EMORY UNIVERSITY ADOPTION ASSISTANCE PROGRAM
PLAN DOCUMENT
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SECTION 1 -- INTRODUCTION

1.1 **Purpose** – Emory University (the “University”) maintains the Emory University Adoption Assistance Program (the “Plan”) to provide financial reimbursement of qualified expenses for the purpose of adoption to eligible faculty and staff. This Plan is intended to meet the requirements of Section 137 of the Internal Revenue Code of 1986 (26 U.S.C. § 137), as amended (the “Code”) and that benefits paid to each employee under the Plan constitute a qualified benefit under Section 125 of the Code and are excludable from the employee’s gross income to the maximum extent allowable under the Code.

1.2 **Effective Date, Plan Year** -- The effective date of the Plan is January 1, 2014. The Plan Year shall run January 1 through December 31 of each calendar year. The Plan will only cover expenses incurred after the Plan’s effective date.

1.3 **Administration** -- The Plan shall be administered by a Plan administrator, who shall be duly authorized by the Vice President of Human Resources, in writing, to serve in this capacity. The Plan administrator, from time to time, may adopt rules and regulations as may be necessary or desirable for the proper and efficient administration of the Plan and as are consistent with the Plan’s terms. The Plan administrator shall have the discretionary authority to construe and interpret the Plan and make factual determinations thereunder, including the authority to determine eligibility of employees, to determine the amount of benefits payable under the Plan, and to decide claims under the Plan’s terms. Any Plan interpretation and any decision on any matter within the discretion of the Plan administrator made in good faith shall be binding on all persons.

SECTION 2 -- ELIGIBILITY

2.1 **Eligible Employees** -- Subject to the conditions and limitations of this section, all Emory University faculty and staff completing one year of satisfactory service and eligible to participate in Emory University’s benefit plans and programs are eligible to participate in the Plan. For the purpose of this section, eligible employees does not include (1) Students; (2) Any leased employees within the meaning of Section 414(n) of the Code; (3) Any party not classified as an Employee by Emory University; (4) Employees of Emory Healthcare; or (5) Dependents of an Employee. An employee shall not be eligible to participate in the Plan during any calendar year in which the Employee’s adjusted gross income (as defined in accordance with Code Section 137(b)(3) for the current or immediately preceding year exceeds $190,000 as adjusted for inflation under Code Section 137.

2.2 **Eligible Child** -- An eligible child is any individual who, at the time the adoption expenses are incurred, is under the age of 18 or is physically or mentally incapable of self-care. The child of the taxpayer’s spouse is not considered an Eligible Child.
SECTION 3 -- AMOUNT OF REIMBURSEMENT

3.1 Maximum Reimbursement -- Except as otherwise limited in the Plan, the Plan will provide each eligible employee up to $5,000 (Five Thousand U.S. Dollars) in adoption assistance benefits pursuant to the requirements set forth in the Plan. The adoption assistance benefits provided by the Plan shall be in the form of reimbursements for qualified adoption expenses enumerated in Section 4.1. Notwithstanding the above, the reimbursement is limited to the employee's actual qualified adoption expenses, limited to two adoptions throughout employment, up to $5,000 per adoption. In the event spouses or partners are jointly employed by the University, the family will be entitled up to the reimbursement maximum per adoption event. Amounts incurred in an unsuccessful attempt to adopt a child before successfully adopting another child count toward the $5,000 limit.

3.2 Reimbursement Limitation -- The maximum reimbursement of $5,000 is less than the regulatory limit established by the Internal Revenue Service under Section 415 of the Code. The maximum for exclusion and credit, either through tax credits and/or employer-sponsored adoption assistance is published annually by the IRS. Plan participants are responsible for researching and understanding tax implications and possible tax liability associated with utilizing adoption assistance benefits. No adoption expenses shall be reimbursed before the adoption becomes final.

3.3 Funding -- The adoption assistance reimbursement benefit provided herein shall be paid by the University fringe benefit account.

SECTION 4 -- REIMBURSABLE EXPENSES

4.1 Qualified Adoption Expenses -- For purposes of the Plan, “qualified adoption expenses” shall include reasonable and necessary adoption fees, court costs, attorney’s fees, travelling expenses (including amounts expended for meals and lodging) while away from home, and other expenses that are: (i) directly related to, and the principal purpose of which is for, the legal adoption of an eligible child by the employee, (ii) not incurred in violation of state or federal law, or in carrying out any surrogate parenting arrangement, (iii) not for the adoption of the child of the taxpayer's spouse or partner, and (iv) not reimbursed by another source (e.g., grants, another employer).

4.2 Special Needs Adoptions – An eligible employee adopting a child with special needs is entitled to the maximum reimbursement regardless of whether the eligible employee actually has any adoption expenses and notwithstanding anything in Section 3.1 to the contrary. A child with special needs is an eligible child who is a citizen or resident of the United States who a state has determined: (i) cannot or should not be returned to the birth parents' home; and (ii) has a specific factor or condition (such as the child's ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions, or physical, mental, or emotional handicaps) because of which the child cannot be placed with adoptive parents without adoption assistance.
4.3 **International Adoptions** – In the case of an adoption of a child who is not a citizen or resident of the United States at the time the adoption effort commenced, any such expense which is paid or incurred before the taxable year in which such adoption becomes final shall be taken into account as if such expense were paid or incurred during the year the adoption becomes final. No such expense shall be taken into account in a taxable year before the adoption becomes final.

**SECTION 5 – REIMBURSEMENT PROCEDURES**

No adoption assistance benefits shall be approved by the Plan administrator and paid under the Plan unless a participant has first submitted a written claim for benefits to the Plan administrator on a form specified by the Plan administrator and pursuant to procedures established by the Plan administrator. The Plan administrator will provide notice in writing if a claim for benefits is denied and the Plan administrator will provide a review of that claim if requested. Any claim for benefits will be processed in accordance with procedures established by the Plan administrator, in its sole discretion.

**SECTION 6 -- TAX TREATMENT**

6.1 **Exclusion From Income** – Benefits under this Plan are designed to be excludable from gross income under the Code. However, benefits are subject to both the Social Security and Medicare portions of the Federal Insurance Contributions Act (“FICA”) and may be subject to state and/or local taxes.

6.2 **Tax Withholdings** – The University will withhold any applicable federal, state and local taxes, as required by law, from any payments made under the Plan and/or from the participant’s regular or any supplemental compensation from the University. In the case of reimbursed expenses, any FICA taxes required to be withheld from benefits under this Plan shall be deducted from those benefits. The University may choose to reimburse incurred expenses only (and not to pay expenses directly) so that all FICA withholding will come out of the benefits paid. If any benefit under this Plan becomes subject to federal income taxes (whether as a result of nondiscrimination testing, modified adjusted gross income limitations, payment of benefits in excess of statutory limits or the failure to finalize adoption of an international child when the expenses are reimbursed) any federal income tax withholding attributable to the taxable portion of any benefit may be deducted from the employee’s other compensation in the same calendar year in which the benefit is provided.

6.3 **International Adoptions** – Qualified adoption expenses for the purposes of employer reimbursements in an international adoption are treated as if they are paid in the later of the year in which the adoption becomes final or the year the expenses are actually incurred. Thus, employer reimbursements made in a year prior to the adoption becoming final are taxable income to the employee in the year in which made, but then are taken as an adjustment to the employee’s income in the year in which the adoption becomes final.
6.4 **Tax Mitigation** -- The Plan is intended to provide tax-free adoption assistance benefits to eligible employees pursuant to the Code. However, subject to Section 7 of the Plan, the University will provide the benefits described in this Plan even if such benefits are taxable or are in excess of the amount excludable under the Code; provided, however, that no such benefit will be provided to an individual if the benefit would cause the Plan to become discriminatory in favor of highly compensated employees as defined by Section 414(q) of the Code.

6.5 **Filing Requirements for Married Employees** -- Employees who are married must file a joint federal income return to treat the adoption expense reimbursements as excludable from gross income. For purposes of the Plan and this income exclusion, an employee who is legally separated under a decree of divorce or separate maintenance is not considered married.

6.6 **Tax Liability** -- The tax liability on any payments made under the Plan is the sole responsibility of each participating employee.

**SECTION 7–DISCRIMINATION**

7.1 **Nondiscrimination** -- The Plan is intended not to discriminate in favor of certain highly compensated employees as defined in Section 414(q) of the Code. If in the judgment of the University or the Plan administrator, the operation of the Plan in any Plan Year would result in such prohibited discrimination, then the University or the Plan administrator shall, in its full discretion, select and exclude from eligibility and/or coverage under the Plan such employees as shall be necessary to assure that, in the judgment of the University or the Plan administrator, the Plan does not discriminate. Alternatively, the University may, at any time, require any employee to amend the amount of pre-tax salary reduction contributions made through the Code Section 125 plan if the plan administrator determines that such action is necessary or advisable in order to satisfy the Code Section 137 nondiscrimination requirements or maintain the qualified status of benefits received under this plan.

**SECTION 8 -- MISCELLANEOUS**

8.1 **Information to be Furnished to the Plan Administrator** -- Eligible employees must furnish the Plan administrator with such evidence, data or information as the Plan administrator considers necessary or desirable to administer the Plan. A fraudulent misstatement or omission of fact may be used to deny claims for benefits and such conduct may be subject to sanction under Emory University’s Standards of Conduct policy.

8.2 **Uniform Rules** -- The Plan administrator shall administer the Plan on a reasonable and nondiscriminatory basis and shall apply uniform rules to all persons similarly situated.

8.3 **Controlling Law** -- Except to the extent superseded by the laws of the United States, the laws of the State of Georgia shall be controlling in all matters relating to the Plan.
8.4 **Interests Not Transferable** -- Except as otherwise expressly permitted by the Plan or as may be required by the tax withholding provisions of the Code or any state’s income tax act, benefits under the Plan are not in any way subject to the debts or other obligations of the persons entitled thereto and may not be voluntarily or involuntarily sold, transferred, alienated, assigned or encumbered.

8.5 **Severability** -- In the event that any provision of the Plan is held to contravene the provisions of the Code or the regulations thereunder, or any other applicable federal or state law, the remaining provisions of the Plan will nonetheless continue in full force and effect, and this Plan will be construed as though any invalid provisions hereunder had not been included herein, as of the earliest date that such invalid provision first came into conflict with the Code or any final regulations issued thereunder, or any other applicable federal or state law.

8.6 **Employment Rights** -- Employment rights of an employee shall not be deemed to be enlarged or diminished by reason of establishment of the Plan, nor shall establishment of the Plan confer upon any employee any right to be retained in the service of an employer or promoted by an employer.

8.7 **Amendment or Termination**-- The University reserves the right to amend the Plan at any time for any purpose. The University further reserves the right to terminate the Plan at any time in whole or in part for any reason.