

\$400,000,000

NOTE PURCHASE AGREEMENT

dated as of

December 1, 2002

between

BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM

and

THE UNIVERSITY OF TEXAS INVESTMENT MANAGEMENT COMPANY
as Investment Manager of the
PERMANENT UNIVERSITY FUND

NOTE PURCHASE AGREEMENT

This Note Purchase Agreement is dated as of December 1, 2002, between the Board of Regents (the "Board") of The University of Texas System (the "System") and The University of Texas Investment Management Company ("UTIMCO"), as investment manager of the Permanent University Fund (the "Fund").

RECITALS

WHEREAS, the Fund is a constitutional fund and public endowment contributing to the support of certain institutions of the System and The Texas A&M University System, as created, established, implemented, and administered pursuant to Article VII, Sections 10, 11, 11a, 11b, 15, and 18 of the Texas Constitution, as currently or hereafter amended, and further implemented by the provisions of Chapter 66, Texas Education Code, as currently or hereafter amended; and

WHEREAS, the Board, by resolution adopted on November 14, 2002 (the "Note Resolution"), has established an interim financing program and authorized the issuance of its Board of Regents of The University of Texas System Permanent University Fund Flexible Rate Notes, Series A, in an amount at any one time outstanding of not to exceed \$400,000,000 (the "Notes"); and

WHEREAS, Article VII, Section 18(g) of the Texas Constitution provides that the Notes are authorized investments for the Fund; and

WHEREAS, the Board and UTIMCO desire to enter into an agreement whereby UTIMCO will agree to purchase Notes tendered for purchase and not remarketed as investments for the Fund; and

WHEREAS, to accomplish the foregoing and to document said agreement, the Board and UTIMCO hereby enter into this Note Purchase Agreement, pursuant to which UTIMCO will agree, subject to the conditions and limitations set forth herein, to purchase, as an investment for the Fund, Notes in an aggregate amount up to but not exceeding Four Hundred Million Dollars (\$400,000,000);

NOW THEREFORE, the parties hereto agree as follows:

Section 1. Definitions.

The terms defined below have the following meanings when used herein unless the context shall indicate a contrary meaning:

"Agreement" shall mean this Note Purchase Agreement, as from time to time amended or supplemented.

"Authorized Representative" shall mean in the case of the Board, the Assistant Vice Chancellor for Finance of the System or the Director of Finance of the System, or such other officer or employee of the System authorized to act as an Authorized Representative of the Board and in the case of UTIMCO, the President and Chief Executive Officer of UTIMCO, or such other officer or employee of UTIMCO authorized to act as an Authorized Representative of UTIMCO.

“Board” shall mean the Board of Regents of The University of Texas System.

“Board Purchase Date” shall have the meaning set forth in Section 5 hereof.

“Business Day” shall mean any day (i) when banks are open for business in Austin, Texas and (ii) when banks are not authorized to be closed in New York, New York.

“Commitment” shall mean Four Hundred Million Dollars (\$400,000,000), as such amount may be reduced and reinstated as more fully provided herein. Upon each Purchase Date, the Commitment shall be automatically reduced by the principal amount of Notes purchased by the Fund. Upon each date on which the Fund sells Notes pursuant to this Agreement, the Commitment shall be automatically reinstated by the principal amount of Notes which are sold.

“Commitment Period” shall mean the period from the Effective Date to but not including the Commitment Termination Date.

“Commitment Termination Date” shall mean the Maturity Date of the Notes, as defined in the Note Resolution, unless terminated earlier by UTIMCO by giving at least 60 days prior written notification to the Board.

“Effective Date” shall mean the date of initial issuance of Notes authorized by the Note Resolution, which date shall be specified in writing delivered to UTIMCO on or before said “Effective Date”.

“Fund” shall mean the Permanent University Fund as created, established, implemented, and administered pursuant to Article VII, Sections 10, 11, 11a, 11b, 15, and 18 of the Texas Constitution, as currently or hereafter amended, and further implemented by the provisions of Chapter 66, Texas Education Code, as currently or hereafter amended.

“Maximum Interest Rate” shall mean the lesser of (a) fifteen percent (15%) per annum and (b) the maximum net effective interest rate permitted by law to be paid on obligations issued or incurred by the Board in the exercise of its borrowing powers (prescribed by Chapter 1204, Texas Government Code, or any successor provision).

“Note” or “Notes” shall mean the evidences of indebtedness authorized to be issued and at any time outstanding pursuant to the Note Resolution.

“Note Resolution” shall mean the resolution adopted by the Board on November 14, 2002, approving and authorizing the issuance of the Notes.

“Notice of Purchase” shall mean that notice completed and executed by an Authorized Representative of the Board in substantially the form attached hereto as Exhibit “A”, which notice shall serve as a written request for UTIMCO to purchase Notes as investments for the Fund in the manner set forth in this Agreement.

“Notice of Purchase Date” shall mean that notice completed and executed by an Authorized Representative of UTIMCO in substantially the form attached hereto as Exhibit “A”, which notice shall serve as a written notice of the Purchase Date.

“Paying Agent” shall mean such agent appointed pursuant to section 5.03 of the Note Resolution, or any successor to such agent. The initial Paying Agent shall be Deutsche Bank Trust Company Americas.

“Proposed Purchase Date” shall have the meaning set forth in Section 3 hereof.

“Purchase Commitment” shall mean the lesser of the Commitment or Forty Million Dollars (\$40,000,000), being the maximum principal amount of Notes the Fund is committed to purchase on any Purchase Date pursuant to this Agreement.

“Purchase Date” shall mean the date specified by UTIMCO pursuant to section 3 of this Agreement as the date on which UTIMCO will purchase tendered Notes, which date shall be either the Proposed Purchase Date or the next succeeding Business Day.

“Remarketing Agent” shall mean the dealer or remarketing agent selected from time to time by the Board to remarket the Notes in accordance with section 5.04 of the Note Resolution. The initial Remarketing Agent shall be Goldman, Sachs & Co.

“System” shall mean The University of Texas System.

“UTIMCO” shall mean The University of Texas Investment Management Company.

Section 2. Commitment to Purchase Notes.

UTIMCO agrees that it will, during the Commitment Period, on the terms and conditions and subject to the limitations set forth in this Agreement, purchase Notes as investments for the Fund from time to time in amounts up to, but not exceeding, an aggregate principal amount equal to the Commitment, in the event the Remarketing Agent has been unable to remarket the Notes tendered for purchase in accordance with the terms of the Note Resolution; provided that UTIMCO shall not be obligated to purchase Notes in excess of the Purchase Commitment on any Purchase Date.

Section 3. Method of Purchase.

By not later than 11:00 a.m. C.S.T. on the date of a proposed purchase of Notes hereunder (the “Proposed Purchase Date”), an Authorized Representative of the Board shall submit a purchase request to an Authorized Representative of UTIMCO specifying the amount of Notes to be purchased and the Proposed Purchase Date. A purchase request shall be made by delivery of a completed and executed Notice of Purchase or by telephonic notice confirmed as soon as possible by delivery or telecopy of a completed and signed Notice of Purchase, provided that such purchase request shall not be conditioned upon the receipt of the confirming Notice of Purchase.

Upon receipt by UTIMCO of such a purchase request, an Authorized Representative of UTIMCO shall notify an Authorized Representative of the Board whether UTIMCO will purchase such Notes on the Proposed Purchase Date or on the next succeeding Business Day, which notification shall be confirmed as soon as possible by delivery or telecopy of a completed

and signed Notice of Purchase Date, provided that selection of the Purchase Date shall not be conditioned upon receipt of the confirming Notice of Purchase Date.

If the Purchase Date is the Proposed Purchase Date, UTIMCO shall make available, in federal or other immediately available funds, to the Paying Agent, the funds necessary to fund such purchase at or prior to 1:30 p.m. C.S.T. on the Purchase Date, in which event the purchase price shall be par as provided in the Note Resolution. If the Purchase Date is the next succeeding Business Day after the Proposed Purchase Date, UTIMCO shall make available, in federal or other immediately available funds, to the Board, the funds necessary to fund such purchase at or prior to 1:30 p.m. C.S.T. on the Purchase Date, in which event the purchase price shall again be par and the Board shall be obligated to pay any accrued interest on the Notes to such Purchase Date.

Section 4. Interest Rates.

Each Note purchased by the Fund pursuant to this Agreement shall be an investment of the Fund and shall bear interest on the principal amount at a rate equal to the rate on taxable commercial paper issued by a major corporate issuer bearing a nationally recognized securities rating agency credit rating equivalent to that of the Note as agreed to by Authorized Representatives of UTIMCO and the Board.

If the rate of interest applicable to a purchased Note when determined in the paragraph above would exceed the Maximum Interest Rate, then the applicable rate shall be reduced to the Maximum Interest Rate.

Section 5. Purchase by the Board.

UTIMCO shall be entitled to tender any Note purchased by the Fund to the Board on any date (the "Board Purchase Date") on or before the 15th day following the Purchase Date and the Board shall be obligated to purchase such Notes on such Board Purchase Date using lawfully available funds. The purchase price for such Notes shall be the par amount of such Notes plus accrued interest from the Purchase Date to the Board Purchase Date calculated in accordance with section 4 of this Agreement.

Section 6. Commitment Fee.

The Board shall pay to UTIMCO an annual commitment fee in an amount equal to 0.1 percent (10 basis points) per annum times the average Commitment during the payment period. The commitment fee shall accrue from and including the Effective Date to (but excluding) the Commitment Termination Date and shall be payable in arrears (a) on the first Business Day of each February, May, August, and November during the term hereof and (b) on the Commitment Termination Date. On each date on which the commitment fee is due, the Board shall deliver to UTIMCO a schedule setting out the manner of calculation of such fee. Such commitment fee shall be subject to amendment as mutually agreed to in writing by Authorized Representatives of the Board and UTIMCO.

Section 7. Notice of Agents.

The Note Resolution appoints Deutsche Bank Trust Company Americas, as Paying Agent, and Goldman Sachs & Co., as Remarketing Agent. The Board shall give notice to UTIMCO of appointment of any substitute agents, which notice shall specify the name and address of such substitute agent.

Section 8. Information.

The Board shall provide periodic notice to UTIMCO of Flexible Rate Periods, at times as mutually agreed to by Authorized Representatives of the Board and UTIMCO. Further, the Board shall promptly provide to UTIMCO copies of all notices it receives as “Liquidity Provider” pursuant to the Note Resolution.

Section 9. No Materially Adverse Amendments to Note Resolution or Contracts.

The Board shall not consent to any amendment to or modification or waiver of any provisions of the Note Resolution or other contract relating to the Notes which would be materially adverse to UTIMCO’s interests without giving UTIMCO advance notice of any such changes to be considered.

Section 10. Termination or Reduction of Purchase Commitment.

During the Commitment Period, the Board may, upon at least three Business Days notice to UTIMCO, terminate or reduce the Purchase Commitment from time to time by an aggregate amount of \$1,000,000 or any integral multiple thereof.

Section 11. Extension or Modification of Agreement.

This Agreement may not be extended or modified unless agreed to in writing by Authorized Representatives of the Board and UTIMCO.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

THE UNIVERSITY OF TEXAS INVESTMENT
MANAGEMENT COMPANY,
as Investment Manager of the
PERMANENT UNIVERSITY FUND

By: _____
President and Chief Executive Officer

BOARD OF REGENTS OF THE UNIVERSITY
OF TEXAS SYSTEM

By: _____
Assistant Vice Chancellor for Finance

EXHIBIT A

NOTICE OF PURCHASE

TO: The University of Texas Investment Management Company

FROM: Board of Regents of The University of Texas System

The University of Texas System, acting herein by the undersigned Authorized Representative, pursuant to the Note Purchase Agreement dated as of December 1, 2002, between the Board of Regents of The University of Texas System and The University of Texas Investment Management Company, as Investment Manager of the Permanent University Fund, issues this notice for a Note Purchase to be made under the Note Purchase Agreement as follows:

- 1. Proposed Purchase Date (which shall be a Business Day):

_____;

- 2. Amount of Notes to be Purchased:

_____;

If Notes are purchased on the Proposed Purchase Date, the funds to purchase Notes as provided in the Note Purchase Agreement, should be available for the account of holders of the Notes at Deutsche Bank Trust Company Americas, the Paying Agent by no later than 1:30 p.m. C.S.T.

If Notes are purchased on the next succeeding Business Day after the Proposed Purchase Date, the funds to purchase Notes as provided in the Note Purchase Agreement, should be available for the Board by no later than 1:30 p.m. C.S.T. as detailed in instructions to be provided separately.

Date of this Notice of Purchase: _____

BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM

By: _____ Authorized Representative

NOTICE OF PURCHASE DATE

TO: Board of Regents of The University of Texas System

FROM: The University of Texas Investment Management Company

The University of Texas Investment Management Company, acting herein by the undersigned Authorized Representative, shall purchase the above-referenced Notes on the:

- [] Proposed Purchase Date
[] First Business Day following the Proposed Purchase Date

THE UNIVERSITY OF TEXAS INVESTMENT MANAGEMENT COMPANY

By: _____ Authorized Representative