

VII. STANDING COMMITTEES

A. Academic and Student Affairs Committee

Approval of new 401(a) Plan Document for Deferred Compensation Arrangements

RECOMMENDED ACTION:

It is the Recommendation of the Academic and Student Affairs Committee that the Board of Regents approve the revised Plan Document for the 401(a) Plan For Selected Employees. The revision is required to meet Internal Revenue Code Section 401(a) requirements which are effective during the 2009 – 2010 plan year.

EXPLANATION OF PROPOSED CHANGES

The UW offers a deferred compensation agreement to selected leaders including the president and provost.

The UW utilizes two vehicles available under the Internal Revenue Code (IRC) to hold the UW contributions to individual deferred compensation agreements: a 457(f) Deferred Compensation Plan and a 401(a) Plan for Selected Employees. The advantage of using both in tandem is tax savings. When an amount contributed to a 457(f) vests, or becomes payable, it is immediately taxable to the recipient. However when amounts contributed to a 401(a) plan vest, they can remain within the plan, thus avoiding taxation until such time as an income is begun or the funds are withdrawn. The amount of the UW deferred compensation contribution is not altered because the 401(a) is funded with a contribution made from the 457(f). Both plans have parallel vesting rules.

Until this year, the UW was able to utilize a “boilerplate” Plan Document provided by one of our retirement plan vendors, TIAA-CREF. The document had been reviewed and approved by the IRS, thus allowing UW to quickly act to set up such a plan, and to reduce the cost of creating the deferred compensation arrangements. The Internal Revenue Service recently updated IRC § 401(a) and the boiler plate document is now out of date. In addition the vendor, TIAA-CREF has notified employers that they will no longer support the Plan Document or make any required changes under IRC. All Plan Documents must be in compliance with IRC language for plan year 2009 - 2010. No changes have been made to plan eligibility or participation rules.

Accordingly we request that you approve the attached updated 401(a) Plan for Selected Employees to be effective July 1, 2009.

Attachment

University of Washington 401(a) Plan for Selected Employees

**THE UNIVERSITY OF WASHINGTON
401(a) PLAN FOR SELECTED EMPLOYEES**

**Amended and Restated Effective
July 1, 2009**

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ARTICLE 1. INTRODUCTION

1.1. Amendment and Restatement. The Plan was originally adopted, effective July 1, 2003 by the University of Washington. The Plan was amended and restated as of July 1, 2006. This document amends, restates, and continues the Plan again, and is generally effective as of July 1, 2009, except as otherwise provided herein.

1.2. Rights under Plan. Except as otherwise expressly provided herein, the rights of Participants who ceased to be Employees prior to July 1, 2009 and do not subsequently become Eligible Employees shall be determined in accordance with the terms of the Plan as in effect when they ceased to be Employees.

1.3. Qualification and Purpose.

(a) Profit-sharing plan. The Plan is intended to qualify as a profit-sharing plan under Code section 401(a).

(b) Compliance with Code. The purpose of the Plan is to provide benefits to Participants in a manner consistent and in compliance with all applicable Code sections.

(c) Exclusive benefit rule. Except as otherwise provided in the Plan or permitted or required by law, no part of the corpus or income of the Trust forming part of the Plan will be used for or diverted to purposes other than the exclusive benefit of each Participant and Beneficiary.

1.4. Defined Terms. All capitalized terms used in the following provisions of the Plan have the meanings given them under the Article entitled "Definitions."

ARTICLE 2. DEFINITIONS

Wherever used in the Plan, the following terms have the following meanings:

2.1. "Accounts" mean, for any Participant, the accounts established under Article 5 to which contributions made for the Participant's benefit, and any allocable income, expense, gain and loss, are allocated.

2.2. "Administrator" means the entity, person or persons appointed to administer the Plan pursuant to its provisions.

2.3. "Affiliated Employer" means (a) the University, (b) any corporation that is a member of a controlled group of corporations (as defined in Code section 414(b)) of which the University is also a member, (c) any trade or business, whether or not incorporated, that is under common control (as defined in Code section 414(c)) with the University, (d) any trade or business that is a member of an affiliated service group (as defined in Code section 414(m)) of which the University is also a member, or (e) to the extent required by Regulations issued under Code section 414(o), any other organization; provided, that the term "Affiliated Employer" shall not include any corporation or unincorporated trade or business prior to the date on which such corporation, trade or business satisfies the affiliation or control tests of (b), (c) (d) or (e) above. In identifying any "Affiliated Employers" for purposes of the Code section 415 limits in Section 4.6, the definitions in Code sections 414(b) and (c) shall be modified as provided in Code section 415(h).

2.4. "Beneficiary" means any person entitled to receive benefits under the Plan upon the death of a Participant.

2.5. "Board" means the Board of Regents of the University.

2.6. "Code" means the Internal Revenue Code of 1986, as amended from time to time. Reference to any section or subsection of the Code includes reference to any comparable or succeeding provisions of any legislation which amends, supplements or replaces such section or subsection, and also includes reference to any Regulation issued pursuant to or with respect to such section or subsection.

2.7. "Compensation" means:

(a) For purposes of the Section 415 limit in Section 4.6, the sum of (i) the Participant's wages, salaries, bonuses and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Affiliated Employers to the extent that the amounts are includible in gross income, but not including those items excludable from the definition of compensation under Regulation section 1.415-2(d)(2), and (ii) any amounts described in (i) that would have been received by the individual from the Affiliated Employers and would have been includible in gross income but for an election under Code sections 125, 132(f), 401(k), 402(h), 403(b) or 457(b). Compensation shall include payments of regular pay, leave cashouts and deferred compensation made by the later of 2½ months after severance from employment or the last day of the Plan Year in which such

severance from employment occurs, if they are amounts described in Treasury regulation section 1.415(c)-(2)(e)(3)(ii) or (iii) that would have been included as Compensation if paid prior to the severance from employment with the Affiliate Employers. Any payments not described in the preceding sentence shall not be considered Compensation if paid after severance from employment, even if they are paid by the later of 2½ months after the date of severance from employment or the end of the Plan Year that includes the date of severance from employment.

(b) For all other purposes under the Plan, Compensation shall be the same as under (a) above but shall exclude any amounts payable by Affiliated Employers other than the University.

(c) For all purposes under the Plan, Compensation shall include only amounts actually paid to the Participant during the applicable Plan Year, and Compensation for any individual will be limited for any Plan Year to an amount determined under Code section 401(a)(17). For each Plan Year beginning after December 31, 2008, the Code section 401(a)(17) limit is \$245,000, adjusted from time to time for cost-of-living increases in accordance with section 401(a)(17)(B).

(d) For purposes of this Section, amounts under Code section 125 include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he or she has other health coverage. To the extent required by applicable law or IRS guidance, an amount will be treated as an amount under Code section 125 pursuant to this Section only if the University does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

2.8. "Eligible Employees" are the President and Provost of the University.

2.9. "Employee" means any individual employed by an Affiliated Employer, including any leased employee and any other individual required to be treated as an employee pursuant to Code sections 414(n) and 414(o). A leased employee shall include any person who, pursuant to an agreement between an Affiliated Employer and any other person, has performed services for the Affiliated Employer and related persons defined in Code section 414(n)(6) on a substantially full-time basis for a period of at least one year, provided that such services are performed under the primary direction or control of the Affiliated Employer.

2.10. "Employer Contribution" means a contribution made by the University for the benefit of a Participant under Section 4.1 of the Plan.

2.11. "Funding Agent" means the trustee of any trust established to hold contributions under the Plan or the issuer of any annuity contract intended to hold such contributions.

2.12. "Hour of Service" means, with respect to any Employee, each hour for which the Employee is paid or entitled to payment for the performance of duties for an Affiliated Employer.

2.13. "Normal Retirement Age" means age 62.

2.14. "Participant" means each Eligible Employee who participates in the Plan pursuant to Article 3.

2.15. "Period of Service" means, with respect to any Employee, the aggregate of all time periods commencing with the Employee's first day of employment or reemployment and ending on the date a break in service begins. The first day of employment or reemployment is the first day the Employee performs an Hour of Service. An Employee will also receive credit for any period of severance of less than 12 consecutive months. Fractional periods of a year will be expressed in terms of days. In the case of an individual who is absent from work for maternity or paternity reasons, the 12-consecutive month period beginning on the first anniversary of the first day of such absence shall not constitute a break in service. For purposes of this Section,

(a) an absence from work for maternity or paternity reasons means an absence (i) by reason of the pregnancy of the individual, (ii) by reason of the birth of a child of the individual, (iii) by reasons of the placement of a child with the individual in connection with the adoption of such child by such individual, or (iv) for purposes of caring for such child for a period beginning immediately following such birth or placement;

(b) a break in service is a period of severance of at least 12 consecutive months; and

(c) a period of severance is a continuous period of time during which the Employee is not employed by an Affiliated Employer. Such period begins on the date the Employee retires, quits or is discharged, or if earlier, the 12-month anniversary of the date on which the Employee was otherwise first absent from service.

In the case of a leave of absence for service in the armed forces of the United States, no period shall be excluded under this paragraph during which the Employee has reemployment rights with respect to any Affiliated Employers under federal law.

2.16. "Plan" means the University of Washington 401(a) Plan for Selected Employees.

2.17. "Plan Year" means the 12-month period beginning each July 1 and ending the following June 30.

2.18. "Qualified Domestic Relations Order" means any judgment, decree or order (including approval of a property settlement agreement) which constitutes a "qualified domestic relations order" within the meaning of Code section 414(p). A judgment, decree or order shall not be considered not to be a Qualified Domestic Relations Order merely because it requires a distribution to an alternate payee (or the segregation of accounts pending distribution to an alternate payee) before the Participant is otherwise entitled to a distribution under the Plan.

2.19. "Regulation" means a regulation issued by the Department of Treasury, including any final regulation, proposed regulation, temporary regulation, as well as any modification of any such regulation contained in any notice, revenue procedure, or similar pronouncement issued by the Internal Revenue Service.

- 2.20. "Section" means a section of the Plan.
- 2.21. "University" mean the University of Washington in Seattle, Washington.
- 2.22. "Valuation Date" means the last business day of each Plan Year and such other day or days as specified by the Administrator.
- 2.23. "Year of Service" means a Period of Service of one full year.

ARTICLE 3. PARTICIPATION

3.1. Date of Participation. Any individual who was a Participant in the Plan on June 30, 2009 and who is an Eligible Employee on July 1, 2009 shall continue to be a Participant in the Plan. Each other Eligible Employee shall become a Participant on the first day of the month coinciding with or next following the day he or she becomes an Eligible Employee.

3.2. Duration of Participation. An individual who has become a Participant in the Plan will remain a Participant for as long as an Account is maintained under the Plan for his or her benefit, or until his or her death, if earlier. Notwithstanding the preceding sentence and unless otherwise expressly provided for under the Plan, no contributions shall be made with respect to a Participant who is not an Eligible Employee. In the event a Participant remains an Employee but ceases to be an Eligible Employee and becomes ineligible to receive contributions, such Employee will again become eligible to receive contributions immediately upon returning to the class of Eligible Employees. In the event an Employee who is not an Eligible Employee becomes an Eligible Employee, such Employee will become a Participant in accordance with the applicable provisions of Section 3.1. A Participant or former Participant who is reemployed as an Eligible Employee shall again become eligible to receive contributions immediately upon such reemployment.

ARTICLE 4. CONTRIBUTIONS

4.1. Employer Contributions. For each Plan Year, the University will contribute 20% of each Participant's Compensation for such year, or such other percentage or amount as the University may determine in its sole discretion, such contributions to be allocated among the Participants in the proportion that each Participant's Compensation bears to all Participants' Compensation. No Compensation paid to an Eligible Employee prior to the date on which he or she becomes a Participant shall be taken into account for purposes of Employer Contributions under this Section 4.1. Contributions under the Plan must be for the exclusive benefit of employees or their Beneficiaries and substantial and recurring in accordance with Treasury Regulations Sections 1.401-1(a)(3) and 1.401-1(b)(2).

4.2. Contributions During an Absence from Service. Contributions shall continue during a paid sabbatical or other leave of absence on the basis of Compensation then being paid by the University.

4.3. Vesting in Accounts; Treatment of Forfeitures. A Participant will be 100% vested in all of his or her Accounts upon the completion of three Years of Service, or, if later, the attainment of age 56 1/2. A Participant who remains employed by one or more Affiliated Employers until his or her Normal Retirement Age shall have a 100% vested and non-forfeitable right to his or her Accounts upon attaining such age. Unvested amounts will be forfeited upon the Participant's separation from employment. All forfeitures under the Plan shall be applied to reduce the University's contributions for the Plan Year or any succeeding Plan Year.

4.4. Crediting of Contributions. Each Employer Contribution for a Plan Year for a Participant shall be credited to the Account or Accounts of the Participant as of the Valuation Date coinciding with or next following the date the contributions are received by the Funding Agent (but in no event later than the last Valuation Date of the Plan Year).

4.5. Time for Making Contributions. Employer Contributions for a Plan Year will be contributed in cash to the Funding Agent at such time as the University determines, but in any event no later than the time prescribed by law.

4.6. Code Section 415 Limits.

(a) Incorporation by reference. Code section 415 is hereby incorporated by reference into the Plan and the provisions of the Plan are to be applied and interpreted in a manner consistent with Code section 415.

(b) Annual addition. The Administrator shall determine the "annual addition" for each Participant for each limitation year, which shall consist of the following amounts allocated to the Participant for the year:

(i) Employer Contributions under this Plan;

(ii) Annual additions under any other defined contribution plans maintained by Affiliated Employers;

(iii) Amounts allocated to an individual medical account (as defined in Code section 415(l)(2)) which is part of a pension or annuity plan maintained by an Affiliated Employer; and

(iv) Amounts derived from contributions paid or accrued which are attributable to post retirement medical benefits allocated to the separate account of a key employee (as defined in Code section 419A(d)(3)) under a welfare benefit fund (as defined in Code section 419(e)) maintained by an Affiliated Employer.

(c) General limitation on annual additions. The annual addition for a Participant for any limitation year shall not exceed the lesser of (i) the dollar limit set forth in Code section 415(c)(1)(A), as adjusted from time to time for increases in the cost of living under Code section 415(d), or (ii) 100% of the Participant's Compensation for such limitation year.

(d) Limitation year. For purposes of determining the Code section 415 limit under the Plan, the "limitation year" shall be the Plan Year.

(e) Required reductions. To the extent necessary to satisfy the limitation of Code section 415 for any Participant, the annual addition which would otherwise be made on behalf of the Participant under the Plan shall be reduced before the Participant's benefit is reduced under any other plan. To the extent necessary to avoid exceeding the Code section 415 limits, the Administrator may cause amounts that would otherwise be contributed for the benefit of a Participant not to be contributed.

(f) Corrective Procedures. If, as a result of a reasonable error in estimating a Participant's Compensation for a Plan Year or limitation year, or under such other facts and circumstances as may be permitted under regulation or by the Internal Revenue Service, the annual addition under the Plan for a Participant would cause the Code section 415 limitations for a limitation year to be exceeded, Employer Contributions, together with earnings thereon, will not be allocated to the Participant's Account to the extent necessary for such limitation year, but will be used to reduce Employer Contributions for the next limitation year (and succeeding limitation years, as necessary) for that Participant if the Participant is covered by the Plan as of the end of the limitation year. However, if the Participant is not covered by the Plan as of the end of the limitation year, the excess amounts will not be distributed to Participants or former Participants, but will be held unallocated for that limitation year in a suspense account. If the suspense account is in existence at any time during any subsequent limitation year, all amounts in the suspense account will be allocated to the Accounts of all Participants in proportion to their relative amounts of Compensation for the subsequent limitation year, before any other contributions which would be part of an annual addition are made to the Plan for the subsequent limitation year. No investment gains or losses will be allocated to any suspense account described in this paragraph; instead, any such gains or losses shall be allocated among the remaining Accounts in proportion to their respective balances.

4.7. Return of Contributions. If any contribution by the University under the Plan is

(a) made by reason of a good faith mistake of fact, or

(b) believed by the University in good faith to be deductible under Code section 404 (if the University were a tax paying entity), but the University later determines that the deduction would not have been allowed), the Funding Agent shall, upon request by the University, return to the University the excess of the amount contributed over the amount, if any, that would have been contributed had there not occurred a mistake of fact or a mistake in determining the deduction. Such excess shall be reduced by the investment losses attributable thereto, if and to the extent such losses exceed the gains and income attributable thereto. In no event shall the return of a contribution hereunder cause any Participant's Accounts to be reduced to less than they would have been had the mistaken or nondeductible amount not been contributed. No return of a contribution hereunder shall be made more than one year after the mistaken payment of the contribution.

4.8. Funding Agent. The University will establish a trust or annuity contract, or both, to accept and hold contributions made under the Plan. Any such trust shall be governed by an agreement between the University and the trustee, the terms of which shall be consistent with Plan provisions and intended qualification under Code sections 401(a) and 501(a). Any such annuity contract will be issued by a life insurance company authorized by law to issue annuity contracts in the State of Washington.

ARTICLE 5. PARTICIPANT ACCOUNTS

5.1. Accounts. The Administrator will establish and maintain (or cause the Funding Agent to establish and maintain) for each Participant, such Account or Accounts as are necessary to carry out the purposes of this Plan.

5.2. Adjustment of Accounts. As of each Valuation Date, each Account will be adjusted to reflect the fair market value of the assets allocated to the Account. In so doing,

(a) each Account balance will be increased by the amount of contributions, income and gain allocable to such Account since the prior Valuation Date; and

(b) each Account balance will be decreased by the amount of distributions from the Account and expenses and losses allocable to the Account since the prior Valuation Date.

Any expenses relating to a specific Account or Accounts, administrative fees or commissions or sales charges imposed with respect to an investment in which the Account participates, may be charged solely to the particular Account or Accounts in the discretion of the University.

5.3. Investment of Accounts. All amounts credited to a Participant's Accounts shall be invested by the Funding Agent as the Participant directs from among such investment funds as the University may make available from time to time. The Administrator shall prescribe the form and manner in which such instructions shall be given, as well as the frequency with which such instructions may be given or changed and the dates as of which they shall be effective.

5.4. Appointment of Investment Manager. The University may appoint in writing one or more investment managers to manage the investment of all or designated portions of the assets held in a trust or annuity contract. The appointment shall be effective upon acknowledgment in writing by the investment manager or other named fiduciary that it is a fiduciary with respect to the Plan.

ARTICLE 6. WITHDRAWALS PRIOR TO SEVERANCE FROM EMPLOYMENT

6.1. Withdrawals on Account of Disability. A Participant who becomes disabled but who has not otherwise severed from employment from the Affiliated Employers may make a withdrawal in an amount specified by the Participant from any one or more of his or her Accounts for any reason, but with such prior notice as the Administrator may prescribe, and subject to such conditions and restrictions as may be imposed under the applicable investment funds in which the particular Account is invested. Payment to the Participant shall be made as soon as practicable after the Valuation Date next following the Administrator's receipt of notice of the withdrawal. A Participant will be considered "disabled" for this purpose if the Participant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or to last for a continuous period of not less than twelve months, or if the Participant is determined to be totally disabled by the Social Security Administration or the Railroad Retirement Board.

6.2. Withdrawals after Normal Retirement Age. A Participant who is an Employee and has attained Normal Retirement Age may make a withdrawal from his or her Accounts for any reason, but with such prior notice and with such frequency as the Administrator may prescribe and subject to such conditions and restrictions as may be imposed under the applicable investment funds in which a particular Account is invested. Any such withdrawal shall be in the amount specified by the Participant, up to the value of the Participant's Account determined as of the Valuation Date next following the Administrator's receipt of notice of the withdrawal. Payment to the Participant shall be made as soon as practicable after such Valuation Date.

6.3. Distributions Required by a Qualified Domestic Relations Order. To the extent required by a Qualified Domestic Relations Order, the Administrator shall make distributions from a Participant's vested Accounts to alternate payees named in such order and in a manner consistent with the distribution options otherwise available under the Plan, regardless of whether the Participant is otherwise entitled to a distribution at such time under the Plan.

ARTICLE 7. BENEFITS UPON DEATH OR SEVERANCE FROM EMPLOYMENT

7.1. Severance from Employment for Reasons Other Than Death. Following a Participant's severance from the employment of the Affiliated Employers for any reason other than death, the Participant may receive a distribution of his or her vested Accounts, if valued in excess of \$1,000 as described below, in any of the forms permitted by the trust agreement or annuity contract under which the Funding Agent is holding the Accounts, at the election of the Participant, including:

- (a) A lump sum benefit (the normal form), to the extent a Funding Agent's contract permits;
- (b) a single life annuity;
- (c) a joint and survivor annuity;
- (d) a fixed period annuity;
- (e) installment payments for a definite period; and
- (f) purchase and distribution of an annuity contract (but not a life insurance contract).

In the case of a Participant whose Accounts are not valued in excess of \$1,000 as described below, a distribution shall be made to the Participant in cash in a single sum to the extent permitted by the terms and conditions of the applicable investment funds in which such Accounts are invested. A Participant's Accounts will be considered to be valued in excess of \$1,000 if the value of such Accounts exceeds such amount at the time of the distribution in question.

7.2. Time of Distributions to a Participant. Distribution with respect to a Participant's severance from employment normally will be made or commence as soon as practicable after such severance. In the case of a Participant whose Accounts are valued in excess of \$1,000, as described above, and who has not yet attained Normal Retirement Age, however, distribution may not begin under this Section unless the following notice requirements are satisfied:

- (a) General Notice. The Administrator shall provide (or cause the applicable Funding Agent to provide) each Participant with a written general description of the eligibility conditions and other material features of the optional forms of benefit and sufficient additional information to explain the relative values of the optional forms of benefit and the automatic forms of benefit as well as satisfy the requirements of Department of Treasury regulation section 1.401(a)-20 (to the extent applicable). If the Participant has not yet attained his or her Normal Retirement Age, the notice shall also inform the Participant of his or her right to defer payment of benefits until the earlier of (1) the date he or she consents to payment and (2) the date he or she attains his or her Normal Retirement Age, and shall include an explanation of the consequences of failure to defer receipt. This general notice shall be provided no more than 180 days and no less than 30 days (subject to Section 7.2(c) below) before the Participant's benefit starting date.

(b) Joint and survivor annuity notice. The Administrator shall also provide (or cause the Funding Agent to provide) to each married Participant who is eligible to receive benefits under the Plan a written explanation in non-technical language of the terms and conditions of the 50% joint and survivor annuity, the Participant's right to make and the effect of an election not to receive benefits in such form, the rights of the Participant's spouse with respect to receiving benefits as a 50% joint and survivor annuity, and the right to revoke and the effect of a revocation of an election not to receive benefits in the form of a joint and survivor annuity. The written explanation shall also include a general explanation of the relative financial effect on the Participant's benefit of electing the 50% joint and survivor annuity and any other information required by Department of Treasury regulation section 1.401(a)-20 (to the extent applicable) as well as an explanation of the "qualified optional survivor annuity" (within the meaning of Code section 417(g)), which shall be a 75% joint and survivor annuity. This explanation shall be provided no more than 180 days and no less than 30 days (subject to Section 7.2(c) below) prior to the Participant's Annuity Starting Date.

(c) Expedited Notice Procedures. Notwithstanding any provision of the Plan to the contrary, the annuity starting date can be at any time more than seven (7) days after the written notification under Section 7.2(a) and (if required) under Section 7.2(b) is distributed to a Participant, provided that:

(i) The Administrator provides (or causes the Funding Agent to provide) information to the Participant clearly indicating that the Participant has a right to at least 30 days to consider whether to waive the Plan's automatic forms of payment and consent to a form of distribution other than the automatic form of payment.

(ii) The Participant is permitted to revoke an affirmative distribution election at least until the Annuity Starting Date or, if later, at any time prior to the expiration of the 7-day period that begins after the written explanation is provided to the Participant.

(iii) Distribution in accordance with the Participant's affirmative election does not commence before the expiration of the 7-day period that begins on the day after the written explanation is distributed to the Participant.

7.3. Death prior to benefit commencement date. If a Participant dies prior to his or her benefit commencement date, the Participant's Beneficiary will have a 100% vested interest in the value of the Participant's Accounts. Such Accounts will be paid in a single lump sum to the Beneficiary or Beneficiaries named by the Participant, or in any other form permitted by the Funding Agents. If there is no designated Beneficiary, the Participant's Accounts will be paid to the Participant's estate. Benefits payable under this Section are subject to the minimum distribution rules described in Article 11.

7.4. Optional Direct Transfer of Eligible Rollover Distributions.

(a) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution that is equal to at least \$500 paid directly to an eligible retirement plan specified by the distributee in a direct rollover. If an eligible rollover distribution is less than \$500, a distributee may not make the election described in the preceding sentence to roll over only a portion of the eligible rollover distribution. In addition, if an eligible rollover distribution is made to a Roth IRA (as such term is defined in Code section 408(A)(b)), the distributee shall recognize ordinary income in the amount of the eligible rollover distribution to the extent provided in Code section 408A(d)(3)(A).

(b) For purposes of this Section 7.4(b), the following terms shall have the following definitions:

(i) Eligible rollover distribution. An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

- (1) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a period of 10 years or more;
- (2) any distribution to the extent such distribution is required under Code section 401(a)(9);
- (3) any hardship withdrawal; and
- (4) any distribution(s) that is reasonably expected to total less than \$200 during a year.

A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are non includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Code section 408(a) or 408(b), or to a qualified defined contribution plan described in Code section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(ii) Eligible retirement plan. An "eligible retirement plan" is a qualified plan described in Code section 401(a), an annuity plan described in Code section 403(a), an annuity contract described in Code section 403(b), an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b), a Roth IRA described in Code section 408A or an eligible plan under Code section 457(b) which is

maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amount transferred into such plan from this Plan, that accepts the distributee's eligible rollover distribution. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order as defined in Code section 414(p). If the distributee is a nonspouse beneficiary within the meaning of Code section 402(c)(11), an eligible retirement plan shall mean only an individual account or described in Code section 408(a) or an individual retirement annuity described in Code section 408(b) that is established on behalf of the Beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Code section 402(c)(11).

(iii) Distributee. A "distributee" includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code section 414(p), are distributees with regard to the interest of the spouse or former spouse. A distributee also includes a nonspouse beneficiary within the meaning of Code section 402(c)(11). In this case, the determination of any required minimum distribution under Code section 401(a)(9) that is ineligible for rollover shall be made in accordance with IRS Notice 2007-7, Q&A-17 and 18, 2007 I.R.B. 395.

7.5. Required Distributions.

(a) In no case will payment of benefits to any Participant commence later than the sixtieth day (60th) day after the latest of the following: (i) the close of the Plan Year in which occurs the date on which the Participant attains Normal Retirement Age, (ii) the close of the Plan Year in which occurs the tenth (10th) anniversary of the year in which the Participant commenced participation in the Plan or (iii) the close of the Plan Year in which the Participant terminates his or her service with the University,

(b) Notwithstanding any provision of the Plan to the contrary, payment of benefits to a Participant shall be paid in a manner consistent with the distribution requirements of Code section 401(a)(9) (which requirements are expressly incorporated herein by reference and set forth in detail in Article 11) not later than the April 1 next following the later of (i) the calendar year in which he or she attains age 70½, or (ii) the calendar year in which he or she retires.

ARTICLE 8. ADMINISTRATION

8.1. Administrator. The Plan will be administered by the University, or by an individual, a committee of individuals, or an institution selected by the University to serve at its pleasure. The Administrator will be a “named fiduciary” with authority to control and manage the operation and administration of the Plan. The Administrator will not, however, have any authority over the investment of assets of the Plan in its capacity as Administrator.

8.2. Powers of Administrator. The Administrator will have full discretionary power to administer the Plan in all of its details. For this purpose the Administrator’s discretionary power will include, but will not be limited to, the following authority:

- (a) to make and enforce such rules and regulations as it deems necessary or proper for the efficient administration of the Plan or required to comply with applicable law;
- (b) to interpret the Plan;
- (c) to decide all questions concerning the Plan and the eligibility of any person to participate in the Plan;
- (d) to compute the amounts to be distributed under the Plan, and to determine the person or persons to whom such amounts will be distributed;
- (e) to charge against Accounts such reasonable administrative fees as may be incurred under the Plan from time to time and to authorize the payment of distributions;
- (f) to keep such records and submit such filings, elections, applications, returns or other documents or forms as may be required under the Code and applicable regulations, or under other federal, state or local law and regulations;
- (g) to allocate and delegate its ministerial duties and responsibilities and to appoint such agents, counsel, accountants and consultants as may be required or desired to assist in administering the Plan; and
- (h) by written instrument, to allocate and delegate its fiduciary responsibilities.

8.3. Effect of Interpretation or Determination. Any interpretation of the Plan or other determination with respect to the Plan by the Administrator shall be final and conclusive on all persons in the absence of clear and convincing evidence that the Administrator acted arbitrarily and capriciously.

8.4. Reliance on Tables, etc. In administering the Plan, the Administrator will be entitled, to the extent permitted by law, to rely conclusively on all tables, valuations, certificates, opinions and reports which are furnished by any accountant, Funding Agent, counsel or other expert who is employed or engaged by the Administrator or by the University on the Administrator’s behalf.

8.5. Participant Directed Investments. The Administrator shall promulgate such rules and procedures, identify such Plan fiduciaries and provide Participants with such information with respect to the investment funds made available by the Funding Agent to Participants under the Plan, as it deems necessary or advisable. Such rules and procedures, identifications and information may be included in whole, or in part, in the summary plan description for the Plan.

8.6. Indemnification of Administrator and Assistants. The University agrees to indemnify and defend to the fullest extent of the law any Employee or former Employee (a) who serves or has served as Administrator, (b) who has or had been appointed to assist the Administrator in administering the Plan, or (c) to whom the Administrator has or had delegated any of its duties or responsibilities against any liabilities, damages, costs and expenses (including attorneys' fees and amounts paid in settlement of any claims approved by the University) occasioned by any act or omission to act in connection with the Plan, if such act or omission to act is in good faith.

8.7. Claims and Review Procedures.

(a) Claims Procedure. If any individual believes he or she is being denied any rights or benefits under the Plan, such individual (or his or her duly authorized representative) may file a claim in writing with the Administrator. If any such claim is wholly or partially denied, the Administrator will notify such individual of its decision in writing. Such notification will be written in a manner calculated to be understood by the claimant and will contain (i) specific reasons for the denial, (ii) specific reference to pertinent Plan provisions, (iii) a description of any additional material or information necessary for such individual to perfect such claim and an explanation of why such material or information is necessary, (iv) information as to the steps to be taken if the individual wishes to submit a request for review, and (v) a statement of the individual's right to bring a civil action following an adverse determination upon review. Such notification will be given within 90 days after the claim is received by the Administrator (or within 180 days, if special circumstances require an extension of time for processing the claim, and if written notice of such extension and circumstances is given to such individual within the initial 90 day period).

(b) Review Procedure. Within 60 days after the date on which an individual receives a written notice of a denied claim such individual (or his or her duly authorized representative) may (i) file a written request with the Administrator for a review of his or her denied claim and of pertinent documents and (ii) submit written comments, documents, records and other information relating to the claim for benefits (regardless of whether such information was submitted or considered in the initial benefits determination) to the Administrator. The Administrator will notify such individual of its decision in writing. If the individual's claim is denied on review, such notification will be written in a manner calculated to be understood by such individual and will contain (i) the specific reason or reasons for the denial, (ii) specific references to pertinent Plan provisions, (iii) a statement that the individual is entitled to receive, upon request and free of charge, reasonable access to, and copies of, any documents, records and other information relevant to the claimant's claim for benefits, and (iv) a statement of the individual's right to bring a civil action. The decision on review will be made within 60

days after the request for review is received by the Administrator (or within 120 days, if special circumstances require an extension of time for processing the request, such as an election by the Administrator to hold a hearing, and if written notice of such extension and circumstances is given to such individual within the initial 60 day period).

8.8. Payment of Plan Expenses. The Administrator may direct the Funding Agent to pay from the trust or annuity contract any and all expenses of administering the Plan, to the extent such expenses are reasonable. The Administrator will determine in its sole discretion what constitutes a reasonable expense of administering the Plan, and whether such expenses shall be paid from the trust or annuity contract. Any such expenses not paid from the trust or annuity contract shall be paid by the University as determined by the Administrator; provided, however, that to the extent permitted by law, the Administrator may direct the Funding Agent to reimburse the University from the Trust for a reasonable expense of administering the Plan which is paid by the University prior to a determination with respect to such expense.

8.9. Authority to correct operational defects. The Administrator will have the full discretionary power and authority to correct any “operational defect” in any manner or by any method it deems appropriate in its sole discretion. For purposes of this Section, an “operational defect” is any operational or administrative action (or inaction) in connection with the Plan which, in the judgment of the Administrator, fails to conform with the terms of the Plan or causes or could cause the Plan to lose its tax-qualified status under the Code.

8.10. Electronic forms. Notwithstanding any Plan provision to the contrary, to the extent the Administrator allows any form or document under the Plan to be provided, completed or changed by means of telephone, computer or other paperless media, a paper document shall not be required for such form or document to be effective under the Plan.

ARTICLE 9. AMENDMENT AND TERMINATION

9.1. Amendment. The University reserves the power at any time or times to amend the provisions of the Plan and any agreement with a Funding Agent to any extent and in any manner that it may deem advisable by a written instrument signed on behalf of the University providing for such amendment (any such amendment to take effect retroactively if the University so directs). However, the University will not have the power:

(a) to amend the Plan in such manner as would cause or permit any part of the assets of the Plan to be diverted to purposes other than for the exclusive benefit of each Participant and his or her Beneficiary, unless such amendment is required or permitted under the Plan or by law, Regulation or ruling; or

(b) to amend the Plan retroactively in such a manner as would reduce the accrued benefit of any Participant, except as otherwise permitted or required under the Plan or by law, governmental Regulation or ruling.

9.2. Termination. The University has established the Plan and with the bona fide intention and expectation that contributions will be continued indefinitely, but may discontinue contributions under the Plan or terminate the Plan at any time by written notice delivered to the Funding Agent without liability whatsoever for any such discontinuance or termination.

9.3. Distributions upon Termination of the Plan. Upon termination of the Plan by the University, the Funding Agent will distribute to each Participant (or other person entitled to distribution) the value of the Participant's Accounts in a single sum as soon as practicable following such termination; provided, however, that the distributions of a Participant's Accounts which are invested in investment funds governed by one or more annuity contracts shall be made in accordance with the applicable terms and conditions of such contracts to the extent consistent with applicable law. The amount of such distribution shall be determined as of the Valuation Date immediately preceding or coinciding with the date distribution is to be made.

9.4. Merger or Consolidation of Plan; Transfer of Plan Assets. In case of any merger or consolidation of the Plan with, or transfer of assets and liabilities of the Plan to, any other plan, provision must be made so that each Participant would, if the Plan then terminated, receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he or she would have been entitled to receive immediately before the merger, consolidation or transfer if the Plan had then terminated.

ARTICLE 10. MISCELLANEOUS

10.1. Limitation of Rights. Neither the establishment of the Plan, nor any amendment thereof, nor the creation of any fund or account, nor the payment of any benefits, will be construed as giving to any Participant or other person any legal or equitable right against any Affiliated Employer or Administrator or trustees, except as provided herein, and in no event will the terms of employment or service of any Participant be modified or in any way be affected hereby. It is a condition of the Plan, and each Participant expressly agrees by his or her participation herein, that each Participant will look solely to the assets held by the Funding Agent for the payment of any benefit to which he or she is entitled under the Plan.

10.2. Nonalienability of Benefits. The benefits provided hereunder will not be subject to the voluntary or involuntary alienation, assignment, garnishment, attachment, execution or levy of any kind, and any attempt to cause such benefits to be so subjected will not be recognized, except to such extent as may be required or permitted by law, Regulation or ruling, except that if the Administrator receives any Qualified Domestic Relations Order that requires the payment of benefits hereunder or the segregation of any Account, such benefits shall be paid, and such Account segregated, in accordance with the applicable requirements of such Order.

10.3. Veteran's Reemployment and Benefits Rights. Notwithstanding any provisions of the Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code section 414(u).

10.4. Governing Law. The Plan and Trust will be construed, administered and enforced according to the laws of State of Washington.

ARTICLE 11. MINIMUM REQUIRED DISTRIBUTIONS

11.1. General Rules.

(a) Effective Date. The provisions of this Article will apply for purposes of determining minimum required distributions.

(b) Precedence. The requirements of this Article will take precedence over any inconsistent provisions of the Plan.

(c) Requirements of Treasury Regulations Incorporated. All distributions required under this Section 11.1 will be determined and made in accordance with the Treasury regulations under Code section 401(a)(9).

(d) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this Article 11, distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act ("TEFRA").

11.2. Time and Manner of Distribution.

(a) Required Beginning Date. The Participant's entire interest will be distributed, or will begin to be distributed, no later than the Participant's Required Beginning Date.

(b) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(i) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then, except as provided in Section 11.6 below, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.

(ii) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then, except as provided in Section 11.6 below, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iv) If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 11.2(b), other than Section 11.2(b)(1), will apply as if the surviving spouse were the Participant.

For purposes of this Section 11.2(b) and Section 11.4, unless Section 11.1(b)(4) applies, distributions are considered to begin on the Participant's Required Beginning Date. If Section 11.2(b)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 11.2(b)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 11.2(b)(1)), the date distributions are considered to begin is the date distributions actually commence.

(c) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Sections 11.3 and 11.4 of this Article. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury regulations.

11.3. Required Minimum Distributions During a Participant's Lifetime.

(a) Amount of Required Minimum Distribution For Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

(i) The quotient obtained by dividing the Participant's Account balance by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or

(ii) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's Account balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(b) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Section 11.3 beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

11.4. Required Minimum Distributions After Participant's Death.

(a) Death On or After Date Distributions Begin.

(i) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:

(1) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(2) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(3) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(ii) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(b) Death Before Date Distributions Begin.

(i) Participant Survived by Designated Beneficiary. Except as provided in Section 11.6 below, if the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 11.4(a).

(ii) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iii) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 11.2(b)(1), this Section 11.4(b) will apply as if the surviving spouse were the Participant.

11.5. Definitions. For purposes of this Article, the following definitions shall apply:

(a) "Designated Beneficiary". The individual who is designated as the Beneficiary under Section 8.6 of the Plan and is the designated Beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-4 of the Treasury regulations.

(b) "Distribution calendar year". A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 11.2(b). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that distribution calendar year.

(c) "Life Expectancy". Life expectancy as computed by used of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

(d) "Participant's Account balance". The Account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The Account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(e) "Required Beginning Date". The Required Beginning Date for a Participant shall be determined as follows:

(i) For a Participant who is a five percent owner (as defined in Code section 416), the Required Beginning Date is April 1 following the calendar year in which the Participant attains age 70½.

(ii) For a Participant who is not a five percent owner, the Required Beginning Date is April 1 following the later of (A) the calendar year in which the Participant attains age 70½, and (B) the calendar year in which the Participant retires.

11.6. Special Rules. Participants or Beneficiaries may elect on an individual basis whether the 5-year rule or the life expectancy rule in Section 11.2(b) and 11.4(b) of this Article applies to distributions after the death of a Participant who has a designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 11.2(b) of this Article, or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death. If neither the Participant nor the Beneficiary makes an election under this Section 11.6, distributions will be made in accordance with Sections 11.2(b) and 11.4(b) of this Article.

IN WITNESS WHEREOF, the University has caused this instrument to be signed in its name and on its behalf by its duly authorized officer this _____ day of _____, _____.

UNIVERSITY OF WASHINGTON

By: _____

Its: _____