

**AMENDMENT NO. TWO
TO THE
UNIVERSITY OF COLORADO OPTIONAL RETIREMENT PLAN
(As Amended and Restated Effective January 1, 2016)**

WHEREAS, the University of Colorado (the "Employer") maintains the University of Colorado Optional Retirement Plan (As Amended and Restated Effective January 1, 2016) (the "Plan") for the benefit of eligible employees; and

WHEREAS, Section 9.1 of the Plan reserves the right for the Employer to amend the Plan;

NOW THEREFORE, the Plan is amended effective January 1, 2011, unless otherwise provided herein as follows:

1. The Table of Contents of the Plan is amended effective January 1, 2016 to add the following to the end thereof:
 - "EXHIBIT 1 The University of Colorado Optional Retirement Plan Trust Agreement
 - EXHIBIT 2 First Amendment to the University of Colorado Optional Retirement Plan Trust Agreement
 - EXHIBIT 3 Custodial Account Agreement for a Non-Trusteed Governmental 401(a) Plan Between JPMorgan Chase Bank, N.A. and University of Colorado (effective May 2, 2011)
 - EXHIBIT 4 Amendment No. 1 to the Custodial Account Agreement Between TIAA-CREF Trust Company, FSB and the University of Colorado (effective May 1, 2015)
 - EXHIBIT 5 Item 15 of Schedule A (List of Services) as provided in Amendment No. 4 to the Recordkeeping Services Agreement Between Teachers Insurance and Annuity Association of America (TIAA) and University of Colorado
 - EXHIBIT 6 Item 15 of Schedule A (List of Services) as provided in Amendment No. 5 to the Recordkeeping Services Agreement Between Teachers Insurance and Annuity Association of America (TIAA) and University of Colorado"

2. Section 3.5 of the Plan is amended in its entirety to read as follows:

"3.5 Reporting

Records for each Participant under this Plan are maintained on the basis of the Plan Year. The fair market value of the Plan assets are determined, in accordance with a method consistently followed and uniformly applied, as of December 31

each year and as of such other dates as determined by the Plan Administrator, including as of March 31, June 30, and September 30, each year for the Plan assets held in a Participant's Accumulation Account(s), provided that such dates do not result in infrequent or irregular intervals. On a quarterly basis, the Fund Sponsor(s) will send each Participant and the Institution a report summarizing the status of his or her Accumulation Account(s) as of March 31, June 30, September 30, and December 31, each year. Similar reports, illustrations, or telephone verification may be obtained by a Participant upon termination of employment or at any other time agreed to by the Fund Sponsor(s)."

3. Section 6.5(b) of the Plan is amended in its entirety to read as follows:

“(b) Commencement of Benefit

If a Participant elects to defer distribution, nevertheless, distribution to a Participant must begin on or before April 1 of the calendar year following the later of (i) the calendar year in which the Participant attains age 70 ½, or (ii) the calendar year in which the Participant retires. A Participant who elects to defer receipt of a benefit may not do so to the extent that he or she is creating a death benefit that is more than incidental. Effective January 1, 2009, no minimum distribution is required for calendar year 2009 in accordance with Code Section 401(a)(9)(H).”

4. Section 8.5 of the Plan is amended, effective January 1, 2016, in its entirety to read as follows:

“8.5 Trust Fund

As part of this Plan, a trust shall be maintained to hold and account for the assets of the Plan; such trust may consist of one or more custodial accounts and/or annuity contracts treated as qualified trusts under Code section 401 pursuant to Treasury regulation section 1.401(f)-1 (‘Deemed Trustees’) and The University of Colorado Optional Retirement Plan Trust Agreement (appended to the Plan as Exhibit 1), the First Amendment to the University of Colorado Optional Retirement Plan Trust Agreement executed April 21, 2015 (appended to the Plan as Exhibit 2), Custodial Account Agreement for a Non-Trusteed Governmental 401(a) Plan Between JPMorgan Chase Bank, N.A. effective May 2, 2011 (appended to the Plan as Exhibit 3), and University of Colorado and Amendment No. 1 to the Custodial Account Agreement Between TIAA-CREF Trust Company, FSB and the University of Colorado effective May 1, 2015 (appended to the Plan as Exhibit 4), custodial agreement(s), annuity contract(s) and/or Funding Vehicle(s) are incorporated herein by reference. The University of Colorado has the authority and duty to appoint the Trustee(s) and/or Deemed Trustees and appoint successors at any time.

Any assets of the Plan may be invested in a common/collective trust or in a group trust that satisfies the requirements of Revenue Ruling 81-100, as further amended by Revenue Ruling 2004-67, Revenue Ruling 2008-40, and Revenue Ruling 2011-1, and as subsequently amended by future guidance. Each such common/collective trust or group trust is adopted with respect to any monies

invested therein, as part of the Plan, its trust, Trust Fund, custodial account, annuity contract and/or Funding Vehicle and each such declaration of trust or trust agreement and related adoption, participation, investment management, subtrust or other agreements, as amended from time to time, with respect to any monies invested therein, are incorporated by reference into the Plan, The University of Colorado Optional Retirement Plan Trust Agreement, custodial agreement(s), annuity contract(s) and/or Funding Vehicle(s), at such time as an investment in such common/collective trust or group trust is made.”

5. Section 10.6 of the Plan is amended effective January 1, 2016, in its entirety to read as follows:

“10.6 Revenue Credit Account


The assets in the Revenue Credit Account(s) shall be used as directed by the University, (a) to pay reasonable and necessary expenses of the Plan and/or (b) be allocated to the Accumulation Accounts. The terms of each revenue credit account agreement for the Plan (appended to the Plan as Exhibits 5 and 6), as amended from time to time, are hereby incorporated by reference into the Plan. To the extent not specified in the revenue credit account agreement, the assets of the Revenue Credit Account shall be invested as determined by the University and any assets allocated to the Accumulation Accounts from the Revenue Credit Account shall be invested in the Plan’s default investment.”

6. A new Exhibit 1 is hereby added to the Plan effective January 1, 2016, as appended hereto.
7. A new Exhibit 2 is hereby added to the Plan effective January 1, 2016, as appended hereto.

8. A new Exhibit 3 is hereby added to the Plan effective January 1, 2016, as appended hereto.
9. A new Exhibit 4 is hereby added to the Plan effective January 1, 2016, as appended hereto.
10. A new Exhibit 5 is hereby added to the Plan effective January 1, 2016, as appended hereto.
11. A new Exhibit 6 is hereby added to the Plan effective January 1, 2016, as appended hereto.

The President of the University of Colorado has caused this Amendment to be executed this 3rd day of February, 2017.

THE REGENTS OF
THE UNIVERSITY OF COLORADO,
A BODY CORPORATE AND A STATE
INSTITUTION OF HIGHER EDUCATION
OF THE STATE OF COLORADO

By: 
Name: Bruce Benson
Title: President
Date: 2/3/, 2017

Approved as to Legal Sufficiency
Office of University Counsel


By: 
Name: Jeremy Hueth
Title: Managing Associate University Counsel
Special Assistant Attorney General
Date: 2/3, 2017

EXHIBIT 1

The University of Colorado Optional Retirement Plan Trust Agreement

THE UNIVERSITY OF COLORADO
OPTIONAL RETIREMENT PLAN TRUST AGREEMENT

THIS TRUST AGREEMENT, made and entered into at Boulder, Colorado, as of the 1st day of January 1993, by and between The Regents of the University of Colorado, a body corporate, (hereinafter referred to as the "Employer" or "University") and University of Colorado-Treasurer (hereinafter referred to as the "Trustee").

WITNESSETH:

WHEREAS, the University of Colorado TIAA-CREF Defined Contribution Retirement Plan dated as of 1924 has been amended and restated effective January 1, 1993, as The University of Colorado Optional Retirement Plan (the "Plan"); and

WHEREAS, under Section 8.5 of the plan the Employer is required to maintain a trust fund to hold, account for, and manage the assets of the Plan; and

WHEREAS, it is necessary to establish The University of Colorado Optional Retirement Plan Trust Agreement (the "Trust Agreement") in order to comply with the terms of the Plan and to enable the Employer and Trustee appointed hereunder to hold, account for, administer, invest, and direct a distribution of the Plan assets;

NOW, THEREFORE, Employer and the Trustee do hereby agree as follows:

ARTICLE I

1.1 The name of this Trust Agreement shall be The University of Colorado Optional Retirement Plan Trust Agreement.

1.2 The effective date of the Trust Agreement shall be January 1, 1993.

1.3 The accounting year of the Trust Agreement shall end on June 30 of each year, the end of the Plan Year established under the Plan.

1.4 Definition in this Trust Agreement shall have the same meaning as in The University of Colorado Optional Retirement Plan, unless the context clearly indicates otherwise.

1.5 "Plan" shall mean The University of Colorado Optional Retirement Plan, as in effect from time to time.

ARTICLE II

2.1 The Trustee shall receive any contributions paid to it in cash or other property. All contributions so received, together with the income therefrom, shall be held, managed, and administered in trust pursuant to the terms of the Plan. The Trustee hereby accepts the Trust created hereunder and agrees to perform the duties under the Plan and this Trust Agreement on its part to be performed.

2.2 The Trustee shall discharge its duties with respect to the Plan solely in the interest of the Participants and beneficiaries under the Plan and for the exclusive purpose of providing benefits to them and defraying reasonable expenses of administering the Plan. The Trustee shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Trustee shall act in accordance with the Plan and all applicable federal and state laws.

2.3 The Trustee shall hold, invest, and reinvest the principal and income of the Trust Fund and keep the Trust Fund invested in such securities or in such other property as the Participants may direct pursuant to the Plan or as otherwise provided in the Plan.

2.4 The Trustee shall make such payments from the Trust Fund or cease making such payments as the Employer shall from time to time direct in writing. The Employer may also direct the payment of or reimbursement for expenses of administering the Plan. The Trustee shall have no duty to question the propriety of any written direction of the Employer. The Employer warrants that no direction will be issued to the Trustee by it, or by any of its officers or agents, other than in accordance with the terms of the Plan.

2.5 The Trustee shall not be under any duty to require payment of any contributions to the Trust Fund, or otherwise be responsible for the adequacy of the Trust Fund to meet and discharge any liabilities under the Plan.

ARTICLE III

3.1 The Trustee is authorized and empowered, but not by way of limitation:

(a) to invest and reinvest the principal and income of the Trust Fund as directed by the Participants, pursuant to the Plan and as otherwise provided in the Plan, with one or more Fund Sponsor(s) in one or more of the Funding Vehicles available to Participants under the Plan.

(b) to keep any cash from time to time held hereunder, and for which no investment direction has been received, on deposit in such banking departments or elsewhere as the Trustee elects, subject to the terms of the Plan.

(c) to sell, exchange, convey, transfer, or otherwise dispose of any property held by it as provided in the direction of the Participants and the Employer, and no person dealing with the Trustee shall be bound to see to the application of the money or property delivered to the Trustee or to inquire into the validity, expediency, or propriety of any such sale or other disposition;

(d) subject to the direction of the Participants, to vote upon any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights, or other options and to make any payments incidental thereto; to consent to or otherwise participate in corporate reorganizations or other changes affecting corporate securities and to delegate discretionary powers and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities, or other property held in the Trust Fund;

(e) to make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(f) to register any investment held in the Trust Fund in its own name or in the name of its nominee and to hold any investment in bearer form, but the books and records of the Trustee shall at all times show that all such investments are part of the Trust Fund;

(g) to settle, compromise, or submit to arbitration any claims, debts, or damages due or owing to or from the Trust Fund; to commence or defend suits or legal or administrative proceedings; and to represent the Trust in same.

(h) to employ suitable agents and counsel (who may be counsel for the University) and to pay their reasonable expenses and compensation; and to appoint an Investment Manager or Managers (as defined in Section 3(38) of ERISA), such as the Fund Sponsors, to manage, acquire, and dispose of any assets of the Trust Fund.

(i) to do all acts, whether or not expressly authorized herein, that it may deem necessary or proper to administer the Trust Fund, to protect the property held hereunder, and to carry out the purposes of the Plan.

3.2 The Trustee shall from time to time, on the written direction of the Plan Administrator designated under the Plan, make payments out of the Trust Fund to such persons, in such manner, in such amounts, and for such purposes as may be specified in the written direction of the Plan Administrator and, upon any such payment being made, the amount thereof shall no longer constitute a part of the Trust Fund. Each such written direction shall be accompanied by a certificate of the Plan Administrator that the payment is in accordance with the Plan.

ARTICLE IV

4.1 The expenses incurred by the Trustee in the administration of the Trust Fund, including fees for legal services rendered to the Trustee, such compensation, if any, to the Trustee as may be agreed upon from time to time between the Employer and the Trustee, and all other proper charges and expenses of the Trustee and of their agents and counsel shall be paid by the Employer, except as otherwise provided in contracts with the Fund Sponsors or other Investment Managers appointed under the Plan. All taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws upon the Trust Fund or the income thereof and investment charges shall be paid from the Trust Fund and charges as provided in the Plan or in contracts with Fund Sponsors.

4.2 The Trustee shall keep accurate and detailed accounts of all investments, receipts, disbursements, and other transactions hereunder, and all accounts, books, and records relating thereto shall be open to inspection and audit at all reasonable times by any person designed by the Employer. As of the close of the Plan Year, or at more frequent intervals within each such year as the Trustee elects, and as of the date of the removal or resignation of the Trustee as provided in Section 4.3 thereof, the Trustee shall file with the Employer a written account setting forth all investments, receipts, disbursements, and other transactions effected by it during the period from the date of their last such account.

4.3 The Trustee may be removed by the Board at any time upon thirty (30) days' notice in writing to the Trustee. The Trustee may resign at any time upon thirty (30) days' notice in writing to the Board. In either case, the necessity for such thirty (30) days' notice may be waived by the mutual agreement of the Trustee and the Board. Upon the removal or resignation of the Trustee, the Board shall appoint a successor Trustee or Trustees, who shall have the same powers and duties as those conferred upon the Trustee hereunder, and the title to all of the funds and properties constituting the Trust Fund shall vest jointly in those who shall from time to time be Trustees hereunder.

4.4 No successor or additional Trustee shall be in any way liable or responsible for anything done or omitted in the administration of the Trust Fund prior to the date he became a Trustee. Any Trustee who resigns or is removed is authorized to reserve such reasonable sums of money as may seem advisable for payment of fees and expenses in connection with the settlement of its accounts or otherwise, and any balance of such reserve remaining after the payment of such fees and expenses shall be paid over to the successor Trustee.

ARTICLE V

5.1 All orders, requests, and instructions of the Employer to the Trustee shall be in writing signed by one or more of its officers (whose identity shall have been certified to the Trustee by the Employer), and the Trustee shall act and shall be fully protected in acting in accordance with such order, requests, and instructions and shall have no duty to see to the application of any funds paid in accordance therewith.

ARTICLE VI

6.1 In the event of the termination of the Plan as provided therein, the Trustee shall dispose of the Trust Fund in accordance with the written order of the University accompanied by its certification to the Trustee that such disposition is made in accordance with the terms of the Plan. At no time shall any part of the corpus or income of the Trust Fund, after deducting any expenses properly chargeable to the Trust Fund, be used for or diverted to purposes other than for the exclusive benefit of Participants, former Participants, and their beneficiaries, except as otherwise provided in the Plan.

6.2 The Employer reserves the right at any time and from time to time by written instrument delivered to the Trustee to alter or amend this Trust Agreement in whole or in part, provided that no such alteration or amendment which affects the rights, duties, or responsibilities of the Trustee may be made without its consent, and provided further that no such amendment shall authorize or permit any part of the corpus or income of the Trust Fund to be used for or diverted to purposes other than for the exclusive benefit of the Participants, former Participants, and their beneficiaries.

6.3 Nothing contained in the Plan, either expressly or by implication, shall be deemed to impose any powers, duties, or responsibilities on the Trustee other than those set forth in this Trust Agreement.

6.4 Except as otherwise provided in the Plan, distributions directed to be made hereunder may not be voluntarily or involuntarily sold, transferred, assigned, pledged, or encumbered by any Participant, former Participant, or beneficiary, nor shall they be in any way liable to the claim of any creditor of any such person.

6.5 If any check in payment of a benefit hereunder, which had been mailed by regular U.S. Mail to the last address of the payee furnished the Trustee by the University, is returned unclaimed, the Trustee shall so notify the University and shall discontinue further payments to such payee until it receives the further instructions of the University.

6.6 Unless otherwise required by federal law, this Agreement shall be construed and enforced according to the laws of the State of Colorado and all provisions hereof shall be administered according to the laws of said State.

IN WITNESS WHEREOF, the University of Colorado has caused this Agreement to be executed by its duly authorized officers and its corporate seal to be hereunder affixed and attested, and the said Trustee has hereunto set its hand effective as of the 1st day of January, 1993.

THE REGENTS OF THE UNIVERSITY OF
COLORADO

By: *J. M. P. N. Allison*
Title:

UNIVERSITY

Approved as to Legal Sufficiency
Office of University Counsel

By: *Rosemary Cavanaugh*
Date: *December 17, 1992*

UNIVERSITY OF COLORADO-TREASURER

By: *M. R. Stei*
Title:

TRUSTEE

EXHIBIT 2

First Amendment to the University of Colorado Optional Retirement Plan Trust Agreement

First Amendment to The University of Colorado Optional Retirement Plan Trust Agreement

This First Amendment to The University of Colorado Optional Retirement Plan Trust Agreement ("First Amendment") amends The University of Colorado Optional Retirement Plan Trust Agreement ("Trust Agreement"), executed on or about January 1, 1993, by and between the Regents of the University of Colorado ("Employer" or "University"), a body corporate, on behalf of the University of Colorado, and The University of Colorado Treasurer ("Trustee").

WHEREAS, Employer and Trustee desire to amend the Trust Agreement as set forth hereinafter.

NOW, THEREFORE, in consideration of the above recitals and the mutual promises of the parties contained in the Trust Agreement and this First Amendment, and for other good and valuable consideration, the parties hereby agree to amend the Trust Agreement as follows:

1. Section 1.3 of the Trust Agreement is hereby amended in its entirety to read as follows:

1.3 The accounting year of the Trust Agreement shall end on December 31 of each year, the end of the Plan Year established under the University of Colorado Optional Retirement Plan.

2. ARTICLE III of the Trust Agreement is hereby amended by the addition of new Section 3.3 to read as follows:

3.3 Notwithstanding any other provisions of the Trust created hereunder, assets of the Trust may be invested in any collective investment fund or funds, including common and group trust funds presently in existence or hereafter established which are maintained by a bank or trust company supervised by a state or federal agency, notwithstanding that the bank or trust company is the trustee, investment manager, or is otherwise a party-in-interest of the Plan. The assets so invested shall be subject to all the provisions of the instruments establishing such funds as they may be amended from time to time. Such instruments of group trusts as they may be amended from time to time are hereby incorporated and made a part of the Trust created hereunder as if fully set forth herein. The combining of money and other assets of the Trust created hereunder with money and other assets of other trusts and accounts in such fund or funds is specifically authorized.

3. Except as set forth in this First Amendment, the terms and conditions of the Trust Agreement shall remain in full force and effect in accordance with its terms. If there is any conflict between this First Amendment and the Trust Agreement, the terms and conditions of this First Amendment shall control.

Agreed to and Signed this 21 day of APRIL, 2015,

FOR "EMPLOYER"

THE REGENTS OF THE UNIVERSITY OF
COLORADO, a body corporate

By: 

Bruce D. Benson
President

FOR "TRUSTEE"

UNIVERSITY OF COLORADO-TREASURER


Donald Eldhart

Approved as to Legal Sufficiency
Office of University Counsel

By: 

Jeremy Hueth
Special Assistant Attorney General

Date: 4/21/2015

EXHIBIT 3

Custodial Account Agreement for a Non-Trusteed Governmental 401(a) Plan Between
JPMorgan Chase Bank, N.A. and University of Colorado (effective May 2, 2011)



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TIAA-CREF
SERVICES

11/13/11 10:20:06

TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA

CUSTODIAL ACCOUNT AGREEMENT FOR A NON-TRUSTEED GOVERNMENTAL 401(a) PLAN

This Custodial Account Agreement ("Agreement") between JPMorgan Chase Bank, N.A. ("Custodian") and University of Colorado ("Employer") as Sponsor of the University of Colorado 401(a)/414(h)(2) Plan ("Plan"), a plan designed to meet the requirements of Section 401(a) of the Internal Revenue Code of 1986, as amended ("Code").

WHEREAS, in accordance with Code Section 401(f), the Plan will be funded in part with annuity contracts issued by Teachers Insurance and Annuity Association of America and College Retirement Equities Fund ("TIAA-CREF"); and

WHEREAS, in accordance with Code Section 401(f), the Plan will be funded in part with a custodial account designed to meet the requirements of Code section 401(f)(2) and the assets in such custodial account shall be invested solely in Mutual Fund Shares, as defined in Article II below; and

WHEREAS, the Plan provides that the Plan's participants (and beneficiaries of deceased participants) have the right to direct the Employer as to the investment of amounts credited to their individual accounts under the Plan by selecting from among the Mutual Fund Shares made available to them under the Plan by the Employer; and

WHEREAS, the Employer has appointed Teachers Insurance and Annuity Association of America as record keeper for the Plan ("Record Keeper") pursuant to which Record Keeper serves as Employer's agent for purposes of keeping Plan records; and

WHEREAS, the Employer has requested that the Custodian provide certain custodial services for the portion of the Plan's assets invested in Mutual Fund Shares described in Appendix A of this Agreement, which custodial services are required to satisfy the requirements of Code section 401(f) and the Custodian has agreed to provide such services as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is hereby agreed as follows:

ARTICLE I. EFFECTIVE DATE

- 1.1 The effective date of this Agreement will be May 2, 2011, or such later date as the parties shall agree by Notice. This agreement will remain in effect until terminated pursuant to Article X.

ARTICLE II. DEFINITIONS

- 2.1 "APPLICABLE LAW" means any statute, whether national, state or local, applicable in the United States or any other country, any other law, rule, regulation or interpretation of any governmental entity.

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- any applicable common law, and any decree, injunction, judgment, order, ruling, or writ of any governmental entity.
- 2.2 "BENEFICIARY" means the beneficiary(ies) of a deceased participant and an alternate payee of a participant pursuant to a qualified domestic relations order (as defined in section 414(p) of the Code) ("Qualified Domestic Relations Order").
- 2.3 "CUSTODIAN" means the Custodian, and its nominees, directors, officers, employees and agents.
- 2.4 "INSTRUCTIONS" means instructions which: (i) contain all necessary information required by the Custodian to enable the Custodian to carry out the Instructions; (ii) are received by the Custodian in writing or via the Custodian's electronic instruction system, SWIFT, telephone, facsimile or such other methods as are for the time being agreed by the Record Keeper and the Custodian; and (iii) the Custodian believes in good faith have been given by the Record Keeper or are transmitted by the Record Keeper with proper testing or authentication pursuant to terms and conditions which the Custodian may specify.
- 2.5 "MUTUAL FUND" means an open-end investment company registered under the Investment Company Act of 1940, as amended.
- 2.6 "MUTUAL FUND SHARES" means securities issued by a Mutual Fund.

ARTICLE III. SERVICES TO BE PROVIDED BY CUSTODIAN

- 3.1 The Custodian shall receive such sums of money or Mutual Fund Shares acceptable to the Custodian as shall from time to time be paid or delivered to the Custodian under this Agreement. The Custodian shall hold in Plan participant accounts all such assets, together with all the property purchased therewith and the proceeds thereof and the earnings and income thereon. The Custodian shall not be responsible for, or have any duty to enforce, the collection of any contributions or assets to be paid or transferred to it under the Plan or for verifying whether contributions or transfers to it are permissible under the Plan. The Custodian shall not be responsible for investment choices directed by the Employer or by Plan participants or Beneficiaries under the Plan.
- 3.2 The Custodian shall disburse Plan loan proceeds, hardship and other distributions as directed by the Record Keeper. The Custodian shall distribute Plan account balances in accordance with any Qualified Domestic Relations Order in accordance with the Instructions of the Record Keeper. No amounts may be paid or made available to any distributee before the time provided in the Plan. The Record Keeper shall be responsible for determining that (a) each distribution satisfies the requirements of the Plan and Applicable Law; (b) the disbursement of loan proceeds has been authorized in accordance with the Plan and Applicable Law; and (c) distributions pursuant to a domestic relations order have been authorized in accordance with the Plan and Applicable Law.
- 3.3 To the extent permitted under Applicable Law, the Custodian shall be the payer (within the meaning of applicable United States Treasury Department regulations) of benefits in the custodial account under the Plan held pursuant to this Agreement. As payer, it shall perform any required withholding of federal and state income tax from distributions and withdrawals and deposit the same with the appropriate tax authorities as and when directed by the Record Keeper. The Record Keeper shall be responsible for preparing and filing all reports of withheld taxes with the participant or Beneficiary and all applicable federal and state tax authorities.

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- 3.4 The Custodian agrees that all records maintained by it for the Plan shall be open to inspection and audit at reasonable times by agents or representatives of the Employer and that such records will be preserved and maintained in accordance with Applicable Law. The Custodian may charge, and the Employer shall agree to pay, the reasonable cost of any services and materials used by the Custodian in supplying assistance in connection with any such inspection.
- 3.5 The services to be performed by the Custodian under this Agreement may be performed on the Custodian's behalf wholly or in part through subsidiaries or affiliates of the Custodian or through vendors designated by the Custodian. The Custodian will continue to be liable for the performance of its duties hereunder.

ARTICLE IV. INSTRUCTIONS

- 4.1 (a) The Employer authorizes the Custodian to accept and act upon any Instructions received by the Custodian from Record Keeper without inquiry. The Record Keeper shall receive instructions from participants and Beneficiaries with respect to the investment of their Plan accounts. It shall aggregate such instructions and will provide Instructions to the Custodian to place net purchase and redemption orders with respect to each Mutual Fund investment option selected for the Plan as follows:
- (b) Each participant and Beneficiary shall submit investment directions and changes in investment directions with respect to his or her Plan account to the Record Keeper, which shall aggregate such directions placed each day with respect to the various investment alternatives in accordance with its agreement with the Employer. The Custodian shall invest the assets of the Plan accounts only when, if and in the manner, directed by the Record Keeper and shall not be under any obligation to invest or otherwise manage any of such assets. It shall be the duty of the Custodian to act strictly in accordance with the Record Keeper's directions. In the event that the Custodian fails to receive a proper Instruction, the assets shall be invested in a money market Mutual Fund or in such other Mutual Fund investment option selected by the Employer or left uninvested, in any case as selected by the Employer, until the Custodian receives a proper Instruction from the Record Keeper. The Custodian shall, as directed by the Record Keeper, liquidate investments when necessary to: (i) comply with participants' and Beneficiaries' instructions or to change investments; (ii) make plan benefit payment distributions; (iii) disburse loan proceeds; (iv) reallocate forfeitures under the Plan; or (v) pay expenses, fees, or taxes. The Record Keeper shall be responsible for determining that such liquidation is permitted under the prospectuses for the Mutual Funds in the participant's or Beneficiary's Plan account.
- (c) Unless otherwise expressly provided, all Instructions will continue in full force and effect until canceled or superseded.
- (d) The Custodian may (in its sole discretion and without affecting any part of this Section 4.1) seek clarification or confirmation of an Instruction from the Record Keeper and may decline to act upon an Instruction if it does not receive clarification or confirmation satisfactory to it. The Record Keeper may (in its sole discretion and without affecting any part of this Section 4.1) seek clarification or confirmation of an Instruction from the Employer and may decline to act on an Instruction if it does not receive clarification or confirmation satisfactory to it. The Custodian will not be liable for any loss arising from any delay while either it or the Record Keeper seeks such clarification or confirmation.

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- (e) In executing or paying a payment order the Custodian may rely upon the identifying number (e.g., Fedwire routing number or account) of any party as instructed in the payment order. The Record Keeper assumes full responsibility for any inconsistency between the name and identifying number of any party in payment orders issued to the Custodian in Employer's name.
- 4.2 Any Instructions delivered to the Custodian by telephone will promptly thereafter be confirmed in writing by the Record Keeper. Each confirmation is to be clearly marked "Confirmation". The Custodian will not be liable for having followed such Instructions notwithstanding the failure of the Record Keeper to send such confirmation in writing or the failure of such confirmation to conform to the telephone Instructions received. Either party may record any of their telephonic communications. The Record Keeper will comply with any security procedures reasonably required by the Custodian from time to time with respect to verification of Instructions. The Record Keeper will be responsible for safeguarding any test keys, identification codes or other security devices that the Custodian will make available to the Record Keeper.
- 4.3 The Custodian need not act upon Instructions which it reasonably believes to be contrary to law, regulation or market practice and the Custodian will be under no duty to investigate whether any Instructions comply with Applicable Law or market practice.
- 4.4 The Custodian has established cut-off times for receipt of Instructions, which will be made available to the Employer and the Record Keeper. If the Custodian receives an Instruction after its established cut-off time, the Custodian will attempt to act upon the Instruction on the day requested if the Custodian deems it practicable to do so or otherwise as soon as practicable on the next business day.

ARTICLE V. DUTIES OF THE EMPLOYER

- 5.1 The Employer shall be solely responsible for the following:
 - (a) The tax and legal aspects of the Plan.
 - (b) To select and periodically review the funding options for the Plan, it being understood that the Custodian has no authority or responsibility for choosing such funding options. The funding options under this Custodial Account shall consist of Mutual Fund Shares. The Custodial Account funding options initially chosen for the Plan are set forth in Appendix A to this Agreement. Such funding options may be changed from time to time by the parties attaching a new Appendix A hereto.
 - (c) To evaluate the suitability of the Plan documents and maintain the Plan's conformance with applicable provisions of the Code and the regulations thereunder, including, if applicable, any filings required under Applicable Law.
 - (d) To represent and defend the Plan in an Internal Revenue Service or Department of Labor audit or examination and any appeals or litigation relating thereto and any other legal proceedings relating to the Plan.
 - (e) To provide the Custodian, in a timely manner, accurate data, as requested and in the form requested by Custodian, in order to establish and maintain the records necessary for the fulfillment of the Custodian's duties hereunder. The Custodian shall not be responsible in the



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event that such information is inaccurate. If the Custodian is required to repeat or reprocess any task as a result of incomplete or inaccurate information provided by the Employer, the Custodian may charge the Employer a reasonable reprocessing fee. In addition, if amounts are sent to the Custodian with incorrect Instructions, or in amounts that do not reconcile with the Instructions given, the Custodian may: (1) apply the amounts for which accurate Instructions are given and refund any excess amounts to the Employer; or (2) if amounts are less than the Instructions call for, refund the entire amount to the Employer.

- 5.2 The Employer shall review all reports and shall immediately notify the Record Keeper in writing of any claimed error with respect to any data or report. The Custodian assumes no responsibility for verification and any report not challenged in writing to the Record Keeper within one hundred and twenty (120) days of receipt thereof shall be conclusively presumed accurate and complete. The Record Keeper shall promptly notify the Custodian of any claimed error by the Employer.

ARTICLE VI. THE POWERS OF CUSTODIAN AS CUSTODIAN

- 6.1 The Custodian, in its capacity as custodian, shall have the following powers:

- (a) To vote in person, or in proxy, or to refrain from voting in respect to any Mutual Fund shares held in a participant's or Beneficiary's Plan account, in accordance with Section 11.2 of this Agreement, and to enter into any voting trust or similar agreement in respect thereto;
- (b) To exercise conversion and subscription rights pertaining to any property held in a Plan account;
- (c) With respect to any investment, to consent or object to any action or non-action of any corporation, or of the directors, officers or stockholders of any corporation;
- (d) To register securities in its name or in the name of any nominee with or without indication of the capacity in which the securities shall be held, or to hold securities in bearer form and to deposit any securities or other property in a depository or clearing corporation;
- (e) To employ as many agents and counsel as are reasonably necessary for the purpose of properly performing its duties under this Agreement, and, as part of its expenses under this Agreement, to pay their reasonable expenses and compensation; and
- (f) To make, execute and deliver, as custodian, any and all conveyances, waivers, releases or other instruments in writing necessary or desirable for the accomplishment of any of the powers listed in this Agreement.

- 6.2 The Custodian shall have no duties or responsibilities as custodian other than those specified in this Agreement or under Applicable Law and no implied covenant or obligation shall be read into this Agreement against the Custodian. Notwithstanding any reference herein to the Plan, or to the provisions thereof, it is expressly agreed that the Custodian is not a party to the Plan and shall have no responsibility to apply or administer the terms of the Plan.

- 6.3 The Custodian shall have no duty to advise any person of the investment, tax or other consequences resulting from that person's actions or inactions, or of its own actions in following the directions of such person, or its failing to act in the absence of such directions.



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ARTICLE VII. STANDARD OF CARE; PROTECTION OF CUSTODIAN

- 7.1 The Custodian shall use due care in providing the services hereunder. Responsibility for due care is limited solely to correcting processing errors resulting from malfunction of the Custodian's equipment, error by its staff, or error by its programs. The Custodian shall make a good faith effort to correct any error caused by its performance subject to the limitations herein set forth; provided that the Employer notifies the Record Keeper in writing of such error and furnishes all data necessary to make such correction within one hundred and twenty (120) days following the date in which the Employer is furnished with a report in which the claimed error is contained. The Record Keeper shall promptly notify the Custodian of such claimed error. The Custodian shall in no event be liable, regardless of the form of the action, for loss of profit, goodwill, or other special or consequential damages suffered by the Employer, Plan representatives, the Record Keeper or Plan participants or Beneficiaries as a result of the services provided under this Agreement. The Custodian shall not be liable for any error or omission resulting, directly or indirectly, from failure of the Employer, or its agents, including, but not limited to, the Record Keeper (other than the Custodian and/or its affiliates or hired vendors), to properly perform any of its responsibilities under this Agreement or the Plan. The Custodian shall have no liability for any loss, claim or expense (including reasonable attorneys' fees) that may be imposed on, incurred by or asserted against the Custodian in connection with or arising out of the Custodian's performance under this Agreement, provided the Custodian has not acted with negligence or engaged in fraud or willful misconduct in connection with the liabilities in question. Additionally, the Custodian shall have no liability for any loss, claim or expense (including reasonable attorneys' fees) arising by reason of any breach of any statutory or other duty owed to the Plan by the Employer or the Record Keeper, whether or not the Custodian may also be considered liable for the Employer's or Record Keeper's breach under the provision of Applicable Law.
- 7.2 The Custodian will maintain and update from time to time business continuation and disaster recovery procedures with respect to its custody business that it determines from time to time meet reasonable commercial standards. The Custodian will have no liability, however, for any damage, loss, expense or liability of any nature that the Employer, Record Keeper, participants or Beneficiaries may suffer or incur, caused by an act of God, fire, flood, civil or labor disturbance, war, act of any governmental authority or other act or threat of any authority (de jure or de facto), legal constraint, fraud or forgery, malfunction of equipment or software (except where such malfunction is attributable to the Custodian's negligence in maintaining the equipment or software), failure of or the effect of rules or operations of any external funds transfer system, inability to obtain or interruption of external communications facilities, or any cause beyond the reasonable control of the Custodian (including without limitation, the non-availability of appropriate foreign exchange).

ARTICLE VIII. RESIGNATION AND REMOVAL OF CUSTODIAN

- 8.1 The Custodian may resign as custodian at any time upon sixty (60) days prior written notice to the Employer.
- 8.2 The Custodian may be removed as custodian at any time upon sixty (60) days prior written notice from the Employer.
- 8.3 Upon the resignation or removal of the Custodian, the Employer shall promptly appoint a successor, provided that in the event of resignation of the Custodian, the Custodian may appoint a successor in its notice of resignation. Any successor custodian appointed herein shall be a bank or other person eligible

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to serve as a custodian in accordance with Code Section 401(f)(2). Upon receipt by the Custodian of a written acceptance of such appointment by the successor, the Custodian shall promptly transfer and pay over to such successor the assets of the custodial account. The Custodian is authorized, however, to reserve from the assets to be transferred such sum of money or other property, as it may deem advisable, for the payment of all of its fees, compensation, costs and expenses under this Agreement as Custodian. The Custodian shall not be liable for the acts or omissions of the successor whether or not it appoints the successor.

ARTICLE IX. FEES

- 9.1 The Employer understands and agrees that the Custodian may be compensated for its services under this Agreement by payments made by providers of Mutual Funds, or their affiliates, used under the Plan. This shall include sharing, on a periodic basis, in the revenue derived by such Mutual Fund providers. The Employer acknowledges that the Record Keeper has provided information relating to such fees and may obtain further information upon request by the Employer to the Record Keeper.
- 9.2 The Employer directs the Custodian, on instructions from and on behalf of the Record Keeper, to collect the administrative fees set forth in the Record Keeping Agreement between the Record Keeper and Employer, as sponsor of the Plan, as such agreement may be amended from time to time. Such fees shall be paid from Plan assets and are subject to change upon advance written notice from the Record Keeper to the Employer as set forth in the Record Keeping Agreement.

ARTICLE X. AMENDMENT AND TERMINATION

- 10.1 The parties shall have the right at any time to amend or terminate this Agreement by an instrument in writing and no change in the scope of the services hereunder shall be permitted or undertaken unless agreed to by the parties in such a written amendment.
- 10.2 No amendment shall authorize any part of a Plan participant or Beneficiary's account to be used for, or diverted to, purposes other than for the exclusive benefit of the participant or his or her beneficiaries except to the extent such amendment is permitted under the Code.
- 10.3 Termination of a participant's Plan account shall be effected by a distribution of all assets in the account as directed by the Record Keeper.
- 10.4 The Custodian's rights, protections, and remedies under this Agreement shall survive the termination of this Agreement.

ARTICLE XI. MISCELLANEOUS PROVISIONS

- 11.1 (a) The Employer represents and warrants that (i) it has full authority and power, and has obtained all necessary authorizations and consents, to use the Custodian as its custodian in accordance with the terms of this Agreement; (ii) assuming execution and delivery of this Agreement by the Custodian, this Agreement is the Employer's legal, valid and binding obligation, enforceable in accordance with its terms and it has full power and authority to enter into and has taken all necessary corporate action to authorize the execution of this Agreement; (iii) it has not relied on any oral or written representation made by the Custodian or any person on its behalf, and

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acknowledges that this Agreement sets out to the fullest extent the duties of the Custodian; and (iv) it is a resident of the United States and shall notify the Custodian of any changes in residency.

- (b) The Custodian represents and warrants that (i) assuming execution and delivery of this Agreement by the Employer, this Agreement is the Custodian's legal, valid and binding obligation, enforceable in accordance with its terms; (ii) Custodian is a bank eligible to serve as custodian in accordance with Code section 401(f)(2); and (iii) it has full power and authority to enter into and has taken all necessary corporate action to authorize the execution of this Agreement.

The Custodian and Employer may rely upon the representations made in this Section 11.1.

- 11.2 At the time of mailing of notice of each annual or special stockholders' meeting of any Mutual Fund, the Record Keeper shall send a copy of the notice and all proxy solicitation materials to each participant or Beneficiary who has shares of such Mutual Funds credited to his or her individual account together with a voting direction form for return to the Custodian or its designee. These materials shall clearly explain to the participants and Beneficiaries that the Custodian will not vote shares for which it receives no voting directions. Each participant and Beneficiary shall have the right to send instructions to the Record Keeper directing the Custodian as to the manner in which the Custodian is to vote the shares credited to his or her accounts (both vested and unvested). The Custodian shall vote the shares as directed by the Record Keeper. The Custodian shall not vote shares for which it has received no directions. With respect to all rights other than the right to vote, the Custodian shall follow the directions of the Record Keeper. The Custodian shall have no duty to solicit direction from participants and Beneficiaries.
- 11.3 The Plan accounts shall be held for the exclusive benefit of all persons who shall be entitled to receive payments under the Plan. It shall be prohibited at any time for any part of the accounts (other than such amounts as are required or permitted to be used to pay Plan expenses) to be used for, or diverted to, purposes other than the exclusive benefit of Plan participants and their beneficiaries except as otherwise permitted under the Code.
- 11.4 The participant's or Beneficiary's benefits under the Plan held pursuant to this Custodial Agreement shall be provided solely from his or her Plan account, and neither the Employer nor the Custodian shall have any other liability therefore.
- 11.5 No right or interest of a Plan participant or Beneficiary in a Plan account under this Agreement shall be (a) assignable or transferable in any manner, (b) subject to any lien, or (c) liable for, or subject to any obligation or liability of any person except as otherwise permitted under the Code. The preceding sentence shall not apply to an assignment, transfer, or attachment pursuant to a Qualified Domestic Relations Order or to a lien or levy on behalf of the Internal Revenue Service or as otherwise permitted with respect to garnishment orders issued pursuant to the Federal Debt Collection Procedures Act of 1990.
- 11.6 Notices required to be given by the parties hereunder shall be sufficiently given if made in writing to such address as each party shall from time to time specify in writing to the other party. Such notices shall be effective when received.
- 11.7 This Agreement is intended to comply with Section 401(a) of the Code and its terms shall be interpreted accordingly. Otherwise, the laws of the State of Colorado shall control the interpretation and performance of the terms of this Agreement. However, neither the Custodian, any of its subsidiaries or

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affiliates nor any mutual fund provider assumes any responsibility as to the efficacy or legal sufficiency of this Agreement under federal, state or local law. The District Court for the County of Denver, Colorado will have the sole and exclusive jurisdiction over any lawsuit or other judicial proceeding relating to or arising from this Agreement. The parties further hereby knowingly, voluntarily and intentionally waive, to the fullest extent permitted by Applicable Law, any right to a trial by jury with respect to any such lawsuit or judicial proceeding arising or relating to this Agreement or the transactions contemplated hereby.

- 11.8 If any provision of this Agreement shall be held or made invalid by a court decision, statute, rule or otherwise, the remainder of this Agreement shall not be affected thereby.
- 11.9 This Agreement may be executed simultaneously in two or more counterparts, each of which taken together shall constitute one and the same instrument.

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IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the Effective Date specified in Article 1.

FOR THE UNIVERSITY OF COLORADO

By: [Signature] Print Name: MARK STARKER
Title: ASSISTANT VICE PRESIDENT Date: 3-17-11

JPMORGAN CHASE BANK N.A.

By: [Signature] Print Name: _____
Title: Edward Somlies Date: 3/17/11
Vice President

The undersigned shall be bound by the terms of the foregoing Agreement with respect to the duties of the Record Keeper. The undersigned shall notify the Custodian of any material change in its duties as Record Keeper under its agreement with the Employer.

TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA

By: Phillip Rollock Print Name: Phillip Rollock
Title: VP Date: 3/24/11



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APPENDIX A

Plan Funding Options

TIAA-CREF Mutual Funds

| <u>FUND NAME</u> | <u>SHARE CLASS</u> | <u>TICKER</u> |
|---|--------------------|---------------|
| TIAA-CREF High Yield Fund | Retirement Class | TIHRX |
| TIAA-CREF International Equity Fund | Retirement Class | TRERX |
| TIAA-CREF Large-Cap Value Fund | Retirement Class | TRLCX |
| TIAA-CREF Lifecycle Retirement Income Fund | Retirement Class | TLIRX |
| TIAA-CREF Mid-Cap Growth Fund | Retirement Class | TRGMX |
| TIAA-CREF Mid-Cap Value Fund | Retirement Class | TRVRX |
| TIAA-CREF Small-Cap Equity Fund | Retirement Class | TRSEX |
| TIAA-CREF Social Equity Fund | Retirement Class | TRSCX |
| TIAA-CREF Lifecycle Funds ¹ | | |
| TIAA-CREF Lifecycle 2010 Fund | Retirement Class | TCLEX |
| TIAA-CREF Lifecycle 2015 Fund | Retirement Class | TCLIX |
| TIAA-CREF Lifecycle 2020 Fund | Retirement Class | TCLTX |
| TIAA-CREF Lifecycle 2025 Fund | Retirement Class | TCLFX |
| TIAA-CREF Lifecycle 2030 Fund | Retirement Class | TCLNX |
| TIAA-CREF Lifecycle 2035 Fund | Retirement Class | TCLRX |
| TIAA-CREF Lifecycle 2040 Fund | Retirement Class | TCLOX |
| TIAA-CREF Lifecycle 2045 Fund | Retirement Class | TFRX |
| TIAA-CREF Lifecycle 2050 Fund | Retirement Class | TLFRX |

¹ The actual Lifecycle Funds currently available as funding options under the Plan) are detailed in Appendix A of this Agreement. TIAA will send the Employer an updated Appendix A that can be attached to this Agreement when a new Lifecycle Fund in this series becomes available and is approved by the Employer to be added as a funding option under the Plan. Any additional funds, that are not part of this series of Lifecycle funds, will need a signed and executed Amendment to the Record Keeping Agreement prior to being added as a funding option under the Plan.

EXHIBIT 4

Amendment No. 1 to the Custodial Account Agreement Between TIAA-CREF Trust Company,
FSB and the University of Colorado (effective May 1, 2015)



**Amendment No. 1 to the
Custodial Account Agreement
Between TIAA-CREF Trust Company, FSB
and the University of Colorado
Dated May 2, 2011**

Effective as of May 1, 2015, or such later date as the parties shall agree by Notice, the Custodial Account Agreement ("Agreement"), dated May 2, 2011 between TIAA-CREF Trust Company, FSB ("Custodian") and University of Colorado ("Employer") as Sponsor of the University of Colorado Optional Retirement Plan ("Plan"), is hereby amended as follows:

1. In accordance with Section B.3 of the Original Custodial Account Agreement, the resignation by J.P. Morgan Chase Bank, N.A as a Custodian and the appointment of TIAA-CREF Trust Company, FSB as a successor Custodian became effective January 1, 2015, and, therefore, the first paragraph herein conforms the aforementioned change.

2. The first paragraph of the Agreement is hereby amended to reflect the legal plan name and reads as follows:

"This Custodial Account Agreement ("Agreement") between TIAA-CREF Trust Company, FSB ("Custodian") and University of Colorado ("Employer") as Sponsor of The University of Colorado Optional Retirement Plan (a.k.a "University of Colorado 401(a) Retirement Plan") ("Plan"), a plan designed to meet the requirements of Section 401(a) of the Internal Revenue Code of 1986, as amended ("Code").

3. The 2nd WHEREAS clause is amended to read as follows:

"WHEREAS, in accordance with Code Section 401(f), the Plan will be funded in part with a custodial account designed to meet the requirements of Code section 401(f)(2) and the assets in such custodial account shall be invested solely in Mutual Fund Shares, as defined in Article II below, in other funds chosen by the Employer as listed in Appendix A and in participant directed Brokerage Accounts as described in Section 5.1(b) below; and"

4. The 3rd WHEREAS clause is amended to read as follows:

"WHEREAS, the Plan provides that the Plan's participants (and beneficiaries of deceased participants) have the right to direct the Employer as to the investment of amounts credited to



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their individual accounts under the Plan by selecting from among the Mutual Fund Shares, the other funds chosen by the Employer as listed in Appendix A and a TIAA-CREF Brokerage Account made available to them under the Plan by the Employer; and”

5. The 5th WHEREAS clause is amended to read as follows:

“WHEREAS, the Employer has requested that the Custodian provide certain custodial services for the portion of the Plan’s assets invested in Mutual Fund Shares, in other funds described in Appendix A of this Agreement and TIAA-CREF Brokerage Accounts described in Appendix A of this Agreement, which custodial services are required to satisfy the requirements of Code section 401(f) and the Custodian has agreed to provide such services as set forth herein.”

6. ARTICLE III. SERVICES TO BE PROVIDED BY CUSTODIAN section 3.1 is amended to read as follows:

“3.1 The Custodian shall receive such sums of money or Mutual Fund Shares and shares of other funds acceptable to the Custodian as shall from time to time be paid or delivered to the Custodian under this Agreement. The Custodian shall hold in Plan participant accounts all such assets, together with all the property purchased therewith and the proceeds thereof and the earnings and income thereon. The Custodian shall not be responsible for, or have any duty to enforce, the collection of any contributions or assets to be paid or transferred to it under the Plan or for verifying whether contributions or transfers to it are permissible under the Plan. The Custodian shall not be responsible for investment choices directed by the Employer or by Plan participants or Beneficiaries under the Plan.

7. ARTICLE IV. INSTRUCTIONS section 4.1(b) is amended to read as follows:

“(b) Except as provided in Appendix A with respect to TIAA-CREF Brokerage Accounts, each participant and Beneficiary shall submit investment directions and changes in investment directions with respect to his or her Plan account to the Record Keeper, which shall aggregate such directions placed each day with respect to the various investment alternatives in accordance with its agreement with the Employer. The Custodian shall invest the assets of the Plan accounts only when, if and in the manner, directed by the Record Keeper and shall not be under any obligation to invest or otherwise manage any of such assets. It shall be the duty of the Custodian to act strictly in accordance with the Record Keeper’s directions. In the event that the Custodian fails to receive a proper



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Instruction, the assets shall be invested in a money market Mutual Fund or in such other Mutual Fund investment option selected by the Employer or left uninvested, in any case as selected by the Employer, until the Custodian receives a proper Instruction from the Record Keeper. The Custodian shall, as directed by the Record Keeper, liquidate investments when necessary to: (i) comply with participants' and Beneficiaries' instructions or to change investments; (ii) make plan benefit payment distributions; (iii) disburse loan proceeds; (iv) reallocate forfeitures under the Plan; or (v) pay expenses, fees, or taxes. The Record Keeper shall be responsible for determining that such liquidation is permitted under the prospectuses for the Mutual Funds in the participant's or Beneficiary's Plan account."

8. ARTICLE V. DUTIES OF THE EMPLOYER section 5.1(b) is amended to read as follows:

"(b) To select and monitor the funding options for the Plan, it being understood that the Custodian has no authority or responsibility for choosing such funding options. The funding options shall consist of Mutual Funds, other funds chosen by the Employer as listed in Appendix A and a TIAA-CREF Brokerage Account as described in Appendix A. The funding options chosen for the Plan are set forth in Appendix A to this Agreement. Such funding options may be changed from time to time by the parties attaching a new Appendix A hereto."

9. ARTICLE VI. THE POWERS OF CUSTODIAN AS CUSTODIAN section 6.1 and section 6.(a) are amended to read as follows:

"6.1 The Custodian, in its capacity as custodian, shall have the following powers, which shall not apply to assets held in any TIAA-CREF Brokerage Account:

(a) To vote in person, or in proxy, or to refrain from voting in respect to any Mutual Fund shares or other funds held in a participant's or Beneficiary's Plan account, in accordance with Section 11.2 of this Agreement, and to enter into any voting trust or similar agreement in respect thereto;"

10. ARTICLE XI. MISCELLANEOUS PROVISIONS section 11.2 is amended to read as follows:

"11.2 At the time of mailing of notice of each annual or special stockholders' meeting of any Mutual Fund, the Record Keeper shall send a copy of the notice and all proxy solicitation materials to each participant or Beneficiary who has shares of such Mutual Funds



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credited to his or her individual account excluding Mutual Funds held in any TIAA-CREF Brokerage Account together with a voting direction form for return to the Custodian or its designee. These materials shall clearly explain to the participants and Beneficiaries that the Custodian will not vote shares for which it receives no voting directions. Each participant and Beneficiary shall have the right to send instructions to the Record Keeper directing the Custodian as to the manner in which the Custodian is to vote the shares credited to his or her accounts (both vested and unvested) excluding Mutual Funds held in any TIAA-CREF Brokerage Account. The Custodian shall vote the shares as directed by the Record Keeper. The Custodian shall not vote shares for which it has received no directions. With respect to all rights other than the right to vote, the Custodian shall follow the directions of the Record Keeper. The Custodian shall have no duty to solicit direction from participants and Beneficiaries."

8. APPENDIX A is amended to read as follows:

Plan Funding Options and Non-Proprietary Mutual Funds

TIAA-CREF Mutual Funds

| <u>FUND NAME</u> | <u>SHARE CLASS</u> | <u>TICKER</u> |
|-------------------------------------|--------------------|---------------|
| TIAA-CREF Social Choice Equity Fund | Institutional | TISCX |

Non-Proprietary Mutual Funds

| <u>FUND NAME</u> | <u>TICKER</u> |
|--|---------------|
| American Funds Europacific Growth R6 | RERGX |
| Artisan Mid Cap Institutional | APHMX |
| BlackRock Mid Cap Value Opps Instl | MARFX |
| DFA US Small Cap Value I | DFSVX |
| Dodge & Cox International Stock | DODFX |
| Dodge & Cox Stock | DODGX |
| Harbor Capital Appreciation Instl | HACAX |
| Metropolitan West Total Return Bond Plan | MWTSX |
| Morgan Stanley Inst Global Rel Est I | MRLAX |
| Vanguard Prime Money Market Instl | VMRXX |

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Plan(s): 100950 & 406787



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Non-Proprietary Collective Investment Trusts

| <u>CIT NAME</u> | <u>CUSIP</u> |
|--|--------------|
| BlackRock Equity Index Fund M | 09257F826 |
| BlackRock Mid Capitalization Equity Index Fund M | 09257F305 |
| BlackRock MSCI ACWI ex-U.S. IMI Index M | 09257F495 |
| BlackRock Russell 2000 Index M | 09257F842 |
| BlackRock U.S. Debt Index Fund M | 09257F750 |
| Vanguard Target Retirement 2010 Trust II | 92202V732 |
| Vanguard Target Retirement 2015 Trust II | 92202V724 |
| Vanguard Target Retirement 2020 Trust II | 92202V716 |
| Vanguard Target Retirement 2025 Trust II | 92202V690 |
| Vanguard Target Retirement 2030 Trust II | 92202V682 |
| Vanguard Target Retirement 2035 Trust II | 92202V674 |
| Vanguard Target Retirement 2040 Trust II | 92202V666 |
| Vanguard Target Retirement 2045 Trust II | 92202V658 |
| Vanguard Target Retirement 2050 Trust II | 92202V641 |
| Vanguard Target Retirement 2055 Trust II | 92202V476 |
| Vanguard Target Retirement 2060 Trust II | 92202V195 |
| Vanguard Target Retirement Income Trust II | 92202V740 |
| Voya Small Cap Growth Trust Fund Class 2 | 29216T774 |
| Wells Fargo Stable Return Class C (0.30%) | 949907505 |

TIAA-CREF Brokerage Account

Notwithstanding any other provision of the Agreement to which this Appendix is attached to the contrary, the following provisions shall apply to the TIAA-CREF Brokerage Account. If so directed by the Employer and subject to the Record Keeper's acceptance of a properly executed TIAA-CREF Retirement Plan Self-Directed Brokerage Application of a Plan participant or Beneficiary, the Custodian shall segregate all or a portion of the assets of the Plan accounts into individual TIAA-CREF Brokerage Accounts established for the benefit of Plan participants and Beneficiaries. Each participant or Beneficiary shall have the power to direct the investment and reinvestment of assets in the TIAA-CREF Brokerage Account established for his or her benefit, subject to such administrative rules and procedures as the Record Keeper and the Custodian may establish. Participants and Beneficiaries shall provide instructions regarding the investment of the TIAA-CREF Brokerage Account directly to the



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broker appointed for purposes of executing transactions under the account. That broker shall hold custody of property held in the TIAA-CREF Brokerage Account and the Custodian shall have no responsibility for the TIAA-CREF Brokerage Account whatsoever, including, but not limited to, the acts or omissions of any such broker or the broker's failure to follow any other investment restrictions imposed by the Employer under the terms of the Plan.

UNIVERSITY OF COLORADO

By: L Landis

Date: 5/26/2015

Print Name: Lisa Landis

Title: Associate Vice President

TIAA-CREF TRUST COMPANY, FSB

By: J Saadi

Date: 5/27/2015

Print Name: Joseph M Saadi

Title: Managing Director

The undersigned shall be bound by the terms of the foregoing Agreement with respect to the duties of the Record Keeper. The undersigned shall notify the Custodian of any material change in its duties as Record Keeper under its agreement with the Employer.

TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA

By: Sean M. Dunn

Date: 5/20/15

Print Name: Sean M. Dunn

Title: Sr. Director

EXHIBIT 5

Item 15 of Schedule A (List of Services) as provided in Amendment No. 4 to the Recordkeeping Services Agreement Between Teachers Insurance and Annuity Association of America (TIAA) and University of Colorado



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**Amendment No. 4 to the
Record Keeping Services Agreement
Between Teachers Insurance and Annuity Association of America (TIAA)
And University of Colorado
Dated May 2, 2011**

Effective as of the date signed by both parties, or such later date as the parties agree by Notice, the Record Keeping Services Agreement ("Agreement"), dated May 2, 2011, between Teachers Insurance and Annuity Association of America ("TIAA") and University of Colorado ("Employer") as Sponsor of the University of Colorado 401(a)/414(b)(2) Plan, University of Colorado 403(b) Plan and the University of Colorado Student Employee Retirement Plan (the "Plans"), is hereby amended as follows:

1. Item number 15 of Schedule A (List of Services) is hereby deleted in its entirety and replaced with the following:

15. Revenue Credit Account: For the duration of the five (5) year contract period beginning January 1, 2014, where the University of Colorado 401(a)/414(b)(2) Plan and the University of Colorado 403(b) Plan (hereinafter referred to in this item 15 as the "Plans") maintain a balance in and make active contributions to any of the mutual funds, other investment vehicles, and/or the TIAA-CREF annuity contracts record kept on TIAA's platform and listed in Schedule B, TIAA will fund a Revenue Credit Account in each Plan based upon revenues generated by that Plan. A Revenue Credit Account is a suspense account held under the terms of each plan which is funded with excess revenue generated from that Plan. TIAA will reconcile the actual revenue earned for the first period beginning January 1, 2014 against the revenue requirement of 13 basis points on a semi-annual basis. The semi-annual reconciliation period will be based on the six-month calendar period following the Plan year end for each of the Plans. Such reconciliation will be done on a semi-annual basis each June 30th and December 31st (the "Semi-Annual Period"). The amount so determined to be in excess of TIAA's revenue requirement will be pro-rated among the Plans on the basis of their relative assets record kept by TIAA and deposited into the Revenue Credit Accounts of the Plans approximately sixty (60) days after the end of each Semi-Annual Period. The foregoing notwithstanding, no Revenue Credit Account shall be funded if the amount of such Revenue Credit Account in a Plan for any given calendar year would be less than \$5,000.

The Revenue Credit Accounts may only be used either to pay direct, reasonable and necessary expenses of the Plans which the Plans are authorized to pay or to provide benefits for Plan

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participants and beneficiaries in the form of revenue credits. Such revenue credits can be paid to Plan participants' accounts, with at least thirty (30) days' Notice from the Employer to TIAA prior to the plan year end, on a per capita or pro rata basis at the election of the Employer.

Payments from Revenue Credit Accounts directly to the Employer will be made only if the following procedures are followed:

1. Legal counsel for the Employer shall provide, in writing, assurance to TIAA that such legal counsel has reviewed the reimbursement arrangement for plan expenses to be paid directly to the Employer and that in its opinion the program for expense reimbursement, as structured, is set up in accordance with the Plan and state law and covers expenses that would not have been incurred by the Employer but for the retirement plan (e.g., no overhead or settler expenses, are covered). This will be a onetime certification and will be effective for the duration of the contract.
2. Prior to each payment the Employer shall provide TIAA with a written certification that the expenses to be paid meet the requirement that they are reasonable in amount, necessary for the administration of the Plan, are in accordance with Plan terms and would not have been incurred but for the Plan and are expenses that TIAA can pay in accordance with state law.

The revenue generated to fund the Revenue Credit Accounts will not be a direct offset from Plan participant accounts (i.e., an annual participant fee) nor a reduction in returns from those participant accounts. The Employer, as Named Fiduciary represents that payments from Revenue Credit Accounts shall be used to reimburse direct, reasonable and necessary expenses of the Plans that the Plans are authorized to pay or to provide revenue credits to Plan Participants Accounts as stated above. No payments shall be made directly to the Employer or the Named Fiduciary of the Plans without adherence to the above requirements. For payments made directly to a Plan service provider, TIAA shall be billed for amounts to cover reasonable and necessary Plan expenses that each Plan itself could pay. Payments shall be made directly to the Plan service provider within an administratively feasible period of time and no later than thirty (30) days after the date such an invoice is received. The invoice must be submitted along with a Revenue Credit Account Disbursement for Vendor Expense Form via mail or PDF to the plan's Client Services Consultant. A duplicate of the Revenue Credit Account Disbursement for Vendor Expense Form and the invoice should also be sent via PDF to DL_RCARconciliation@tiaa-cref.org.



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If, in TIAA's good faith sole determination made in accordance with TIAA's standard policies governing employers similar in size with similar plan menus to the Employer, TIAA determines that, the assumptions and terms listed above have changed substantially, the parties agree to revise this item 15. The Employer and TIAA will amend this item 15 and any additional agreements pertaining to these payments, in order to reflect the new revenue requirements that will be used for the calculation of any payments to the Revenue Credit Accounts. Notwithstanding the foregoing, TIAA agrees to give the Employer sixty (60) days advance notice prior to such determination.

Teachers Insurance and Annuity Association of America

By: Sean M. Dunn

Date: 5/9/14

Print Name: Sean M. Dunn

Title: Director

University of Colorado

By: L. Landis

Date: 5/5/2014

Print Name: Lisa Landis

Title: Asst. Vice President

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EXHIBIT 6

Item 15 of Schedule A (List of Services) as provided in Amendment No. 5 to the Recordkeeping Services Agreement Between Teachers Insurance and Annuity Association of America (TIAA) and University of Colorado



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**Amendment No. 5 to the
Record Keeping Services Agreement
Between Teachers Insurance and Annuity Association of America (TIAA)
And University of Colorado
Dated May 2, 2011**

Effective as of July 1, 2015, or such later date as the parties agree by Notice, the Record Keeping Services Agreement ("Agreement"), dated May 2, 2011, between Teachers Insurance and Annuity Association of America ("TIAA") and University of Colorado ("Employer") as Sponsor of the University of Colorado 401(a)/414(h)(2) Plan, University of Colorado 403(b) Plan and the University of Colorado Student Employee Retirement Plan (the "Plans"), is hereby amended as follows:

REDACTED

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REDACTED

2. Item number 15 of Schedule A (List of Services) is hereby deleted in its entirety and replaced with the following:

15. Revenue Credit Account: For the duration of the three (3) year contract period plus any renewal periods beginning July 1, 2015, where the Plans maintain a balance in and make active contributions to any of the mutual funds, other investment vehicles, and/or the TIAA-CREF annuity contracts record kept on TIAA's platform and listed in Schedule B, TIAA will fund a Revenue Credit Account in each Plan based upon revenues generated by that Plan. A Revenue Credit Account is a suspense account held under the terms of each plan which is funded with excess revenue generated from that Plan. One hundred percent (100%) of the revenue sharing generated from assets held under the Plans as listed in Schedule B will be deposited into the Revenue Credit Account of each of the Plans less the 7 basis point administration fee. TIAA will deposit the actual Revenue Sharing on a quarterly basis each March 31, June 30, October 31, and December 31 (the "Quarterly Period"). The foregoing notwithstanding, no Revenue Credit Account shall be funded if the amount of such Revenue Credit Account in a Plan for any given calendar year would be less than \$5,000.

The Revenue Credit Accounts may only be used either to pay direct, reasonable and necessary expenses of the Plans which the Plans are authorized to pay or to provide benefits for Plan participants and beneficiaries in the form of revenue credits. Such revenue credits can be paid to Plan participants' accounts, with at least thirty (30) days' Notice from the Employer to TIAA prior to the plan year end, on a per capita or pro rata basis at the election of the Employer.

Payments from Revenue Credit Accounts directly to the Employer will be made only if the following procedures are followed:

1. Legal counsel for the Employer shall provide, in writing, assurance to TIAA that such legal counsel has reviewed the reimbursement arrangement for plan expenses to be paid directly to the Employer and that in its opinion the program for expense reimbursement,



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as structured, is set up in accordance with the Plan and state law and covers expenses that would not have been incurred by the Employer but for the retirement plan (e.g., no overhead or settler expenses, are covered). This will be a onetime certification and will be effective for the duration of the contract.

2. Prior to each payment the Employer shall provide TIAA with a written certification that the expenses to be paid meet the requirement that they are reasonable in amount, necessary for the administration of the Plan, are in accordance with Plan terms and would not have been incurred but for the Plan and are expenses that TIAA can pay in accordance with state law.

The revenue generated to fund the Revenue Credit Accounts will not be a direct offset from Plan participant accounts (i.e., an annual participant fee) nor a reduction in returns from those participant accounts. The Employer, as Named Fiduciary represents that payments from Revenue Credit Accounts shall be used to reimburse direct, reasonable and necessary expenses of the Plans that the Plans are authorized to pay or to provide revenue credits to Plan Participants Accounts as stated above. No payments shall be made directly to the Employer or the Named Fiduciary of the Plans without adherence to the above requirements. For payments made directly to a Plan service provider, TIAA shall be billed for amounts to cover reasonable and necessary Plan expenses that each Plan itself could pay. Payments shall be made directly to the Plan service provider within an administratively feasible period of time and no later than thirty (30) days after the date such an invoice is received. The invoice must be submitted along with a Revenue Credit Account Disbursement for Vendor Expense Form via mail or PDF to the plan's Client Services Consultant. A duplicate of the Revenue Credit Account Disbursement for Vendor Expense Form and the invoice should also be sent via PDF to DL_RCAREconciliation@tiaa-cref.org.

If, in TIAA's good faith sole determination made in accordance with TIAA's standard policies governing employers similar in size with similar plan menus to the Employer, TIAA determines that, the assumptions and terms listed above have changed substantially, the parties agree to revise this item 15. The Employer and TIAA will amend this item 15 and any additional agreements pertaining to these payments, in order to reflect the new revenue requirements that will be used for the calculation of any payments to the Revenue Credit Accounts. Notwithstanding the foregoing, TIAA agrees to give the Employer sixty (60) days advance notice prior to such determination.



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REDACTED

4. Anything contained in this Amendment No. 5 to the contrary notwithstanding, the provisions of Article 14 of the Agreement shall remain in full force and effect.

Teachers Insurance and Annuity Association of America

By: Raymond J. Bellucci

Date: 02/20/2015

Print Name: Raymond J. Bellucci

Title: Senior Managing Director, TIAA-CREF

University of Colorado

By: Lisa Sheraden Landis

Date: 2/20/2015

Print Name: Lisa Sheraden Landis

Title: Associate Vice President