

# TERMS AND CONDITIONS

## SECTION 1: DEFINITIONS

**1.01 “Account”** means an account in the Program established pursuant to the Agreement. Each Account may have only one Account Owner, one Survivor, and one Beneficiary.

**1.02 “Account Balance”** means the amount remaining in an Account, including all contributions, investment earnings and losses, after deduction for any withdrawals and refunds. The Account Balance will be reduced by any applicable fees.

**1.03 “Account Owner”** means “benefactor” as that term is defined and used in Part IV, Chapter 1009, Florida Statutes, and is the person who is designated on the Application as the “account owner,” unless the Account Owner was subsequently changed, and is the owner of record for the Account. An Account must have an Account Owner. The Account Owner may be:

**(a)** Any natural person who is 18 years old or older and a United States citizen, or resident alien, with a valid Social Security Number.

**(b)** If named as the Account Owner prior to September 1, 2013, any trust, estate, partnership, association, company or corporation with a U.S. federal taxpayer identification number. Entities will be required to furnish documentation to substantiate the legal status of the entity.

**(c)** A state or local government (or agency or instrumentality) or organization described in Section 501(c)(3) of the Code opening an Account to fund scholarships. A Beneficiary need not be designated for a scholarship Account opened by these entities. Entities will be required to furnish documentation to substantiate the legal status of the entity.

**(d)** A custodian for a minor under the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of a state in the United States (“**UGMA/UTMA**”).

**1.04 “Additional Tax”** means the same as that term is defined in Section 529 of the Code. Residents of states other than Florida may have a state income tax which

applies an additional tax to any Non-Qualified Withdrawal.

**1.05 “Administration Fee”** means the maintenance fee, as expressed in basis points, and is automatically deducted from the Account Balance on a daily basis.

**1.06 “Agreement”** means the complete and exclusive statement of agreement between the Account Owner and the Board related to the Program and the Account. The Agreement consists of the Application, Terms and Conditions, and Participation Agreement, each as amended from time to time by the Board to comply with Federal laws and regulations and the Florida Legislature’s grant of authority under Sections 1009.971(4)(b), 1009.971(6), 1009.981(2)(b)(1) – (11), and 1009.981(2)(d) through the rulemaking process as more fully described in Section 120.54, Florida Statutes. The Agreement supersedes any prior agreement, oral or written, and any other communications between the parties concerning the Program and Account.

**1.07 “Application”** means the form used by the Board to collect the information specified in Rule 19B-16.002, Florida Administrative Code to open an Account in the Program.

**1.08 “Beneficiary”** means “designated beneficiary” as that term is defined and used in both Part IV, Chapter 1009, Florida Statutes, and Section 529 of the Code and is the person designated on the Application as the “beneficiary,” unless the Account Owner subsequently changed the Beneficiary. The Beneficiary must be a United States citizen, or a resident alien, with a valid Social Security Number. An Account must have a Beneficiary, unless the Participation Agreement and the Terms and Conditions provide otherwise. Other Account Owners may open separate Accounts for the same Beneficiary.

**1.09 “Board”** means the Florida Prepaid College Board.

**1.10 “Business Day”** means a day other than a Saturday, Sunday or state holiday. Contributions may not be invested or withdrawals may not be withdrawn if the New York Stock Exchange is closed.

**1.11 “Code”** means the Internal Revenue Code of 1986, as amended.

**1.12 “Death, Disability, or Scholarship Withdrawal”** means a withdrawal from the Account due to the death, disability, or scholarship receipt of the Beneficiary.

**1.13 “Eligible Educational Institution”** means the same as that term is defined under Section 529 of the Code. [Current language or guidance may be inserted as applicable.]

**1.14 “Existing Balance Allocation”** means the current allocation of the Account Balance to each Investment Option. The Existing Balance Allocation may fluctuate as a result of, but not limited to, relative performance of selected Investment Options and the Future Contribution Allocation selected.

**1.15 “Future Contribution Allocation”** means the allocation of future contributions to each Investment Option.

**1.16 “Gardiner Scholarship Program Account”** means a scholarship account established pursuant to Section 1002.385, Florida Statutes.

**1.17 “Investment Options”** means the Investment Options described in the Comprehensive Investment Plan for the Program adopted by the Board and approved by the State Board of Administration, pursuant to Section 1009.973, Florida Statutes. The Board retains the authority to close or not offer one or any of the Investment Options at any time.

**1.18 “Joint Approval”** means an authorization made by the Account Owner and the Survivor together. [Guidance may be inserted as applicable ].

**1.19 “Maximum Account Balance”** means the limit on the total value of all Accounts and Florida Prepaid College Plans for the Beneficiary. [Current language or guidance may be inserted as applicable.]

**1.20 “Member of the Family”** means the same as that term is defined in Section 529 of the Code. [Current language or guidance may be inserted as applicable.]

**1.21 “NAV”** means the net asset value per Trust Unit and is calculated at the time when trading closes on the New York Stock Exchange by dividing the value of

each respective Investment Option's assets less its liabilities including, without limitation, the Administration Fee, by the number of outstanding Trust Units of that Investment Option.

**1.22 “Non-Qualified Withdrawal”** means a withdrawal or refund from the Account other than a Qualified Withdrawal, a Death, Disability, or Scholarship Withdrawal or a Rollover Withdrawal. The earnings portion of the withdrawal is subject to state and federal income taxes and the Additional Tax.

**1.23 “Parent”** means the same as that term is defined in Section 1000.21(5), Florida Statutes. [Current language or guidance may be inserted as applicable.]

**1.24 “Program”** means the Florida College Savings Program which is established under Section 1009.981, Florida Statutes, and marketed as the Florida 529 Savings Plan.

**1.25 “Program Description”** means the document published periodically by the Board which contains information, as updated from time to time, about the Program, Investment Options, and risks for the Account Owner to consider before enrollment and during the duration of the Agreement.

**1.26 “Qualified Higher Education Expenses”** means the same as that term is defined under Section 529 of the Code. [Current language or guidance may be inserted as applicable.]

**1.27 “Qualified Tuition Program”** means an account established for the purpose of meeting the Qualified Higher Education Expenses of the Beneficiary of the account and meets the other requirements of Section 529 of the Code.

**1.28 “Qualified Withdrawal”** means a withdrawal from the Account that is used to pay the Qualified Higher Education Expenses of the Beneficiary.

**1.29 “Request”** means an authorization, which includes all necessary information required by the Program, either online at the current website or in writing. The Board may request additional information, documentation, or authorization before processing. [Guidance relating to additional information, documentation, or authorization may be inserted as applicable.]

**1.30 “Residency”** means that a Beneficiary must have been domiciled in Florida at least 12 consecutive months prior to and including the date the Application or change of Beneficiary is signed. A Beneficiary under the age of one year must have been born and continuously domiciled in Florida from birth through the date the Application or change of Beneficiary is signed. A Beneficiary under 18 years of age may be a resident of another state if the non-custodial Parent has been domiciled in Florida at least 12 consecutive months prior to and including the date the Application or change of Beneficiary is signed.

**1.31 “Rollover Contribution”** means the same as that term is defined under Section 529 of the Code. [Current language or guidance may be inserted as applicable.]

**1.32 “Rollover Withdrawal”** means the same as that term is defined under Section 529 of the Code. [Current language or guidance may be inserted as applicable.]

**1.33 “Survivor”** means the person who is designated on the Application as the “survivor,” unless the Survivor was subsequently changed or was designated after the submission of the Application. The Survivor must be 18 years old or older and a United States citizen, or resident alien, with a valid Social Security Number. The designation of a Survivor is optional.

**1.34 “Trade Date”** means the Business Day on which a NAV is applied to process a contribution or withdrawal transaction for the Account. If a contribution or withdrawal is requested after the close of trading on the New York Stock Exchange, or on a day other than a Business Day, the NAV for the next Business Day is applied to the transaction.

**1.35 “Trust Units”** means the share of assets held by the Program for an Account Owner with respect to a particular Investment Option.

## SECTION 2: PARTICIPATION IN THE PROGRAM

### 2.01 Enrollment in Program.

Any person or entity eligible to be an Account Owner may apply for participation in the Program by submitting an Application to the Program.

### 2.02 Residency.

**(a)** Documentation proving Residency is required whenever a Beneficiary is named in an Agreement and occurs when: (1) an Application is submitted; or (2) the Beneficiary is changed pursuant to paragraph 8.02.

**(b)** Residency may be shown by submitting documentation indicating that the Beneficiary is, and has been, a resident of Florida for the past 12 months. Typical types of documentation include: (1) voter's registration card; (2) driver's license; (3) certificate of domicile; (4) homestead exemption; (5) utility bills at the same residence; (6) professional or occupational license; (7) proof of full-time Florida employment; and (8) Florida vehicle registration.

**(c)** There are additional types of documentation which may show Residency depending on the age or grade of the Beneficiary. For a Beneficiary under the age of one, Residency may be shown by submitting a birth certificate indicating the Beneficiary was born in Florida. For a Beneficiary between the age of one and kindergarten enrollment, Residency may be shown by submitting a progress report from a preschool or day care center indicating 12 months of residency. For a Beneficiary enrolled in kindergarten through the 12th grade, Residency may be shown by submitting a school report card or transcript from a Florida public or private school.

**(d)** For a Beneficiary in 12th grade or below, Residency also may be shown by: (1) showing that the Beneficiary's Parent could meet the Residency requirement by submitting documentation described in **(b)**; and (2) confirming the Beneficiary does in fact satisfy the Residency requirement.

**(e)** The Board may request specific Residency verification using any one, or more, of the forgoing types of documentation to confirm eligibility.

**(f)** A Beneficiary with (1) an active Agreement or (2) an active Contract in the Florida Prepaid College Program meets the Residency requirement.

### 2.03 Disclosure of Agreement.

**(a)** The Board may disclose, without identifying the Account Owner or status of the Agreement, the existence of an Agreement for the Beneficiary to either limit or reject an Application by the Account Owner or a different potential Account Owner.

## 2.04 Submitting an Application.

The Application submitted to the Board must be completed according to the Application instructions. A valid email address is required to access your Account online and receive Program communications. A separate Application is required for each Beneficiary. The Application may be completed online at the current website.

## 2.05 Application Acceptance.

**(a)** An Account is established once the Board confirms acceptance of the Application by issuing a Statement of Confirmation to the Account Owner.

**(b)** If the Beneficiary is not eligible, the Board will reject the Application.

## 2.06 Maintenance of Contact Information.

The Account Owner is responsible for notifying the Board of any change in contact information, including email addresses, mailing addresses, and phone numbers, of the Account Owner, Survivor, and Beneficiary.

## SECTION 3: ACCOUNT RIGHTS

### 3.01 Rights of Account Owners.

**(a)** The Account Owner is the owner of the Account Balance.

**(b)** For an Account that requires Joint Approval: **(1)** the Account Owner, together with the Survivor, must authorize changes in the Beneficiary, Account Owner and Survivor; voluntary terminations; and refunds associated with an involuntarily terminated Account by submitting a Request; **(2)** the Account Owner may, without the consent or authorization of the Survivor, authorize other Account changes and withdrawals; and **(3)** the Account Owner and Survivor each will enjoy a right of survivorship for each other.

**(c)** For an Account that does not require Joint Approval: **(1)** the Account Owner may, without the consent or authorization of the Survivor, authorize Account changes, withdrawals, terminations, and

refunds; and **(2)** the Account Owner and Survivor each will enjoy a right of survivorship for each other.

**(d)** The Account Owner may obtain and update information regarding the Account. All official notices from the Program will be directed only to the Account Owner.

### 3.02 Account Owners Acting in a Custodial Capacity.

**(a)** The rights of an Account Owner are limited where the Account Owner acts in a custodial capacity pursuant to a court order appointing a guardian or pursuant to the Beneficiary's right of survivorship while the Beneficiary is under 18 years of age.

**(b)** The Account Owner may not: **(1)** change the Account Owner without providing documentation to the Board indicating authority to do so; **(2)** change the Beneficiary; or **(3)** designate a Survivor.

**(c)** Withdrawals may be made payable only to the Beneficiary or an Eligible Educational Institution on behalf of the Beneficiary.

**(d)** The Account Owner may not voluntarily terminate, or Request a refund from, the Account. A Rollover Withdrawal may be made for the benefit of the Beneficiary.

### 3.03 UGMA/UTMA Funds in an Account.

**(a)** The rights of an Account Owner acting in a custodial capacity for a minor under UGMA/UTMA are limited by the applicable UGMA/UTMA laws and by the Program with respect to those funds. The Account Owner solely is responsible for ensuring compliance with all UGMA/UTMA requirements.

**(b)** The Account Owner may change the Account Owner only to a successor custodian or the Beneficiary. Once the Beneficiary is named the Account Owner, the Account will be treated as a non-UGMA/UTMA Account.

**(c)** The Account Owner may not: **(1)** change the Beneficiary; or **(2)** designate a Survivor.

**(d)** Withdrawals may be made payable only to the Beneficiary or an Eligible Educational Institution on behalf of the Beneficiary.

**(e)** The Account Owner may not voluntarily terminate, or Request a refund from, the Account. A Rollover Withdrawal may be made for the benefit of the Beneficiary.

### **3.04 Gardiner Scholarship Program Account Funds in an Account.**

**(a)** Contributions from, or traceable to, a Gardiner Scholarship Program Account are subject to the rights and restrictions contained in the Agreement and Section 1002.385, Florida Statutes.

**(b)** The Account Owner may not change the Beneficiary while the Account contains Gardiner Scholarship Program Account funds.

**(c)** Private funds will be used before Gardiner Scholarship Program Account funds.

**(d)** Gardiner Scholarship Program Account funds will not be made payable to the Account Owner except as: **(1)** a Qualified Withdrawal or **(2)** a Scholarship Withdrawal.

**(e)** Pursuant to Section 1002.385, Florida Statutes, Gardiner Scholarship Program Account funds may be removed from an Account and returned to the State of Florida.

### **3.05 Rights of Survivors.**

**(a)** For an Account that requires Joint Approval: **(1)** the Account Owner, together with the Survivor, must authorize changes in the Beneficiary, Account Owner and Survivor; voluntary terminations; and refunds associated with an involuntarily terminated Account by submitting a Request; **(2)** the consent or authorization of the Survivor is not required for the Account Owner to authorize other Account changes, and withdrawals; and **(3)** the Account Owner and Survivor each will enjoy a right of survivorship for each other.

**(b)** For an Account that does not require Joint Approval: **(1)** the consent or authorization of the Survivor is not required for the Account Owner to execute Account changes, withdrawals, terminations and refunds; and **(2)** the Account Owner and Survivor each will enjoy a right of survivorship for each other.

**(c)** The right of survivorship is not effective whenever: **(1)** the Account Owner is acting in a custodial

capacity pursuant to paragraph 3.02; or **(2)** the Account Balance is designated as UGMA/UTMA funds pursuant to paragraph 3.03.

**(d)** All Requests must include all necessary information required by the Board. The Board may request additional information, documentation, or authorization before processing.

**(e)** The Survivor may obtain information regarding the Account and update the Survivor's Account information.

**(f)** Refunds and withdrawals will not be made payable to the Survivor.

### **3.06 Rights of Beneficiaries.**

**(a)** For an Account opened on or after May 29, 2013, the Beneficiary will enjoy a right of survivorship for the Account Owner, which is subordinate only to an effective right of survivorship by the Survivor. If, and for as long as, the Beneficiary is a minor, the exercise of the right of survivorship requires a Parent of the Beneficiary to be the Account Owner acting in a custodial capacity pursuant to paragraph.

**(b)** For an Account opened prior to May 29, 2013, beginning August, 2019, the Beneficiary's rights are the same as those for Beneficiaries of Accounts opened on or after May 29, 2013.

**(c)** Except as provided herein, the Beneficiary does not own, control, or have rights to the Account. The Beneficiary may obtain information regarding the Account and update the Beneficiary's Account information.

### **3.07 Holds and Access Restrictions.**

Holds and access restrictions may be used by the Board to grant or restrict information from, or access or modifications to, an Account including to comply with a court order or protect the Account from unauthorized access or modification.

## **SECTION 4: INVESTMENT OPTIONS**

### **4.01 Comprehensive Investment Plan.**

**(a)** The Florida 529 Savings Plan Comprehensive Investment Plan, which is authorized under Section 1009.973, Florida Statutes, and investment guidelines

therein specify the investment policy and Investment Options of the Program. The Account Balance is invested in accordance with the Comprehensive Investment Plan.

**(b)** Periodically, the Board will review and rebalance Investment Options in accordance with the allowable ranges provided in the Comprehensive Investment Plan and investment guidelines.

**(c)** The Board may change the Comprehensive Investment Plan and investment guidelines at any time. The Comprehensive Investment Plan is, subject to the approval of the State Board of Administration.

#### **4.02 Authority to Direct Investments.**

**(a)** The Account Owner may not direct the investment of any contribution or the Account Balance into an investment other than the Investment Options then available under the Program.

**(b)** Section 529 of the Code currently limits the ability of the Account Owner to change the Existing Balance Allocation. [Current Internal Revenue Code guidance may be inserted as applicable.]

**(c)** Neither the Beneficiary nor Survivor may direct the investment of any contributions or the Account Balance.

#### **4.03 Changing Investment Options for Account Balance.**

**(a)** The Existing Balance Allocation may be changed only to the extent allowed by Section 529 of the Code. [Current Internal Revenue Code guidance may be inserted as applicable.]

**(b)** The Account Owner may reallocate the Existing Balance Allocation by submitting a Request, indicating the Investment Option changes or the new allocation percentages to the Board.

#### **4.04 No Investment Advice.**

**(a)** Neither the Board, the Program, nor employees thereof are registered investment advisors or broker/dealers. Accordingly, they cannot offer investment advice or make recommendations with respect to enrolling in the Program or the selection of Investment Options, and they do not assume any responsibility for investment performance.

**(b)** The Account Owner acknowledges and agrees that he or she has not been advised by the State of Florida, the Board or any employee, agent, independent contractor, or affiliate or any vendor, contractor, investment advisor, investment consultant, or investment manager of the State of Florida or the Board to invest, or to refrain from investing, in the Program or a particular Investment Option.

### **SECTION 5: RISKS OF INVESTING IN THE FLORIDA 529 SAVINGS PLAN**

#### **5.01 No Guarantee of Attendance.**

Participation in the Program does not guarantee admission to, continued enrollment at, or graduation from an Eligible Educational Institution of any Beneficiary.

#### **5.02 No Guarantee of Adequate Funds to Pay Education Expenses.**

Participation in the Program does not guarantee that sufficient funds will be available to cover all Qualified Higher Education Expenses for any Beneficiary, even if the Account reached the Maximum Account Balance. Increases in future Qualified Higher Education Expenses are uncertain and may exceed increases in the general cost of living. Increases in Qualified Higher Education Expenses could exceed the rate of return under any or all of the Investment Options over the same period.

#### **5.03 Not a Direct Investment in Mutual Funds or Registered Securities.**

**(a)** None of the Investment Options is a mutual fund.

**(b)** Investment Options are not registered with the U.S. Securities and Exchange Commission or any state.

#### **5.04 Limited Liquidity.**

Investment in the Program involves the risk of reduced liquidity for the investment. Once an Account for a Beneficiary is opened, the circumstances under which funds may be withdrawn from the Account without the imposition of tax liability and the Additional Tax are limited.

### **5.05 Potential Impact on Financial Aid and Medicaid Eligibility.**

**(a)** The eligibility of the Beneficiary for financial aid will depend upon the circumstances of the Beneficiary's family at the time the Beneficiary enrolls in an Eligible Educational Institution, as well as on the policies of the governmental agencies, school, or private organizations to which the Beneficiary and/or the Beneficiary's family applies for financial assistance. Because saving for college will increase the financial resources available to the Beneficiary, it most likely will have some effect on the Beneficiary's eligibility. However, because these policies vary at different institutions and can change over time, the Board cannot say with certainty how the federal financial aid program, or the school the Beneficiary applies to, will treat an Account.

**(b)** Ownership of an Account could have an impact on eligibility for Medicaid. Although the results may vary from state to state, assets in an Account may be considered available assets for determining Medicaid eligibility.

## **SECTION 6: CONTRIBUTIONS**

### **6.01 Making a Contribution.**

**(a)** A contribution to the Account may be made at any time.

**(b)** A contribution or authorization for recurring automatic contributions may be made through the Board's current website.

**(c)** A contribution may be made by calling customer service at 1-800-552-GRAD (4723).

**(d)** Contributions may be made by [acceptable contribution methods].

**(e)** Checks must be in U.S. dollars and should be made payable to the Florida 529 Savings Plan.

### **6.02 Rollover Contributions Accepted.**

**(a)** The Program accepts Rollover Contributions to the extent allowed by Section 529 of the Code.

**(b)** Direct Rollover Contributions involve the transfer of money directly to the Program.

**(c)** Indirect Rollover Contributions involve the withdrawal of money before transferring the money to the Program.

**(d)** Until the Program receives documentation indicating the portion of the Rollover Contribution attributable to earnings, the entire amount of the Rollover Contribution will be treated as earnings, which would be subject to taxation in the case of a Non-Qualified Withdrawal.

### **6.03 Investment Allocations for Contributions.**

**(a)** Contributions will be credited to the Account and invested in accordance with the allocation percentages indicated on the Application, unless the Account Owner subsequently changed how future contributions would be allocated.

**(b)** The Future Contribution Allocation may be changed at any time. The Account Owner may change the Future Contribution Allocation by submitting a Request indicating the new allocation percentages for each selected Investment Option to the Board.

### **6.04 Purchasing Trust Units.**

**(a)** A contribution received by the Board will be credited at the NAV of the applicable Investment Option determined on the Trade Date.

**(b)** The contribution will cause the purchase of Trust Units for each Investment Options in accordance with the allocation percentages indicated on the Application or, if the Account Owner subsequently changed the allocation, by the Future Contribution Allocation applicable at time of processing.

**(c)** The number of Trust Units purchased will be determined by dividing the contribution for a specified Investment Option by the NAV of that Investment Option as described in **(a)**.

### **6.05 NAV Valuation.**

Individual securities held by an Investment Option are valued using market quotations or independent pricing services. If market quotations or independent pricing services are not readily available, or if events that have a significant effect on the value of an

investment occur between the time when its price is determined and the time a portfolio's NAV per share is calculated, a security's "fair value," as determined in good faith, may be used.

#### **6.06 Maximum Account Balance.**

**(a)** The Board periodically reviews the Maximum Account Balance and publishes the amount on the Board's current website.

**(b)** The Maximum Account Balance may be lower than other Qualified Tuition Programs and lower than previously published amounts for the Program.

**(c)** Contributions will be rejected and returned to the extent the amount of the contribution would cause the total balance of the Account(s) plus the sum of all payments required for any Florida Prepaid College Plan(s) for the Beneficiary to exceed the Maximum Account Balance. However, Accounts that have reached the Maximum Account Balance may continue to accrue earnings.

### **SECTION 7: FEES AND PENALTIES**

#### **7.01 Administration Fee.**

**(a)** The Board periodically reviews the Administration Fee and publishes the amount on the Board's current website. [Current Administration Fee inserted as applicable.]

**(b)** The following table compares the approximate costs of investing in the Florida 529 Savings Plan over different periods of time at the specified rates. The example illustrates the hypothetical expenses an Account Owner may incur over various periods if \$10,000 is invested in an Account with a 5% annually compounded rate of return. All units are redeemed at the end of the period shown for Qualified Higher Education Expenses (the results do not take into account any Nonqualified Withdrawals subject to state or federal income taxes, or any penalties).

[Table of approximate costs of investing in the Program over different time periods as applicable to the current Administration Fee.]

These examples do not represent actual expenses or performance from the past or for the future. Actual

future expenses may be higher or lower than those shown.

#### **7.02 Insufficient Funds Fee.**

If a contribution to the Account is returned due to insufficient funds, a \$20 fee will be deducted from the Account Balance.

#### **7.03 Termination Penalty Due to Misrepresentation.**

A penalty of up to \$250 or 100 percent of the Account Balance, whichever is less, will be assessed if the Account is terminated pursuant to paragraph 10.04 or 10.05.

#### **7.04 Fee Changes.**

The Board may add, remove, increase, or decrease the Administration Fee or other fees charged, which could have a material effect on the Account Owner's investment in the Program and the Account Balance.

#### **7.05 No Refund of Fees.**

The Board may apply the Account Balance, or a portion thereof, and future Contributions towards outstanding fees. Fees collected by the Board are non-refundable.

### **SECTION 8: ACCOUNT CHANGES**

#### **8.01 General.**

Unless otherwise provided herein, all changes must be in writing, signed by the Account Owner, and received by the Board. The Board is not responsible for the validity of documentation related to such changes. If acceptable to the Board, changes will take effect as of the date a change is processed by the Board.

#### **8.02 Change of Beneficiary.**

**(a)** The Beneficiary of an Account may be changed to an eligible substitute Beneficiary by submitting a Request. Any such Request must verify that the proposed substitute Beneficiary: (1) is a Member of the Family of the original Beneficiary; and (2) meets the Residency requirement at the time of substitution.



**(b)** If the substitute Beneficiary is a Member of the of the Beneficiary, the change is usually a non-taxable event and will not be subject to the Additional Tax.

**(c)** The Account Owner may Request to change the Existing Balance Allocation and/or the Future Contribution Allocation in conjunction with the change of Beneficiary Request.

**(d)** The change of Beneficiary Request will not be processed to the extent that it will cause the substitute Beneficiary to exceed the Maximum Account Balance.

### **8.03 Change of Account Owner.**

**(a)** The Account Owner of an Account may be changed by submitting a Request.

**(b)** To effectuate a change in Account ownership after the death of the Account Owner, the Survivor will be required to submit to the Board a copy of the death certificate, or other legally recognized proof of death, and a Request

**(c)** To effectuate a change in Account ownership after the death of the Account Owner where: (1) the Beneficiary has the right of survivorship and (2) either no Survivor was designated or the Survivor is also deceased the Beneficiary, or a Parent acting in a custodial capacity, must submit a copy of the death certificate(s), or other legally recognized proof of death, with a notarized authorization to become the Account Owner.

**(d)** To effectuate a change in ownership of the Account after the death of the Account Owner where no rights of survivorship exist, the Board will accept: **(1)** a court order; **(2)** a notarized authorization from the personal representative of the Account Owner's estate with a copy of the death certificate and letters of administration; or legally recognized documentation thereof.

### **8.04 Designation or Change of Survivor.**

**(a)** If a Survivor has not been designated on an Account, the Account Owner may designate a Survivor by submitting a Request with the full legal name, Social Security Number, and complete contact information for the Survivor.

**(b)** The Survivor of an Account may be changed by submitting a Request. The Survivor may not be changed by will or codicil.

**(c)** To effectuate a change in Survivor due to the death of the Survivor, if the Account requires joint approval, the Account Owner will be required to submit a copy of the death certificate, or other legally recognized proof of death, and a Request.

## **SECTION 9: WITHDRAWALS**

### **9.01 General.**

**(a)** The Account Owner may direct a withdrawal from the Account at any time.

**(b)** Withdrawals may be classified into four categories: Qualified Withdrawals; Death, Disability or Scholarship Withdrawals; Rollover Withdrawals; and Non-Qualified Withdrawals. It is the Account Owner's and Beneficiary's responsibility, as applicable, to obtain and retain documents related to the withdrawal to substantiate the withdrawal classification to the Internal Revenue Service.

**(c)** The withdrawal classification affects the tax treatment of the earnings portion of a withdrawal. Residents of states other than Florida may have state income tax liabilities in addition to any federal income tax or Additional Tax liabilities.

### **9.02 Directing a Withdrawal.**

The Account Owner may direct a withdrawal payable to the Account Owner, Beneficiary, or Eligible Educational Institution by submitting a Request. The Account Owner also may direct Rollover Withdrawals.

### **9.03 Source of Withdrawal.**

**(a)** A withdrawal is deducted from the Account at the NAV of the applicable Investment Options determined on the Trade Date.

**(b)** The withdrawal will cause the sale of Trust Units from each Investment Option in proportion to the market values represented by each Investment Option in the Account prior to the withdrawal.

**(c)** The number of Trust Units sold will be determined by dividing the withdrawal for a specified Investment

Option by the NAV of that Investment Option as described in **(a)**.

## SECTION 10: TERMINATION AND REFUNDS

### 10.01 Voluntary Termination.

**(a)** The Account may be voluntarily terminated at any time by submitting a Request.

**(b)** Upon receipt of the Request, the Board will process a full withdrawal of the Account and issue a refund to the Account Owner.

**(c)** A voluntarily terminated Account may be reactivated at any time by making a contribution to the Account.

### 10.02 Involuntary Termination.

**(a)** The Board will involuntarily terminate the Account by processing a full withdrawal if, within 120 days from time of enrollment, the Account Owner fails to provide the Board with all information required to complete the Application. The Board will attempt to notify the Account Owner of any information that is required to complete the Application.

**(b)** Upon receipt of the Request, the Board will issue a refund to the Account Owner.

**(c)** An involuntarily terminated Account may be reactivated at any time by providing the Board with all information required to complete the Application.

### 10.03 Account Expiration.

**(a)** The Board will involuntarily terminate the Account if no contributions to or withdrawals from the Account have been made for a continuous period of 25 calendar years.

**(b)** Time expended by a Beneficiary as an active duty member of any of the armed services of the United States shall be added to this period, upon receipt of sufficient documentation by the Board.

**(c)** The Board may, but is not obligated to, consider Requests from the Account Owner or Beneficiary to extend this period before the involuntary termination.

**(d)** After notice to the Account Owner at least six months prior to involuntary termination, the Account Balance shall be declared unclaimed and

abandoned property. The Board shall retain any moneys from an Account terminated under this subsection.

### 10.04 Residency Fraud.

The Board may involuntarily terminate an Agreement if it determines that fraudulent statements were used to establish the Residency of an allegedly qualified Beneficiary. The penalty authorized in paragraph 7.03 will be assessed. To receive a refund of any remaining balance, a Request must be submitted.

### 10.05 Termination Due to Misrepresentation.

**(a)** If requested, the Account Owner will provide documentation verifying representations made on the Application or any document submitted by the Account Owner with respect to the Agreement.

**(b)** The Board may terminate an Account if a material misrepresentation is made in the Application or in any communication from the Account Owner or Beneficiary to the Board regarding the Account. A material misrepresentation includes, but is not limited to, providing an invalid Social Security Number or taxpayer identification number, providing false certification that a person is a Member of the Family of the Beneficiary, falsely certifying the Beneficiary's Residency, or falsely certifying that a person is a citizen or resident alien of the United States.

**(c)** Upon receipt of the Request, the Board will issue a refund to the Account Owner, if any, less the penalty authorized in paragraph 7.03 and any other outstanding fees.

### 10.06 Refund Classification.

Generally, refunds are considered Non-Qualified Withdrawals and, therefore, subject to state and federal taxes and the Additional Tax.

### 10.07 Unclaimed Refunds.

Any unclaimed withdrawal or refund for terminated Accounts and any unclaimed Account Balance shall escheat to the Florida Prepaid College Trust Fund seven years after the date the Account was terminated or such amounts became unclaimed, respectively.

## SECTION 11: REPORTING

### **11.01 Account Statements.**

**(a)** The Board maintains separate records for each Account and will provide to the Account Owner quarterly statements indicating, for the period and calendar year, the: **(1)** contributions to, withdrawals from, and changes between each Investment Option in the Account; **(2)** ending value of the Account; and **(3)** investment performance of each Investment Option.

**(b)** Quarterly statements will not be provided to the Account Owner for any quarter where: **(1)** there have been no contributions or withdrawals; and **(2)** the beginning and ending Account Balance is \$0.

**(c)** The Account Owner is responsible for reviewing each quarterly statement and for verifying the information contained on each quarterly statement. If the Account Owner fails to notify the Board in writing of any error on the quarterly statement within 60 days after the last day of the period to which the quarterly statement relates, the information pertaining to the Account contained on the quarterly statement is deemed to be correct, the Account Owner will be considered to have approved the information contained on the quarterly statement and its inclusion on subsequent quarterly statements, and to have released the Board from all liability for any error contained on the quarterly statement.

### **11.02 Tax Treatment, Withholding and Reporting.**

**(a)** The application and impact of tax law vary widely based upon the specific facts involved. The Account Owner and Beneficiary are strongly encouraged to consult a qualified tax advisor regarding the tax consequences of contributing money to, or withdrawing money from, an Account.

**(b)** Under proposed federal tax regulations, withdrawals from Accounts are not subject to back-up withholding. Accordingly, the Board does not withhold any portion of a withdrawal or refund for tax purposes.

**(c)** The Board will issue IRS Form 1099-Q to the Beneficiary for the calendar year in which a withdrawal is made payable to the Beneficiary or an Eligible Educational Institution.

**(d)** The Board will issue IRS Form 1099-Q to the Account Owner for the calendar year in which a withdrawal or refund is made payable to the Account Owner or a Rollover Distribution is made.

### **11.03 Performance Reporting.**

The Board provides information about investment performance for each available Investment Option at online at the current website.

### **11.04 Electronic Reporting.**

**(a)** The primary method for providing correspondence is online access at the current website. Email may be used to provide notifications of the availability of electronic statements and Program information.

**(b)** For statements issued pursuant to paragraph 11.02, the Program may request the recipient to affirmatively consent to receive the statements in an electronic format. The consent applies to statements furnished every year after the consent is given. The recipient may withdraw his or her consent at any time by submitting a Request. If the recipient does not consent, the statement will be furnished on paper.

**(c)** The Program retains the right to provide any or all statements and correspondence on paper instead of an electronic format without notice.

### **11.05 Reporting to State and Federal Agencies.**

The Program may report Contract information to state and federal agencies to comply with state and federal law and to administer the Program.

## **SECTION 12: OTHER INFORMATION ABOUT ACCOUNT**

### **12.01 Not an Obligation of the State.**

The Agreement is only a debt or obligation of the Program, and is not otherwise a debt or obligation of the State of Florida.

### **12.02 Actual Receipt by Board Required.**

All Requests are effective only upon actual receipt by the Board and after a reasonable processing time.

### **12.03 Privacy and Account Confidentiality.**

**(a)** Information that identifies the parties to any Account is confidential and exempt from Section 119.07(1), Florida Statutes, and Section 24(a), Art. I of the State Constitution.

**(b)** The Board may authorize the release of such information to perform its duties or responsibilities or for the Program to: **(1)** verify a party to the Account, **(2)** verify eligibility, **(3)** permit the use of an Account, or **(4)** provide additional services for the Account.

#### **12.04 Accounts Not Registered Under the Securities Laws.**

**(a)** Neither the Accounts under, nor the Participation Agreement to be executed in connection with, the Program will be registered under the Securities Act of 1933, as amended, or with the securities regulatory authority of any state.

**(b)** To the extent that registration of the Accounts or Participation Agreement is required, or registration of the Board or its officers and employees is required in order to offer or sell the Accounts or Participation Agreement, and the Accounts or Participation Agreement are offered and sold without the proper registration(s): **(1)** the Board could be required to cease and desist operating the Program and to terminate the Program; **(2)** monetary penalties could be imposed; or **(3)** both.

#### **12.05 Necessity of Qualification.**

**(a)** The Program is intended to be a Qualified Tuition Program. The Board may make changes to the Program and the Participation Agreement at any time if it is determined that such changes are necessary for the continuation of the federal income tax treatment provided by Section 529 of the Code or any similar successor legislation.

**(b)** The Account Owner agrees to be bound by any such changes.

#### **12.06 Statute and Rules.**

**(a)** The Account and the Participation Agreement are subject to future changes to the Program, Part IV Chapter 1009, Florida Statutes, as amended, and to Rule 19B-16, Florida Administrative Code (or any similar successor rule), as amended.

**(b)** All transactions and changes of the Account are subject to such rules and policies as the Board may adopt in accordance with federal law and Florida law.

**(c)** All references in the Participation Agreement to the Florida Statutes include any similar successor statutes.

**(d)** The Account Owner agrees to be bound by any such changes, policies, rules, and statutes.

#### **12.07 Program Changes and Termination.**

**(a)** The Program is required to comply with Section 529 of the Code and the regulations and the administrative guidance issued thereunder, as well as Section 1009.981, Florida Statutes, and related sections and the related regulations and administrative guidance thereunder. In the operations of the Program, the Board shall have authority to interpret and administer the Program in a manner which complies with the Statutes and the guidance thereunder.

**(b)** The Board reserves the right to make changes or enhancements to the Program at any time to comply with Federal laws and regulations and the Florida Legislature's grant of authority under Sections 1009.971(4)(b), 1009.971(6), 1009.981 (2)(b)(1) – (11), and 1009.981 (2)(d) through the rulemaking process as more fully described in Section 120.54, Florida Statutes. Account Owners who have established Accounts prior to the time an enhancement is made available, may be precluded by federal tax law from participating in such enhancement.

**(c)** Although the Board currently has no plans to do so, the Board may: **(1)** discontinue the Program, **(2)** refuse to accept additional contributions to existing Accounts, or **(3)** refuse to accept Applications for new Accounts.

**(d)** The Program shall continue indefinitely until its existence is terminated by law, if ever. If the Program is terminated, the Account Balance shall be returned to Account Owners to the extent financially feasible. Any unclaimed Account funds shall be treated as abandoned property and shall revert to the State of Florida in accordance with Florida law.

**(e)** The State of Florida or the Board may determine that the Program is not financially feasible and may discontinue it after adequate provision is made for the return of the Account Balance to the Account Owner. There is a possibility, due to poor performance of the Investment Options selected by the Account Owner, that the Account Balance may be zero or significantly lower than the amount of funds contributed to the Account. Termination of the Program may result in a Non-Qualified Withdrawal by Account Owners for which tax and penalties may be assessed.

#### **12.08 State Pledge.**

The State of Florida pledges to the Account Owners and Beneficiaries of the Program that the State of Florida will not limit or alter the rights under Section 1009.981, Florida Statutes, which are vested in the Program until such obligations are met and discharged. However, Section 1009.981(9), Florida Statutes, does not preclude such limitation if adequate provision is made by law for the protection of the Account Owner and Beneficiary pursuant to the obligations of the Board, and if the State of Florida or the Board determines that the Program is not financially feasible, the State of Florida or the Board may discontinue the Program. If the Program is discontinued, the Board shall refund to Account Owners their Account Balance.

#### **12.09 Disputes.**

Any controversy or claim arising out of or relating to the Participation Agreement, or the breach, termination or validity thereof, shall be resolved in an administrative proceeding conducted pursuant to the provisions of Chapter 120, Florida Statutes.

#### **12.10 Indemnification.**

**(a)** Neither the Board nor the Program will indemnify any Account Owner, Survivor, or Beneficiary against losses or other claims caused directly or indirectly by government restrictions, exchange or market rulings, suspension of trading, war, terrorism, strikes, changes in federal or state law (including tax law), or other conditions beyond their control.

**(b)** The establishment of the Account will be based upon the Account Owner's agreements,

representations and warranties set forth in the Participation Agreement and the Application. The Account Owner agrees to indemnify and hold harmless the Board, any vendors, contractors, investment advisors, investment consultants or investment managers selected by the Board, and any agents, representatives, or successors of any of the foregoing, from and against any and all loss, damage, liability or expense, including reasonable attorney's fees, that any of them may incur by reason of, or in connection with, any misstatement or misrepresentation made by the Account Owner herein or otherwise with respect to the Account, and any breach by the Account Owner of any of the agreements, representations or warranties contained in the Participation Agreement or the Application.

**(c)** All of the Account Owner's acknowledgements, agreements, representations and warranties shall survive the termination of the Participation Agreement.

#### **12.11 Improper Action by Account Owner Acting in Custodial Capacity.**

Neither the Board nor the Program will be liable for any consequence related to an action taken by an Account Owner acting in a custodial capacity which is an improper use, transfer, or characterization of custodial funds.

#### **12.12 Binding Nature; Third-Party Beneficiaries.**

**(a)** The Participation Agreement shall survive the death of the Account Owner (or sale, liquidation, bankruptcy or receivership in the case of an Account Owner that is an entity) and shall be binding upon the Account Owner's personal representatives, legal representatives, heirs, successors and assigns.

**(b)** This Agreement is not intended to, nor does it, confer any benefit or legal rights upon any third-party beneficiary. The individual designated as the Beneficiary of an Account has no independent claim, right or access to any funds in an Account solely related to such designation unless otherwise provided herein.

#### **12.13 Headings.**

The heading of each section, paragraph and provision in the Terms and Conditions shall not be

deemed to modify or qualify any of the rights or obligations set forth in each such section, paragraph and provision.

*Form FPCB 2016-06a, Effective August, 2019, adopted by reference in Rule 19B-16.003, F.A.C.*