which the Board has reserved as described in Section 7, general authority over and responsibility for the administration and interpretation of the Program, including, recommending contractual relationships, reviewing the performance of any Trustee or other third party service provider or delegatee, and recommending the appointment, removal or substitution of, a Trustee, third party service provider, delegatee or Funding Vehicle. If the Committee deems it necessary or advisable, it shall arrange for the engagement of legal counsel, certified public accountants, and consultants to provide expert analysis and advice regarding the Program and make use of agents and clerical or other personnel, for purposes of the Program. All recommendations concerning contracts are subject to the University's standing policy on Contracting for Outside Services. The Committee shall consist of at least six members, at least two of whom shall be participants in the Program. Upon recommendation of the President each member of the Committee shall be appointed by, and serve at the pleasure of the Board of Trustees. Any member of the Committee who is not a member by virtue of his or her position with the University may resign at any time. No member of the Committee shall be entitled to act on or decide any matters relating solely to her/his rights or benefits under this Program. Any action that may be taken by the Committee hereunder may be taken by the Board of Trustees.

6.2 The Committee shall elect or designate its own Chairperson, establish its own procedures, the time and place for its meetings (which may be held telephonically or through other means), and provide for the keeping of minutes of all meetings. Any action of the Committee may be taken upon the affirmative vote of a majority of the members at the meeting provided that all of the members of the Committee are informed in writing of the vote.

6.3 To the maximum extent permitted by law, no member of the Committee shall be personally liable by reason of any contract or other instrument executed by the Committee or in her/his capacity as a member of the Committee, nor for any mistake of judgment made in good faith. The University shall indemnify and hold harmless each member of the Committee, and each other officer, employee or Trustee of the University to whom any duty or power with respect to this Program may be delegated or allocated, against any cost or expense (including counsel fees) and liability (including any sum paid in settlement of a claim or legal action with the approval of the University) arising out of anything done or omitted to be done in connection with the Program unless arising out of such person's own fraud or bad faith.

## **SECTION 7. AMENDMENT OR TERMINATION**



7.1 (a) The Board of Trustees reserves the right at any time to amend, suspend or terminate this Program and to suspend or discontinue any contributions to the Funding Vehicles, in whole or in part and for any reason, including the passing of any social legislation made mandatorily applicable to employees, and without the consent of any employee, Beneficiary, Committee, or other person; and the Committee may adopt amendments which do not significantly affect the then currently estimated costs of this Program and which may be necessary or desirable to meet any requirements of applicable law or otherwise to facilitate the administration of the Program.

(b) Any amendment, suspension or termination of this Program may be made retroactively if necessary or appropriate to meet any requirements of applicable law but not otherwise.

## **SECTION 8. GENERAL LIMITATIONS AND PROVISIONS**

8.1 Each Employee, former Employee, Beneficiary and other person (including heirs), shall assume all risk in connection with any decrease in the value of the assets held in a Memorandum Account or by a Trustee or other delegatee under the Funding Vehicles and neither the University nor the Committee shall be liable or responsible therefor.

8.2 Nothing contained herein shall give any employee the right to be retained in the employment of the University or affect the right of the University to dismiss any employee. The adoption and maintenance of this Program shall not constitute a contract between the University and any employee or consideration for, or an inducement to or condition of, the employment of any employee.

8.3 The captions preceding the Sections hereof have been inserted solely as a matter of convenience and in no way define or limit the scope or intent of any provisions hereof.

8.4 The Program and all rights thereunder shall be governed by and construed in accordance with the laws of Lebanon.