

**AMENDMENT #2**

**PACE UNIVERSITY  
DEFINED CONTRIBUTION RETIREMENT PLAN**

This sets forth Amendment #2 to the Pace University Defined Contribution Retirement Plan, as amended and restated as of January 1, 2009 ("Plan").

Effective as of January 1, 2009, Election 8 of the Adoption Agreement for the Plan is amended and restated to provide in its entirety as follows:

8. COMPENSATION (1.12). The following Compensation (as adjusted under Elections 9 and 10) applies in determining a Participant's Elective Deferrals and allocating Employer Contributions: For Plan contribution purposes, "Compensation" means benefits base salary (as determined by the Employer), plus Elective Deferrals.

This Amendment #2 has been approved by the Board of Trustees of Pace University and is hereby executed by the duly authorized officer of Pace University indicated below on this

1<sup>st</sup> day of December 2010.

PACE UNIVERSITY

By: \_\_\_\_\_



**403(b) PLAN ADOPTION AGREEMENT FOR  
PACE UNIVERSITY DEFINED CONTRIBUTION RETIREMENT PLAN**

The undersigned Eligible Employer, by executing this Adoption Agreement, elects to amend and restate an existing Internal Revenue Code Section 403(b) plan ("Plan"). This Adoption Agreement, the basic plan document, any Funding Vehicle Documentation, and any attached agreements, appendices or addenda, constitute the Employer's entire plan document. *All "Election" references within this Adoption Agreement are Adoption Agreement Elections. All "Section" references are basic plan document references. Numbers in parenthesis which follow headings are references to basic plan document sections.* The Employer makes the following elections granted under the corresponding provisions of the basic plan document.

1. EMPLOYER; IDENTIFICATION

Name: Pace University  
Address: 235 Elm Road, Briarcliff Manor, New York 10510  
EIN: 13-5662314  
Type of Entity: Code Section 501(c)(3) Organization  
Name of Plan: Pace University Defined Contribution Retirement Plan  
Plan Number: 001

2. TYPE OF 403(b) PLAN (1.66). This Plan is a combination Annuity Contract Plan (Code §403(b)(1)) and Custodial Account Plan (Code §403(b)(7)).

3. ERISA PLAN (1.32). ERISA applies to this Plan.

4. PLAN/LIMITATION YEAR (1.52, 1.44). Plan Year and Limitation Year mean the 12-month period ending every December 31.

5. EFFECTIVE DATE (1.21). This is a restated plan. The original Effective Date of the Plan was July 1, 1950. The Effective Date of this restatement is January 1, 2010. Effective as of January 1, 2010, this Plan includes the assets of the formerly separate Pace University Tax-Deferred Annuity Plan, which plan was merged with and into this Plan as of such date. Accordingly, the Pace University Tax-Deferred Annuity Plan ceased to exist as a separate, stand-alone plan after December 31, 2009.

6. CONTRIBUTION TYPES (1.13). The Employer and/or Participants, in accordance with the Plan terms, make the following contributions to the Plan:

- **Pre-Tax Deferrals;**
- **Matching Contributions;**
- **Nonelective Contributions; and**
- **Rollover Contributions.**

7. EXCLUDED EMPLOYEES (1.34). The following Employees are Excluded Employees and are not Eligible Employees.

- The following Employees are Excluded Employees as to all Contribution Types:
  - Employees who normally work less than 20 hours per week; and
  - Student Employees (defined as Employees who are students of the Employer, who are enrolled and regularly attending classes at the Employer, and whose wages are exempt from the application of FICA taxes pursuant to Code Section 3121(b)(10)).
- In addition to those excluded for all purposes, Reclassified Employees and Employees classified as “visiting faculty” are Excluded Employees for all Employer Contribution purposes.
- An Employee classified by the Employer as “part-time” also shall be an Excluded Employee for all Employer Contribution purposes, unless and until the Employee satisfies the eligibility requirements described in Elections 14 through 17.
- Employees included in a unit of Employees covered by a collective bargaining agreement (as defined in Code Section 7701(a)) between Employee representatives and the Employer are Excluded Employees for all Employer Contribution purposes, if retirement benefits were the subject of good faith bargaining between such Employee representatives and the Employer, except to the extent that such collective bargaining agreement expressly provides that such Employee shall be eligible to participate in the Plan.

8. COMPENSATION (1.12). The following Compensation (as adjusted under Elections 9 and 10) applies in determining a Participant’s Elective Deferrals and allocating Employer Contributions: For Plan contribution purposes, "Compensation" means benefits base salary (as determined by the Employer), plus Elective Deferrals.

9. PLAN YEAR/PARTICIPATING/POST-SEVERANCE/DEEMED INCLUDIBLE COMPENSATION (1.12(I), (J), (K) AND (N)). Compensation under Election 8 includes Participating Compensation and, to the extent not already included in a Participant’s Compensation, Post-Severance Compensation defined in Plan Section 1.12(K)(1) and (2) (i.e., Compensation and leave cash-out amounts paid within 2-1/2 months following a Participant’s severance from employment that would have been paid to (or used by) the Participant if the Participant had continued in employment with the Employer).

10. EXCLUDED COMPENSATION (1.12(H)). There are no additional exclusions to Compensation under Elections 8 and 9.

11. HOURS OF SERVICE (1.40). The Plan credits Hours of Service using the Actual Method for all purposes.

12. PREDECESSOR EMPLOYER (1.63). The Plan credits the following Predecessor Employer Service: For eligibility purposes, Years of Service with an institution of higher education, or with any organization described in Code Section 501(c)(3), to the extent provided in Election 15.

13. ELIGIBILITY/ELECTIVE DEFERRALS (Universal Availability) (2.01(A)). An Employee (other than an Excluded Employee) becomes a Participant in the Elective Deferral portion of the Plan on his/her first day of employment with the Employer. [Note: Elections 14-17 do not apply to Elective Deferrals.]

14. ELIGIBILITY/MATCHING AND NONELECTIVE CONTRIBUTIONS (2.01(B)). To become a Participant in the Nonelective Contribution portion, or in the Matching Contributions portion of the Plan, an Employee must satisfy the following eligibility condition(s):

- The attainment of age 26 and the completion of one Year of Service; or
- The attainment of age 21 and the completion of two Years of Service without an intervening Break in Service.

15. YEAR OF SERVICE – ELIGIBILITY (2.02(A)). An Employee must complete 1,000 Hour(s) of Service during the relevant Eligibility Computation Period to receive credit for one Year of Service. After the Initial Eligibility Computation Period described in Section 2.02(C), the Plan measures Subsequent Eligibility Computation Periods as the Anniversary Year, beginning with the Employee's second Anniversary Year.

For eligibility purposes only, an Employee (other than an Excluded Employee) shall receive credit for Years of Service completed in employment with any institution of higher education, or any institution exempt for tax pursuant to Code Section 501(c)(3), to the extent that such service was completed during the 36-month period immediately preceding the Employee's Employment Commencement Date.

16. ENTRY DATE (2.02(D)). The Entry Date means the Effective Date and the first of the month beginning after the date that the Eligible Employee has met the minimum age and service requirements and has completed all enrollment materials required by the Employer.

17. PROSPECTIVE/RETROACTIVE ENTRY DATE (2.02(D)). An Employee after satisfying the eligibility conditions in Election 14 will become a Participant (unless an Excluded Employee under Election 7) on the Entry Date (if employed on that date) determined below. For this Election 17, unless described otherwise, Matching includes all Matching Contributions and Employee Contributions; and Nonelective includes all Nonelective Contributions, (except Operational QNECs). The Entry Date is the first of the month beginning after the date that the Eligible Employee has met the minimum age and service requirements and has completed all enrollment materials required by the Employer.

18. SALARY REDUCTION AGREEMENT (1.61). A Participant may make an election to defer his/her Compensation and have it contributed to the Plan. The Participant prospectively may modify or revoke a Salary Reduction Agreement, or may file a new Salary Reduction Agreement following a prior revocation, at least once per Plan Year or more frequently as specified in the

Plan's Salary Reduction Agreement. The Salary Reduction Agreement also may specify a maximum or minimum deferral limit and other conditions.

19. AUTOMATIC DEFERRALS (3.02(B)). The automatic deferral provisions of Section 3.02(B) do not apply.

20. QACA AUTOMATIC DEFERRALS (3.04(J)). The QACA provisions of Section 3.04(J) do not apply.

21. CATCH-UP DEFERRALS (3.02(D) and (E)). Eligible Participants may make Age 50 Catch-Up Deferrals and Qualified Organization Catch-up Deferrals to the Plan to the extent permitted by the Code.

22. EMPLOYER CONTRIBUTIONS. Employer Contributions are subject to the following additional elections regarding type (discretionary/fixed), rate/amount, limitations and time period (collectively, such elections are "the matching formula") and the allocation of Matching Contributions is subject to Section 3.06 except as otherwise provided. A Participant's Elective Deferral percentage is equal to the Participant's Elective Deferrals divided by his/her Compensation. The matching rate/amount is the specified rate/amount of match for the corresponding Elective Deferral amount/percentage.

Employer Contributions will be made on behalf of Eligible Employees who have satisfied the requirements of Election 14, and who have entered the Plan in accordance with Election 16, according to the applicable schedule below.

Employer Contributions (indicated as "Employer %" below) will only be made for Participants who are making the required Participant Elective Deferral (indicated as "Participant %" below).

Contributions as a Percentage of Compensation for Employees  
Hired Prior to October 1, 2000

<u>Years of Service</u>	<u>Employer %</u>	<u>Participant %</u>
Less than 10	5	5
Greater than or equal to 10 and less than 20	10	0
Greater than or equal to 20	12	0

Contributions as a Percentage of Compensation for Employees  
Hired on or After October 1, 2000

<u>Employer %</u>	<u>Participant %</u>
9	3

To the extent provided pursuant to the Employer's long-term disability benefits plan (the applicable terms of which are incorporated by reference into this Plan), and subject to maximum contribution limits that are imposed by the Code, contributions shall be made by the Employer during periods that an eligible Participant is entitled to benefits under such long-term disability benefits plan.

23. MATCHING CATCH-UP DEFERRALS (3.03(B)). The Employer will not match any Age 50 Catch-up Deferral.

24. SAFE HARBOR CONTRIBUTIONS/ADDITIONAL MATCHING CONTRIBUTIONS (3.04). Reserved.

25. NONELECTIVE CONTRIBUTIONS (AMOUNT/TYPE) (3.05(A)). See Election 22.

26. NONELECTIVE CONTRIBUTION ALLOCATION (3.05(B)). See Election 22.

27. ALLOCATION CONDITIONS (3.06(B)). The Plan does not apply any additional allocation conditions to: (1) Elective Deferrals; (2) Employer Contributions; or (3) Rollover Contributions.

28. ALLOCATION CONDITIONS – APPLICATION/WAIVER/SUSPENSION (3.06(D))/(F). Reserved.

29. FORFEITURE ALLOCATION METHOD (3.07(A)). The Plan Administrator will allocate a Participant forfeiture attributable to Nonelective Contributions or to Matching Contributions to pay reasonable plan expenses first (see Section 7.04(C)) from all forfeitures, and then allocate as follows: Apply all forfeitures to Employer Contributions.

30. FORFEITURE ALLOCATION TIMING (3.07(B)). Once a forfeiture occurs, this Election 30 determines the timing of the forfeiture allocation. The Plan Administrator will allocate all forfeitures in the same Plan Year in which the forfeitures occur.

31. EMPLOYEE (AFTER-TAX) CONTRIBUTIONS (3.10). Reserved.

32. ANNUAL TESTING ELECTIONS (4.05(B)). The Employer makes the following Plan specific annual testing elections under Section 4.05(B). These elections are effective for the Plan Years indicated and remain in effect until the Employer amends the Plan. The ACP test applies using the prior year testing method. The Employer previously elected and applied the following Code section 401(m) first year election: Deemed 3% NHCE ACP.

33. NORMAL RETIREMENT AGE (5.01). A Participant attains Normal Retirement Age under the Plan on the date the Participant attains age 65.

34. ACCELERATION ON DEATH OR DISABILITY (5.02). Under Section 5.02, if a Participant incurs a Severance from Employment as a result of death or Disability apply 100% vesting.

35. VESTING SCHEDULE (5.03). A Participant is 100% Vested at all times in all Accounts.

36. YEAR OF SERVICE - VESTING (5.05). Reserved.

37. EXCLUDED YEARS OF SERVICE - VESTING (5.05(C)). Reserved.

38. INDIVIDUAL/GROUP ACCOUNTS (6.01). The Plan does not consist solely of individual Custodial Accounts or individual Annuity Contracts. The Plan includes a group Account. As to any group Accounts, Elections 39-44 apply. As to any individual Accounts, a Participant will make distribution elections as provided in the Plan's distribution forms and consistent with the requirements of Article VI.

39. MANDATORY DISTRIBUTION (6.01(F)). The Plan will not make a Mandatory Distribution of a Participant's Vested Account Balance following Severance from Employment.

40. SEVERANCE DISTRIBUTION TIMING (6.01(B)). A Participant is entitled to a distribution following Severance from Employment as soon as administratively practicable immediately following Severance from Employment.

41. DISTRIBUTION METHOD (6.03). A Participant who has incurred a Severance from Employment and who will receive a distribution may elect distribution under one of the following method(s) of distribution described in Section 6.03 to the extent permitted by the applicable Funding Vehicle:

- **Lump sum.**
- **Installments.**
- **Installments for required minimum distributions only.**
- **Annuity distribution option(s):**
- **Describe:** All options forms available pursuant to the applicable Funding Vehicle, as described in the Funding Vehicle Documentation.

42. JOINT AND SURVIVOR ANNUITY REQUIREMENTS (6.04). The joint and survivor annuity distribution requirements of Section 6.04 apply to all Participants per the Employer's election.

43. DISTRIBUTION PRIOR TO SEVERANCE/EVENTS (6.01(D)). A Participant, prior to Severance from Employment, may elect any of the following distribution options in accordance with Section 6.01(D). (Note: If the Employer elects any in-service distribution option, a Participant may elect to receive one in-service distribution per Plan Year unless the Plan's in-service distribution form or the applicable Funding Vehicle provides for more frequent in-service distributions.)

- **Age 59-1/2** is available for all Accounts.
- **Hardship (safe harbor)** is available for Elective Deferrals.
- **Disability** is available for all Accounts.

In addition, to the extent permitted by a Funding Vehicle issued before January 1, 2009, a Participant may elect to annuitize some or all of the Participant's Plan benefit prior to the Participant's severance from employment.

44. IN-SERVICE DISTRIBUTIONS/ADDITIONAL CONDITIONS (6.01(C)). A Participant may elect to receive an In-Service Distribution upon any Election 43 event without further condition, provided that the amount distributed may not exceed the Vested amount in the distributing Account.

45. EACA PERMISSIBLE WITHDRAWALS (6.01(D)(7)). Reserved.

46. ALLOCATION OF EARNINGS (7.04(B)(4)). The Plan does not consist solely of individual Custodial Accounts or individual Annuity Contracts. The Plan includes a group Account. As to any individual Accounts, apply the individual Account method described in Section 7.04(B)(4)(d). As to any group Accounts, the Plan allocates Earnings using the following method:

- The **Daily** method applies to all contributions.

47. VALUATION DATES (7.04(B)(2)). The Plan does not consist solely of individual Custodial Accounts or individual Annuity Contracts. The Plan includes a group Account. As to any individual Accounts, apply the individual Account method described in Section 7.04(B)(4)(d). As to any group Accounts, in addition to the last day of the Plan Year, the Vendor must value the Funding Vehicle on the following Valuation Date(s):


- With respect to all contributions, use daily valuation dates. Each business day of the Plan Year on which Plan assets for which there is an established market are valued and the Vendor is conducting business.

48. LOANS (7.06). Participants may borrow from the Plan to the extent provided by the applicable Funding Vehicle and the applicable Funding Vehicle Documentation.

### PLAN EXECUTION

Name of Employer: Pace University

Date: December 1, 2010

Signed:   
 Matt Renna, Interim AVP, Human Resources



**APPENDIX A**

**FUNDING VEHICLES (8.01).** For the Plan Year that begins on January 1, 2010, the Employer will make contributions (including deferrals) directly to the Vendors listed below, as directed by Participants. For Plan Years that begin on or after January 1, 2011, the Employer will direct all contributions (including deferrals) to TIAA-CREF, through which Participants may direct contributions to the other Vendors listed below or to any another approved Vendor or approved Funding Vehicle.

*[Note: The Employer may add or delete Vendors from this list without the need of a Plan amendment. The Employer and the Vendors shall maintain a list of approved Funding Vehicles.]*

1. TIAA-CREF
2. Fidelity
3. T. Rowe Price
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_