

REVISED and RESTATED

STATE OF TENNESSEE
CHAIRS OF EXCELLENCE
ENDOWMENT TRUST AGREEMENT

THIS TRUST AGREEMENT AND DECLARATION OF TRUST, made and entered into this 26th day of August, 1987, as amended and restated the 23rd day of May, 2005 and is hereby amended and restated this the 11th day of October, 2017 on behalf of the State of Tennessee;

WITNESSETH

WHEREAS, the State of Tennessee 94th General Assembly has passed and the Governor has signed Public Chapter 1002, Acts of 1984; and

WHEREAS, Section 44, Item 1 of Public Chapter 1002, appropriates ten million dollars to the State Treasurer as Trustee for the Chairs of Excellence Endowment; and

WHEREAS, such Section also provides that matching amounts will be paid into such Endowment by the public universities in Tennessee; and

WHEREAS, the purpose of such Endowment is to provide a corpus which generates income sufficient to fund Chairs of Excellence at various Tennessee public universities on a perpetual basis; and

WHEREAS, this Trust is hereby created to manage such funds and distribute them in accordance with the provisions of Public Chapter 1002 and this Trust Agreement; and

WHEREAS, the State of Tennessee 105th General Assembly passed legislation defining corpus and defining income as set out in Public Chapter 91, Acts of 2005;

WHEREAS, the State of Tennessee 110th General Assembly passed legislation revising the Trustees and eligible state universities:

NOW THEREFORE, in consideration of the foregoing premises, a Trust is hereby established as follows:

I

NAME

The name of this Trust shall be the State of Tennessee Chairs of Excellence Endowment Trust Fund hereinafter called the "Trust."

II

PURPOSE

The Trust is established exclusively for the management and investment of monies transferred to the Trust by the State of Tennessee, by its public universities and by private sources on behalf of a respective university for the Chairs of Excellence Program. The sole object and purpose of the Trust is to fund the Chairs of Excellence Program and thereby to further the cause of education in Tennessee by acquiring and investing funds, the income from which, after payment of the necessary expenses, shall be devoted exclusively to the Chairs of Excellence Program.

III

COMMINGLING OF FUNDS FOR INVESTMENT

The property transferred to this Trust shall be commingled with, and invested or reinvested with, other monies transferred to the Trust. All or a portion of the Trust may be invested or reinvested jointly with other monies, not a part of the Trust, which are held by the State Treasurer including, but not limited to, assets of the Tennessee Consolidated Retirement System and the Pooled Investment Fund established pursuant to Tennessee Code Annotated, Title 9, Chapter 4. When such joint investment occurs, detailed accounting records shall be maintained by the Trustee in accordance with generally accepted accounting principles.

IV

TRUSTEES

(a) The Trustees of the Trust shall be the Governor, the State Treasurer, the Secretary of State, the Commissioner of Finance and Administration, the Comptroller of Treasury, the President of the University of Tennessee and the President of one (1) of the specified, four-year state universities who serve a three-year term on a rotating basis as prescribed by Tennessee Code Annotated, Title 49, Chapter 7, Part 501, who shall all serve ex-officio.

(b) The State Treasurer shall serve as Chairman of the Board of Trustees of the Trust.

(c) The Trustees shall serve without salary, but each member shall be reimbursed for actual and necessary expenses including travel expenses in accordance with the comprehensive travel regulations as promulgated by the Department of Finance and Administration and approved by the Attorney General.

(d) The State Attorney General or his designee shall serve as legal advisor to the Board of Trustees.

(e) The Board of Trustees shall meet as determined by the Chairman upon notice to all members.

(f) Four (4) members of the Board shall constitute a quorum. A majority vote of the members present and voting shall be necessary for a decision by the Board.

(g) The Trustees shall have all powers provided by Tennessee law for fiduciaries acting in a similar capacity, subject to the provisions of this instrument.

V
INVESTMENT

Monies in the Trust shall be invested by the Treasurer in accordance with an investment policy approved by the Trustees which shall take into account preservation of principal and maximization of income. The investment policy shall be governed by the same restrictions which apply to the Tennessee Consolidated Retirement System except that the portion of the trust fund which comes from public funds cannot be invested in corporate stocks. Prior to the approval of an investment policy, funds shall be invested in the Pooled Investment Fund established by Tennessee Code Annotated, Title 9, Chapter 4. The Trustees and the Treasurer acting through the investment staff of the Treasury Department shall exercise that degree of judgment and care under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

VI
CORPUS

The corpus of the Trust shall consist of monies transferred to it by the State of Tennessee, by its public universities and by private sources on behalf of a respective university. Monies transferred to the Trust by or on behalf of a university shall be transferred by or with the approval of the appropriate governing board. The corpus of the Trust shall not be expended for any purpose other than the purchase of investments pursuant to investment policy established in accordance with Section V. Contributions in excess of the required matching funds may be made to increase the corpus of a Chair.

VII FUNDING

The Trust shall be initially funded by a state appropriation of \$10 million authorized by Public Chapter 1002, Acts of 1984. This appropriation, and such additional appropriations as may from time to time be made, will be credited equally to two General Accounts: one for the University of Tennessee, and one for the state universities listed in Tennessee Code Annotated §49-7-501 (c)(7)(A), unless otherwise directed by law. As each Chair is designated pursuant to Section IX, a share of the appropriation as determined by the appropriate governing board will be transferred to a Subaccount created for that Chair. Such appropriation allocated per Chair shall be matched on a one-to-one basis by the participating institutions. These matching contributions will be credited directly to the Subaccount for the Chair to which they were contributed.

VIII INCOME and SPENDING AUTHORITY

(a) The income from the Trust, as determined in accordance with generally accepted accounting principles, shall be expended for the exclusive purpose of funding the Chairs of Excellence Program; however, the allowable expenses of the Trustees and the expenses of investing said Trust shall also be deducted from the income of the Trust.

(b) Each General Account will be credited with income based on the account balance not yet allocated to fund Subaccounts. Income allocated to the General Account shall be incorporated into the corpus of the Trust at the General Account level.

(c) Each Subaccount shall be allocated income based on its account balance. In the event that the matching funds are not deposited to, the Trust at the time the funds from the General Account are allocated for a Chair, the Subaccount shall be established and all income allocable on the value of the funds allocated and contributed to the Subaccount shall be paid into the Subaccount. No amount shall be spent from the Subaccount for a Chair until all matching funds required by Section VII are deposited in the Trust and all conditions of Section IX are met.

(d) The trustees may adopt a spending plan policy for the Chairs that permits the expenditure of income accrued by the chair. Income means all earnings from the

trust's investment portfolio from whatever source derived including, but not limited to, interest, dividends, realized capital gains (or losses) and any income previously applied to corpus of the trust.

(e) Any amount authorized to be spent by the Spending Plan adopted by the Trustees that has not been expended at the close of the fiscal year may be transferred into a special reserve account for that Chair.

(f) Funds shall be paid from the Subaccount for each approved Chair in accordance with a schedule acceptable to the Trustees which is submitted prior to the beginning of each fiscal year by the University of Tennessee and the state universities listed in Tennessee Code Annotated §49-7-501 (c)(7)(A) for their respective Chairs. Said schedule shall specify the total annual requirement and the frequency of payments which shall provide, to the extent practical, for the maximum investment of funds within the Trust.

(g) The University of Tennessee and the state universities listed in Tennessee Code Annotated §49-7-501 (c)(7)(A), respectively, shall annually certify to the Trustees that all funds expended were expended for the Chair for which the income was intended. Said certification shall be made each year by the earlier of August 30 or the date prescribed by the Tennessee Department of Finance and Administration as the accounts receivable deadline. To the extent that the payments made in any fiscal year were in excess of the actual expenses certified for the Chair, the excess amount will be deducted from the first payment(s) made from the Trust for the Chair in the succeeding fiscal year.

(h) Balances in the special reserve accounts will continue to earn income which will be credited directly into each special reserve account.

(i) Any funds in the special reserve account for a Chair are available to supplement the funding of the Chair as determined by the Trustees. After a period of five (5) years during which no funds from a special reserve account have been used, the University of Tennessee or the state universities listed in Tennessee Code Annotated §49-7-501 (c)(7)(A) may request that such funds be transferred to a new Chair of Excellence or to supplement an existing Chair of Excellence. The Trustees, when considering a request for transfer must consider the long term adequacy of the corpus of the trust for the Chair

prior to making a transfer. Upon good cause shown, the Trustees may at their discretion, authorize such transfer.

IX

TRUST BENEFICIARIES

(a) Institutions eligible to participate in the Chairs of Excellence Program shall be the State's four year public universities which grant baccalaureate degrees and the University of Tennessee Space Institute. All eligible institutions shall receive at least one (1) Chair of Excellence.

(b) The respective governing boards shall notify the Trustees of each Chair designation in writing. The notification shall include sufficient information to indicate that the Chair complies with all applicable laws and such other information as is necessary to the efficient administration of the Trust. The information to be provided will be specified by the Trustees.

(c) No funds may be expended under the Chairs of Excellence Program until the governing boards have received the written comments on each specific Chair established from the Joint Legislative Oversight Committee created by Public Chapter 7 of the First Extraordinary Session of 1984.

X

BOOKS AND RECORDS

The books and records of the Trust shall be maintained by the Treasurer in accordance with generally accepted accounting principles and shall be open to public inspection. Such records shall be subject to audit by the State Comptroller or his designee. Accounting for the Trust will be at a general ledger account level with detail support by Chair at the subsidiary level.

XI

AMENDMENT

The Trustees shall have the right at any time and from time to time to amend, in whole or in part, any or all of the provisions of this Trust; however, no such amendment shall authorize or permit the Trust Fund (other than such part as is required

to pay expenses) to be used for or diverted to purposes other than those expressed in this Trust Agreement.

XII
APPROVAL

This Trust shall not be effective until approved by the State Attorney General and Reporter.

XIII
IRREVOCABILITY

This Trust shall be irrevocable.

XIV
CHOICE OF LAW

The Trust created herein is to be construed according to the laws of the State of Tennessee.

ACCEPTED:

David H. Lillard, Jr., State Treasurer
Chairman of the Board of Trustees
Chairs of Excellence Endowment Trust

DATE: _____

APPROVED:

Herbert H. Slatery III
Attorney General and Reporter

DATE: _____