

SOUTHEASTERN UNIVERSITIES RESEARCH ASSOCIATION
DEPENDENT CARE ASSISTANCE PLAN

Originally Effective: March 27, 1991

Amended and Restated Effective: January 1, 2005

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SECTION 1 INTRODUCTION

This Plan is intended to qualify as a dependent care assistance program under Section 129 of the Internal Revenue Code of 1986, as amended (the "Code"), and is to be interpreted in a manner consistent with the requirements of Code Section 129. The purpose of the Plan is to provide Participants with reimbursements of their dependent care expenses that are excludable from gross income under Code Section 129.

SECTION 2 DEFINITIONS

- 2.1 Administrator. The Company or such other person or committee as may be appointed from time to time by the Board.
- 2.2 Board. The Board of Directors of Southeastern Universities Research Association.
- 2.3 Cafeteria Plan. The Southeastern Universities Research Association Cafeteria Plan, as amended from time to time.
- 2.4 Code. The Internal Revenue Code of 1986, as amended from time to time. Reference to any section or subsection of the Code includes reference to any comparable or succeeding provisions of any legislation that amends, supplements, or replaces such section or subsection.
- 2.5 Company. Southeastern Universities Research Association, a Virginia non-stock corporation.
- 2.6 Dependent. A “qualifying individual” within the meaning of Code Section 21(b)(1) who is (a) a dependent child of the Participant who is under the age of thirteen (13) and with respect to whom the Participant is entitled to an exemption under Code Section 151(c), or (b) a dependent or spouse of the Participant who is physically or mentally incapable of caring for himself or herself, and whose principal place of abode is with the Participant for more than one-half of the calendar year. In determining whether an individual is a Dependent of the Participant, the individual’s status shall be determined in accordance with Code Section 21(b)(1) and the special rules of Code Section 21(e)(5) shall be taken into account, where applicable.
- 2.7 Dependent Care Assistance Account. The account described in Plan Section 5.
- 2.8 Dependent Care Expenses. Expenses that (a) are incurred for the care of a Dependent of the Participant or for related household services, (b) are paid or payable to a Dependent Care Service Provider, and (c) are incurred to enable the Participant to be gainfully employed for any period for which there are one or more Dependents with respect to the Participant. Dependent Care Expenses shall not include expenses incurred for (i) services outside the Participant's household for the care of a Dependent, unless such Dependent is described in Plan Section 2.5(a) or regularly spends at least eight hours each day in the Participant's household, or (ii) services at a camp where the Dependent stays overnight. Dependent Care Expenses shall be deemed to be incurred at the time the services to which the expenses relate are rendered.
- 2.9 Dependent Care Service Provider. A person who provides care or other services described in Plan Section 2.8(a) above, but shall not include (a) a dependent care center (as defined in Code Section 21(b)(2)(D)), unless the requirements of Code Section 21(b)(2)(C) are satisfied, or (b) a related individual described in Code Section 129(c).

2.10 Effective Date. The original effective date is March 27, 1991. The effective date of this amendment and restatement is January 1, 2005.

2.11 Employee. Any individual employed by the Company, other than as an independent contractor or outside director.

2.12 Participant. Each Employee who participates in the Plan in accordance with Plan Section 3.

2.13 Plan. The Southeastern Universities Research Association Dependent Care Assistance Plan, as amended from time to time.

2.14 Plan Year. The 12-month period beginning on April 1 and ending on March 31, provided, however, that the Plan shall be administered with a short Plan Year beginning January 1, 2005 and ending on March 31, 2005.

A pronoun or adjective in the masculine gender includes the feminine gender and the singular includes the plural, unless the context clearly indicates otherwise.

SECTION 3
PARTICIPATION

3.1 Date of Participation. Each Employee who normally works at least twenty (20) hours per week is eligible to participate in the Plan after he has completed thirty (30) days of employment with the Company. Each eligible Employee who has elected under the Cafeteria Plan to reduce his salary and have the Company reimburse him under this Plan will participate in the Plan. An Employee will become a Participant on the first day of the month coinciding with or immediately following the date the employee becomes eligible to participate under the preceding sentence.

3.2 Cessation of Participation. A Participant will cease to be a Participant as of the earliest of

(a) the date on which the Plan terminates,

(b) the last pay date following the date on which he or she ceases to be an Employee eligible to participate under Section 3.1. or

(c) the date coinciding with or immediately following the date on which his or her election to receive dependent care assistance expires or is terminated under the Cafeteria Plan.

3.3 Reinstatement of Former Participant. If a former Participant who is eligible under Section 3.1 elects again under the Cafeteria Plan to receive dependent care assistance under this Plan, he or she will again become a Participant in this Plan on the effective date of such election.

SECTION 4
ELECTION TO RECEIVE DEPENDENT CARE ASSISTANCE

4.1 Election Procedure. A Participant may elect to receive payments or reimbursements of Dependent Care Expenses under this Plan by filing an election and compensation reduction agreement in accordance with the procedures established under the Cafeteria Plan. An election to receive dependent care assistance shall be irrevocable during the Plan Year, subject to a change in status or circumstances, as provided in the Cafeteria Plan. However, such an election may automatically terminate, or may be terminated or modified by action of the Cafeteria Plan administrator, in accordance with the terms of the Cafeteria Plan.

4.2 Maximum Dependent Care Assistance. The maximum amount the Participant may receive in the form of dependent care assistance under this Plan with respect to Dependent Care Expenses incurred in any calendar year shall be the lesser of (a) the Participant's earned income for the calendar year (after all reductions in compensation including the reduction related to dependent care assistance), (b) the actual or deemed earned income of the Participant's spouse for the calendar year, if the Participant is married, or (c) \$5,000 (or, if the Participant does not certify to the Administrator's satisfaction that he or she is either married or will file a joint federal income tax return for the year, \$2,500). In the case of a spouse who is a full-time student at an educational institution or who is physically or mentally incapable of caring for himself or herself, such spouse shall be deemed to have earned income of not less than \$250 per month if the Participant has one Dependent and \$500 per month if the Participant has two or more Dependents. In the case of two Participants who are married to each other and who file a joint federal income tax return for the calendar year, the \$5,000 limit in (c) above shall be reduced for each such Participant by the amount received for the year under this Plan by the Participant's spouse. For purposes of this Section 4.2, "earned income" shall have the meaning given it by Code Section 32(c)(2), and a Participant shall not be treated as married if the Participant is not considered as married under the special rules of Code Section 21(e)(3) and (4).

SECTION 5
DEPENDENT CARE ASSISTANCE ACCOUNTS

5.1 Establishment of Accounts. The Company will establish and maintain on its books a Dependent Care Assistance Account for each Plan Year with respect to each Participant who has elected to receive reimbursement of Dependent Care Expenses for the Plan Year.

5.2 Crediting of Accounts. There shall be credited to a Participant's Dependent Care Assistance Account for each Plan Year, as of each date compensation is paid to the Participant in such Plan Year, an amount equal to the reduction, if any, to be made in such compensation in accordance with the Participant's election and compensation reduction agreement executed according to the Cafeteria Plan. All amounts credited to each such Dependent Care Assistance Account shall be the property of the Company until paid out pursuant to Plan Section 6. The average of the amounts credited to the accounts of non-highly compensated employees (as defined in Code Section 414(q)) shall not be less than fifty-five percent (55%) of the average of the amounts credited to the accounts of highly compensated employees (as defined in Code Section 414(q)); provided, however, that non-highly compensated employees whose compensation is less than \$25,000 in the Plan Year shall not be taken into account for purposes of this computation. Elections shall be adjusted pursuant to Section 4.7 of the Cafeteria Plan. All amounts credited to each such Dependent Care Assistance Account shall be the property of the Company until paid out pursuant to Plan Section 6.

5.3 Debiting of Accounts. A Participant's Dependent Care Assistance Account for each Plan Year shall be debited from time to time in the amount of any payment under Plan Section 6 to or for the benefit of the Participant for Dependent Care Expenses incurred during such Plan Year. Amounts debited to each such Dependent Care Assistance Account shall be treated as payments of the earliest amounts credited to the Account and not yet treated as paid under this sentence, under a "first-in/first-out" approach.

5.4 Forfeiture of Accounts. The amount credited to a Participant's Dependent Care Assistance Account for any Plan Year shall be used only to reimburse the Participant for Dependent Care Expenses incurred during such Plan Year, and only if the Participant applies for reimbursement on or before ninety (90) days after the close of the Plan Year. If any balance remains in the Participant's Dependent Care Assistance Account for any Plan Year after all reimbursements have been made for such Plan Year, such balance shall not be carried over to reimburse the Participant for Dependent Care Expenses incurred during a subsequent Plan Year, and shall not be available to the Participant in any other form or manner, but shall remain the property of the Company, and the Participant shall forfeit all rights with respect to such balance. Notwithstanding the foregoing, the Company may, in its sole discretion, return such amounts to Participants to the extent permitted by applicable Treasury Regulations or pursuant to guidelines established by the Internal Revenue Service.

SECTION 6
PAYMENT OF DEPENDENT CARE ASSISTANCE

6.1 Claims for Reimbursement. A Participant who has elected to receive dependent care assistance for a Plan Year may apply to the Company for reimbursement of Dependent Care Expenses incurred by the Participant during the Plan Year by submitting an application in writing to the Company, in such form as the Company may prescribe, setting forth:

- a. the amount, date and nature of each expense with respect to which a reimbursement is requested;
- b. the name of the person, organization or entity to which the expense was or is to be paid; and
- c. such other information as the Company may from time to time require.

Such application shall be accompanied by bills, invoices, receipts or other statements or certifications showing the amounts of such expenses, together with any additional documentation the Company may request. Such application may be made before or after the Participant has paid such expenses.

6.2 Reimbursement of Expenses. The Company shall reimburse the Participant from the Participant's Dependent Care Assistance Account, at such time and in such manner as the Administrator may prescribe for Dependent Care Expenses incurred during the Plan Year for which the Participant submits documentation in accordance with Section 6.1. No reimbursement under this Section 6.2 of expenses incurred during a Plan Year shall at any time exceed the balance of the Participant's Dependent Care Assistance Account for the Plan Year at the time of the reimbursement, nor shall any reimbursement be made if the Participant's claim is for an amount less than the minimum reimbursable amount established by the Administrator. The amount of any Dependent Care Expenses not reimbursed as a result of the preceding sentence shall be carried over and reimbursed only if and when the Participant's claim equals or exceeds such minimum and the balance in the Participant's Dependent Care Assistance Account permits such reimbursement or payment. Notwithstanding the preceding sentence, claims for expenses incurred during a Plan Year that are submitted for reimbursement during the last month of the Plan Year or within the ninety (90) days following the close of the Plan Year shall be paid regardless of whether they equal or exceed the minimum reimbursable amount, provided the Participant's Dependent Care Assistance Account permits such reimbursement.

6.3 Report to Participants on or before January 31 of each year. On or before each January 31, the Administrator shall furnish to each Participant (or former Participant) who has received dependent care assistance under this Plan during the prior calendar year a written statement showing the amount of such assistance paid during such year with respect to the Participant (or former Participant).

6.4 Limitation on Reimbursements or Payments with Respect to Certain Participants. Not more than twenty-five percent (25%) of the total amounts reimbursed or paid under the Plan

during any Plan Year may be reimbursed or paid with respect to the class of individuals who own more than five percent (5%) of the stock of the Company (or their spouses or dependents). Notwithstanding any other provision of this Plan, the Administrator may limit the amounts reimbursed or paid with respect to any such individual, or with respect to any Participant who is a highly compensated employee (within the meaning of Code Section 414(g)), to the extent the Administrator deems such limitation to be advisable to assure compliance with the restriction described in the preceding sentence or with any nondiscrimination provision of the Code. Such limitation may be imposed whether or not it results in a forfeiture under Plan Section 5.4.

SECTION 7
TERMINATION OF PARTICIPATION

In the event that a Participant ceases to be a Participant in this Plan for any reason during the Plan Year, the Participant's compensation reduction agreement relating to dependent care assistance shall terminate effective as of the date coinciding with or immediately following the date the Participant ceases to be a Participant. The Participant shall be entitled to reimbursement only for Dependent Care Expenses incurred within the same Plan Year and incurred before the termination date, and only if the Participant applies for such reimbursement in accordance with Plan Section 6.1 on or before ninety (90) days after the close of the Plan Year. No such reimbursement shall exceed the remaining balance, if any, in the Participant's Dependent Care Assistance Account for the Plan Year in which the expenses were incurred. In the event of the Participant's death, the Participant's spouse (or, if none, the Participant's executor or administrator) may apply on the Participant's behalf for reimbursements permitted under this Section 7.

SECTION 8 ADMINISTRATOR

8.1 Plan Administrator. The administration of the Plan shall be under the supervision of the Administrator. It shall be a principal duty of the Administrator to see that the Plan is carried out, in accordance with its terms, for the exclusive benefit of persons entitled to participate in the Plan without discrimination among them. The Administrator will have full power to administer the Plan in all of its details, subject to applicable requirements of law. For this purpose, the Administrator's powers will include, but will not be limited to, the following authority, in addition to all other powers provided by this Plan:

- a. To make and enforce such rules and regulations as it deems necessary or proper for the efficient administration of the Plan, including the establishment of any claims procedures that may be required by applicable provisions of law;
- b. To interpret the Plan, its interpretation thereof in good faith to be final and conclusive on all persons claiming benefits under the Plan;
- c. To decide all questions concerning the Plan and the eligibility of any person to participate in the Plan;
- d. To appoint such agents, counsel, accountants, consultants and other person as may be required to assist in administering the Plan; and
- e. To allocate and delegate its responsibilities under the Plan and to designate other persons to carry out any of its responsibilities under the Plan, any such allocation, delegation or designation to be by written instrument and in accordance with applicable requirements of law.

8.2 Examination of Records. The Administrator will make available to each Participant such of its records under the Plan as pertain to the Participant, for examination at reasonable times during normal business hours.

8.3 Reliance on Tables, Etc. In administering the Plan, the Administrator will be entitled to the extent permitted by law to rely conclusively on all tables, valuations, certificates, opinions and reports which are furnished by accountants, counsel or other experts employed or engaged by the Administrator.

8.4 Indemnification of Administrator. The Company agrees to indemnify and to defend to the fullest extent permitted by law any Employee serving as the Administrator or as a member of a committee designated as Administrator (including any Employee or former Employee who formerly served as Administrator or as a member of such committee) against all liabilities, damages, costs and expenses (including attorneys' fees and amounts paid in settlement of any claims approved by the Company) occasioned by any act or omission to act in connection with the Plan, if such act or omission is in good faith.

SECTION 9
AMENDMENT OR TERMINATION OF PLAN

9.1 Amendment of Plan. The Company, by resolution of its Board, reserves the power at any time or times to amend the provisions of the Plan to any extent and in any manner that it may deem advisable. An amendment may be made retroactively if it is necessary to bring the Plan into compliance with applicable law.

9.2 Termination of Plan. The Company has established the Plan with the bona fide intention and expectation that it will be continued indefinitely, but the Company will have no obligation whatsoever to maintain the Plan for any given length of time and, by resolution of its Board, may discontinue or terminate the Plan at any time without liability. Upon termination or discontinuance of the Plan, all elections and reductions in compensation relating to the Plan shall terminate, and reimbursements shall be made only in accordance with Plan Section 7.

SECTION 10
MISCELLANEOUS

10.1 Communication to Employees. Promptly after the Plan is adopted, the Company will notify all Employees of the availability and terms of the Plan.

10.2 Limitation of Rights. Neither the establishment of the Plan nor any amendment thereof will be construed as giving to any Participant or other person any legal or equitable right against the Administrator or the Company, except as expressly provided herein, and in no event will the terms of employment or service of any Participant be modified or in any way be affected hereby.

10.3 Benefits Solely from General Assets. The benefits provided hereunder will be paid solely from the general assets of the Company. Nothing herein will be construed to require the Company or the Administrator to maintain any fund or segregate any amount for the benefit of any Participant, and no Participant or other person shall have any claim against, right to, or security or other interest in, any fund, account or asset of the Company from which any payment under the Plan may be made.

10.4 Nonassignability of Rights. The right of any Participant to receive any reimbursement under the Plan shall not be alienable by the Participant by assignment or any other method, and will not be subject to be taken by his creditors by any process whatsoever, and any attempt to cause such right to be so subjected will not be recognized, except to such extent as may be required by law.

10.5 No Guarantee of Tax Consequences. Neither the Administrator nor the Company makes any commitment or guarantee that any amounts paid to or for the benefit of a Participant under this Plan will be excludable from the Participant's gross income for federal or state income tax purposes, or that any other federal or state tax treatment will apply to or be available to any Participant. It shall be the obligation of each Participant to determine whether each payment under Plan Section 6 is excludable from the Participant's gross income for federal and state income tax purposes, and to notify the Company if the Participant has reason to believe that any such payment is not so excludable.

10.6 Indemnification of Company by Participants. If any Participant receives one or more payments or reimbursements under Section 6 that are not for Dependent Care Expenses, such Participant shall indemnify and reimburse the Company for any liability it may incur for failure to withhold federal or state income tax or Social Security tax from such payments or reimbursements. However, such indemnification and reimbursement shall not exceed the amount of additional federal and state income tax that the Participant would have owed if the payments or reimbursements had been made to the Participant as regular cash compensation, plus the Participant's share of any Social Security tax that would have been paid on such compensation, less any such additional income and Social Security tax actually paid by the Participant.

10.7 Governing Law. The Plan will be construed, administered and enforced according to the laws of the Commonwealth of Virginia, except to the extent such laws are suspended by federal law.

10.8 Mistaken Contributions. If any contribution is made by the Company because of a mistake in fact, the portion of that contribution due to the mistake of fact shall be returned to the contributor as permitted by the Code.

IN WITNESS WHEREOF, the Company has caused this Plan to be executed in its name and on its behalf by its duly authorized officer this ____ day of _____, 2005.

SOUTHEASTERN UNIVERSITIES RESEARCH ASSOCIATION

By: _____

Its: _____