

**YALE UNIVERSITY RETIREMENT PLAN FOR STAFF EMPLOYEES  
AS AMENDED AND RESTATED THROUGH JULY 1, 2017**

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## **ARTICLE 1 DECLARATION**

Yale University (hereinafter called the “Employer”), a corporation organized and existing under the laws of the State of Connecticut, previously adopted the Yale University Retirement Plan for Staff Employees (hereinafter called the “Plan”) effective as of July 1, 1976 for the exclusive benefit of certain of its Employees and their beneficiaries.

The Plan is maintained in part pursuant to collective bargaining agreements between the Employer and (i) Local 34, FUE, UNITE HERE, (ii) Local 35, FUE, UNITE HERE, (iii) Yale Police Benevolent Association, (iv) The Cedarhurst School Professional Staff Chapter New Haven Federation of Teachers, AFT Local #933, AFT-CT, AFL-CIO, and (v) International Union, Security, Police & Fire Professionals of America, Local 502 (SPFPA).

The Plan is a defined benefit pension plan that is intended to qualify under Section 401(a) of the Internal Revenue Code (the “Code”) so that the trust created under the Plan is tax exempt pursuant to Code Section 501(a). The Plan’s last determination letter was issued by the Internal Revenue Service on November 3, 2014 with respect to the Plan and its compliance with the “2012 Cumulative List of Changes in Plan Qualification Requirements” as set forth in IRS Notice 2012-76.

This Plan document, made and entered into by the Employer, amends and restates in its entirety the Plan document known as the “Yale University Retirement Plan for Staff Employees as amended and restated through July 1, 2013,” incorporates the First through Fourth Amendments made thereto, and is intended to comply with the qualification requirements of Code Section 401(a) as in effect through June 30, 2017.

This Plan document shall be known hereafter as the “Yale University Retirement Plan for Staff Employees as amended and restated through July 1, 2017.” The Plan document is generally effective July 1, 2017 unless otherwise specified in the Plan and except as provided herein applies to individuals employed on or after July 1, 2017.

## ARTICLE 2 DEFINITIONS

As used herein, unless the context clearly indicates otherwise:

2.1 “Accumulated Plan Sick Days” means, in the case of a Participant who incurs a Severance on or after his or her Early Retirement Date, the accumulated unused sick time that can be applied towards the calculation of his or her Benefit Years as provided in Section 2.5(c) or to commence the earlier payment of his or her normal retirement benefit or early retirement benefit as provided in Section 4.6.

- (a) A Participant’s accumulated unused sick time determined as of his or her Severance Date shall be converted to Accumulated Unused Sick Days as follows:
  - (i) In the case of a Participant who is a “non-exempt employee,” his or her accumulated unused sick days shall be the quotient (calculated to the nearest 1/100<sup>th</sup> of a percentage point) of his or her accumulated unused sick time, expressed in terms of hours, divided by his or her regularly scheduled workday hours determined as of his or her Severance Date.
  - (ii) In the case of a Participant who is an “exempt employee,” his or her accumulated unused sick days shall be equal to his or her accumulated unused sick time, expressed in terms of days and half days.

For purposes of this subsection, a Participant’s classification as a non-exempt or exempt employee shall be determined by the payroll or personnel records maintained by the Employer and shall be binding and conclusive for all purposes of the Plan.

- (b) The number of accumulated unused sick days that can be applied as Accumulated Plan Sick Days shall be determined as follows:
  - (i) The Accumulated Plan Sick Days of a Participant who incurs a Severance on or after his or her Early Retirement Date and on or after January 20, 2008 (January 1, 2008 in the case of a Participant who incurs a Severance as a Managerial and Professional Staff Member), shall be equal to fifty percent (50%) of his or her accumulated unused sick days with a fractional day calculated to the nearest 1/100<sup>th</sup> of a day.
  - (ii) The Accumulated Plan Sick Days of a Participant who incurs a Severance on or after his or her Early Retirement Date and on or after November 1, 2003 (July 1, 2004 in the case of a Participant who incurs a Severance as a Police Officer) and prior to January 20, 2008 (January 1, 2008 in the case of a Participant who incurs a Severance as a Managerial and Professional Staff Member), shall be equal to seventy-five percent (75%) of his or her

accumulated unused sick days with a fractional day calculated to the nearest 1/100<sup>th</sup> of a day.

- (iii) The Accumulated Plan Sick Days of a Participant, other than a Participant who is a Police Officer, who incurs a Severance on or after his or her Early Retirement Date and on or after December 19, 1996 and prior to November 1, 2003 shall be equal to hundred percent (100%) of his or her accumulated unused sick days with a fractional day calculated to the nearest 1/100<sup>th</sup> of a day. In the case of a Police Officer who incurs a Severance on or after his or her Early Retirement Date and prior to July 1, 2004, the Accumulated Plan Sick Days of such Participant shall be calculated and applied as provided under the collective bargaining agreement between the Employer and the Yale Police Benevolent Association, as in effect from time to time.
- (iv) The Accumulated Plan Sick Days of a Participant, other than a Participant who is a Police Officer, who incurs a Severance on or after his or her Early Retirement Date and prior to December 19, 1996 shall be equal to fifty percent (50%) of such Participant's accumulated unused sick days, or his or her Accumulated Plan Sick Days as calculated and applied as provided under the collective bargaining agreements between the Employer and Local 34, FUE, UNITE HERE and the Employer and Local 35, FUE, UNITE HERE, as in effect from time to time.

2.2 “Accumulated Plan Vacation Days” means, in the case of a Participant who is an Eligible Employee on his or her Severance Date, the accumulated unused vacation time that can be applied towards the calculation of his or her Benefit Years as provided in Section 2.5(d) or, in the case of any Participant, the accumulated unused vacation time that can be applied to commence the earlier payment of his or her normal retirement benefit or early retirement benefit as provided in Section 4.6. A Participant's accumulated unused vacation time determined as of his or her Severance Date with the Employer shall be converted to Accumulated Plan Vacation Days in the same manner a Participant's accumulated unused sick time is converted into accumulated unused sick days as set forth in Section 2.1(a).

2.3 “Actuarial Equivalent” means equality in value of the aggregate amounts expected to be received under different forms of payments, based on actuarial assumptions, as set forth below:

- (a) For purposes of determining any optional form of benefit (other than a lump sum) for the Participant's applicable retirement benefit under the Plan, the following assumptions shall be used:
  - (i) For Annuity Starting Dates on or after February 1, 2006, the Applicable Interest Rate as defined in Code Section 417(e) and Treasury regulations thereunder for the fifth month preceding the Plan Year in which the

Annuity Starting Date occurs or, if greater, 4.75% and the Applicable Mortality Table as defined in Code Section 417(e) and Treasury regulations thereunder in effect on the Annuity Starting Date.

- (ii) For Annuity Starting Dates on or after July 1, 1999 and prior to February 1, 2006, an interest rate of 6.00%, compounded annually, and the 1971 Group Annuity Mortality Table using a blend of 66-2/3% of the male table and 33-1/3% of the female table.
  - (iii) For Annuity Starting Dates prior to July 1, 1999, the interest rate and mortality table set forth in the plan documents then in effect.
- (b) Effective as of July 1, 2000 and notwithstanding subsection (a) above, for purposes of determining the lump sum value of an annual retirement benefit, actuarial equivalence under the Plan shall be determined on the basis of the Applicable Interest Rate and the Applicable Mortality Table if it produces a benefit greater than that determined under subsection (a) above where:
- (i) Applicable Interest Rate means the Applicable Interest Rate as defined in Code Section 417(e) and Treasury regulations thereunder for the fifth month (first month for distributions occurring prior to July 1, 2006) preceding the first day of the Plan Year that contains the Annuity Starting Date for the distribution and for which the applicable interest rate remains constant. In accordance with subsection (c) below, for the Plan Year beginning July 1, 2006 and ending June 30, 2007, the Applicable Interest Rate shall be the lesser of the Applicable Interest Rate for the fifth month preceding that Plan Year (February, 2006) or the Applicable Interest Rate for the first month preceding that Plan Year (June, 2006).
  - (ii) Applicable Mortality Table means the Applicable Mortality Table as defined in Code Section 417(e)(3) and Treasury regulations thereunder in effect on the Annuity Starting Date for the distribution.

This subsection (b) shall not apply to the extent it would cause the Plan to fail to satisfy the requirements of Section 11.7.

- (c) In the event a Plan amendment changes the date for determining the applicable interest rate described in subsection (b) above, (including an indirect change as a result of a change in Plan Year), such amendment shall not be given effect with respect to any distribution during the period commencing one (1) year after the later of the amendment's effective date or adoption date, if, during such period and as a result of such amendment, the Participant's distribution would be reduced.

- 2.4 “Annuity Starting Date” means the first day of the first period for which a Participant’s applicable retirement benefit is paid as an annuity or as any other optional form of benefit.
- 2.5 “Benefit Year” means a credit used to measure a Participant’s service in calculating his or her normal retirement benefit under Section 4.1.
- (a) For purposes of determining Benefit Years, the benefit computation period shall be the Plan Year.
  - (b) Upon becoming a Participant, he or she shall be credited with Benefit Years or fractions thereof as follows:
    - (i) For Plan Years ending prior to July 1, 1976, a Participant shall be credited with a Benefit Year for each year of “Continuous Service” credited to a Participant under the former “Yale University Retirement Plan for Non-Faculty Employees.”
    - (ii) For each Plan Year beginning on or after July 1, 1976, a Participant shall be credited with  $1/365.25^{\text{th}}$  of a Benefit Year for each day the Participant is regularly scheduled to work at least 20 hours per week as an Eligible Employee. Thus, a Participant will not be credited with  $1/365.25^{\text{th}}$  of a Benefit Year for each day he or she is not employed as an Eligible Employee. For example, as provided in Section 2.10(b)(ii), a Police Officer is not an Eligible Employee for periods of employment during which he or she participated in the Yale University Retirement Account Plan.
    - (iii) Notwithstanding paragraph (ii) above, if a Participant is regularly scheduled to work less than 20 hours per week at any time during a Plan Year, he or she shall be credited with a Benefit Year if during that Plan Year he or she completes at least 1,000 Hours of Service while an Eligible Employee.
  - (c) A Participant who incurs a Severance on or after reaching his or her Early Retirement Date shall be credited with  $1/260^{\text{th}}$  of a Benefit Year for each of his or her Accumulated Plan Sick Days unless he or she has elected, in lieu hereof, to commence the earlier payment of his or her normal retirement benefit or early retirement benefit pursuant to Section 4.6.
  - (d) A Participant who is an Eligible Employee on his or her Severance Date shall be credited with  $1/260^{\text{th}}$  of a Benefit Year for each of his or her Accumulated Plan Vacation Days unless he or she has elected, in lieu hereof, to commence the earlier payment of his or her normal retirement benefit or early retirement benefit pursuant to Section 4.6.

- (e) A Participant who is an Eligible Employee on his or her Severance Date shall be credited with 1/260<sup>th</sup> of a Benefit Year for each day he or she receives Salary Continuation Pay.
- (f) For purposes of determining a Participant's Benefit Years, (i) fractional Benefit Years shall be aggregated, (ii) Hours of Service credited to the Participant for a Plan Year shall only include Hours of Service credited to the Participant while he or she was an Eligible Employee, and (iii) a Participant's Benefit Years shall be taken into account at all times unless disregarded pursuant to subsection (f).
- (g) A Participant's Benefit Years shall not be taken into account as follows:
  - (i) If a Participant incurs five (5) consecutive 1-year Breaks in Service prior to becoming a Vested Participant, his or her Benefit Years credited prior to such five (5) consecutive 1-year Breaks in Service shall be disregarded.
  - (ii) If a Vested Participant incurs a Severance and receives his or her applicable retirement benefit in the form of a Single Lump Sum Payment as described in Section 5.1(d), his or her Benefit Years attributable to such Single Lump Sum Payment shall be disregarded if he or she is subsequently rehired by the Employer and again becomes a Participant in the Plan.

2.6 "Break in Service" means a Plan Year beginning on or after Participant's completion of a Year of Eligibility Service or Year of Service (as defined in Section 3.1) during which he or she does not complete more than 500 Hours of Service. For purposes of determining whether a Participant has incurred a Break in Service, Hours of Service credited for a Plan Year shall include all Hours of Service performed for the Employer by the Participant including Hours of Service performed while he or she was not an Eligible Employee.

2.7 "Code" means the Internal Revenue Code of 1986, as amended from time to time.

2.8 "Early Retirement Date" means, in the case of a Participant other than a Participant who is a Police Officer, the later of (i) his or her 55<sup>th</sup> birthday or (ii) the day on which the sum of his or her age plus Vesting Years equals 75. In the case of a Participant who is a Police Officer, Early Retirement Date means, if any, one of the dates set forth in Section 4.2(b).

2.9 "Effective Date" means July 1, 1976, the original effective date of the Plan.

2.10 "Eligible Employee" means:

- (a) Any Employee who is a:

- (i) *Local 34 Staff Member*: A “Staff Member” within the meaning of the collective bargaining agreement between the Employer and Local 34, FUE, UNITE HERE, as in effect from time to time;
- (ii) *Local 35 Staff Member*: An “Employee” within the meaning of the collective bargaining agreement between the Employer and Local 35, FUE, UNITE HERE, as in effect from time to time, but excluding any Local 35 Staff Member who is classified as a “part-time, non-benefits eligible” Employee within the meaning of the collective bargaining agreement between the Employer and Local 35, FUE, UNITE HERE, as in effect from time to time;
- (iii) *Local 502 Staff Member*: A “Security Officer” within the meaning of the collective bargaining agreement between the Employer and the International Union, Security, Police & Fire Professionals of America, Local 502 (SPFPA), as in effect from time to time, but excluding any Local 502 Staff Member who is classified as a “part-time, non-benefits eligible” employee within the meaning of the collective bargaining agreement between the Employer and the International Union, Security, Police & Fire Professionals of America, Local 502 (SPFPA), as in effect from time to time;
- (iv) *Police Officer*: An Employee whose employment is subject to the collective bargaining agreement between the Employer and the Yale Police Benevolent Association, as in effect from time to time;
- (v) *Police Supervisor*: An Employee whose employment is not subject to the collective bargaining agreement between the Employer and the Yale Police Benevolent Association but who is employed as a “Police Supervisor,” as determined by the personnel records maintained by the Employer and who has not elected to participate in the Yale University Retirement Account Plan;
- (vi) *Grandfathered Cedarhurst Professional Staff Member*: An Employee, as determined on June 30, 2015, whose employment is subject to the collective bargaining agreement between the Employer and The Cedarhurst School Professional Staff Chapter New Haven Federation of Teachers, AFT Local #933, AFT-CT, AFL-CIO, as in effect from time to time (the “Cedarhurst CBA”), and who has not elected to participate in the Yale University Retirement Account Plan; provided, that such Employee shall cease to be a Grandfathered Cedarhurst Professional Staff Member under this paragraph (vi) if at any time after June 30, 2015, (1) he or she incurs a Severance or (2) his or her employment ceases to be subject to the Cedarhurst CBA;

- (vii) *Grandfathered Managerial and Professional Staff Member*: An Employee, as determined on June 1, 2017, (A) who is classified as a “Grandfathered Managerial and Professional Staff Member” and (B) who has not elected to participate in the Yale University Retirement Account Plan; provided, that such Employee shall cease to be a Grandfathered Managerial and Professional Staff Member under this paragraph (vii) if at any time after June 1, 2017, (1) he or she incurs a Severance, (2) he or she is regularly scheduled to work less than 20 hours per week, or (3) his or her employment becomes subject to a collective bargaining agreement. For purposes of this paragraph (vii), a Grandfathered Managerial and Professional Staff Member is an Employee described in this paragraph (vii) as in effect immediately prior to the Fourth Amendment to the Yale University Retirement Plan for Staff Employees as amended and restated through July 1, 2013; provided, that a Grandfathered Managerial and Professional Staff Member shall not include a Casual Employee as defined in paragraph (ix) who, on or after July 1, 2014, is reclassified or who incurs a Severance and is rehired by the Employer as a Managerial and Professional Staff Member.
- (viii) *C&T Non-Union Staff Member*: An Employee who is classified as a “C&T Non-Union Staff Member” whose employment is not subject to a collective bargaining agreement; or
- (ix) *Casual Employee*: An Employee, other than an Employee described in subsections (b)(iv) or (v) below, who is classified as a (1) “Casual Employee,” (2) non-union non-benefits eligible clerical and technical employee, (3) non-union non-benefits eligible service and maintenance employee, (4) “part-time, non-benefits eligible” Local 35 Staff Member within the meaning of the collective bargaining agreement between the Employer and Local 35, FUE, UNITE HERE, as in effect from time to time, (5) “part-time, non-benefits eligible” Local 502 Staff Member within the meaning of the collective bargaining agreement between the Employer and the International Union, Security, Police & Fire Professionals of America, Local 502 (SPFPA), as in effect from time to time, or (6) Managerial and Professional Staff Member who is not regularly scheduled to work at least 20 hours per week.

For purposes of paragraphs (v), (vi), and (vii) above, an election by a Police Supervisor, Grandfathered Cedarhurst Professional Staff Member (Cedarhurst Professional Staff Member prior to July 1, 2015), or Grandfathered Managerial and Professional Staff Member to participate in the Yale University Retirement Account Plan shall be irrevocable and, notwithstanding any other provision to the contrary, he or she shall cease to be an Eligible Employee under the Plan unless he or she is rehired or transfers to another Eligible Employee position.

- (b) Notwithstanding subsection (a) above, an Eligible Employee shall not include:

- (i) Any Employee who is a Tenured or Ladder Faculty Member, Non-Tenure Ladder Faculty Member, Non-Ladder Faculty Member, or Research Faculty Member as each are defined in the Yale University Retirement Account Plan (as amended from time to time, the terms of which are incorporated by this reference) as of the first day of the month in which his or her appointment or rank becomes effective.
- (ii) Any Employee who is a Managerial and Professional Staff Member, other than a Grandfathered Managerial and Professional Staff Member as defined in subsection (a)(vii) or a Managerial and Professional Staff Member who is treated as a Casual Employee under subsection (a)(ix), as of the first day of the month in which his or her classification as a Managerial and Professional Staff Member becomes effective.
- (iii) Any Police Supervisor, Grandfathered Cedarhurst Professional Staff Member, or Grandfathered Managerial and Professional Staff Member who elects to participate in the Yale University Retirement Account Plan as of the first day of the month in which his or her “Participation Election” as described in the Yale University Retirement Account Plan (as amended from time to time, the terms of which are incorporated by this reference) is implemented under the Yale University Retirement Account Plan; provided, however, if a Police Supervisor incurs a Severance and is subsequently rehired as a Police Supervisor, he or she shall again become an Eligible Employee under this Plan until he or she elects to participate in the Yale University Retirement Account Plan as provided herein. An election to participate in the Yale University Retirement Account Plan shall be an irrevocable election to waive participation or cease future benefit accruals under this Plan.
- (iv) Any Employee who holds as a primary appointment a position as a member of the faculty or senior research staff, a post-doctoral associate, a student position of instruction, or a student intern.
- (v) Any Employee who is classified as a student enrolled as an undergraduate, graduate, or professional student and who is not also classified as a Staff Member or a Police Officer described in subsection (a) above.
- (vi) Any Employee (1) whose services are performed pursuant to an agreement between the University and the Employee that provides that such Employee shall not be an Eligible Employee under the Plan or provides that such Employee shall participate in a retirement plan other than the Plan or (2) whose retirement benefits under a retirement plan not maintained by the Employer would be adversely affected by his or her participation in the Plan. This paragraph (vi) shall be effective July 1, 2011.

- (vii) Any individual who is or is deemed to be an Employee pursuant to Section 2.11 and (1) who is employed by any other employer required to be aggregated with the Employer under Code Sections 414(b), (c), (m) and (o) including any leased employee deemed to be an Employee pursuant to Code Sections 414(n) and 414(o) or (2) who performs services for the Employer pursuant to an agreement between the Employer and any leasing or other organization.

For purposes of this Section, an Employee's job classification, work schedule, or plan participation shall be determined by the payroll or personnel records maintained by the Employer and shall be binding and conclusive for all purposes of the Plan.

- 2.11 "Employee" means any employee of the Employer or any other employer required to be aggregated with the Employer under Code Sections 414(b), (c), (m) and (o) including any Leased Employee but excluding any individual who performs services for the Employer and who is classified or paid as (i) an independent contractor or (ii) a post-doctoral fellow as determined by the payroll or personnel records maintained by the Employer at the time such services were performed. For purposes of the Plan, an independent contractor or a post-doctoral fellow shall not be considered an Employee during the period he or she is classified or paid as such even if a court or administrative agency subsequently determines that for such period the independent contractor or a post-doctoral fellow was a common-law employee of the Employer.
- 2.12 "Employment Commencement Date" means the date on which an Eligible Employee or a Participant first performs an Hour of Service for the Employer except as otherwise provided herein.
- 2.13 "Final Earnings" means:
  - (a) *Post-January 20, 2017 Hires.* In the case of a Participant hired or rehired on or after January 20, 2017 (other than a Participant who is a Police Officer or Police Supervisor as defined in Section 2.10(a)(iv) and (v), respectively), the highest monthly average of his or her hourly base earnings or base salary, as the case may be, for services performed as an Eligible Employee using any thirty-six (36) month period within the last sixty (60) months of his or her employment with the Employer. For purposes of this subsection (a):
    - (i) *No Earnings.* The thirty-six (36) month period and last sixty (60) months of an Employee's employment with the Employer shall be determined without regard to any month during which the Participant received no earnings from the Employer.
    - (ii) *Salary Continuation Pay.* Hourly base earnings or base salary shall include Salary Continuation Pay and the thirty-six (36) month period and last sixty (60) months of an Employee's employment with the Employer

shall include the period during which a Participant is receiving Salary Continuation Pay.

- (iii) *YURAP Participant.* If a Participant subsequently becomes a member of the “Yale University Retirement Account Plan,” such Participant’s Final Earnings shall be determined without regard to whether he or she was an Eligible Employee during the thirty–six (36) month period and last sixty (60) months of an Employee’s employment with the Employer.
  
- (b) *Pre-January 20, 2017 Hires.* In the case of a Participant hired prior to January 20, 2017 and a Police Officer or Police Supervisor (as defined in Section 2.10(a)(iv) and (v), respectively, and regardless of hire date), the following:
  - (i) Subject to paragraphs (ii), (iii), and (iv) below, a Participant’s Final Earnings means:
    - (1) In the case of a Participant who is a “non-exempt employee,” the highest annualized product of his or her hourly base earning rate multiplied by his or her scheduled hours per week for services performed as an Eligible Employee during the last sixty (60) months of his or her employment with the Employer. For purposes of this paragraph (i), the last sixty (60) months of an Employee’s employment with the Employer shall be determined without regard to any month during which the Participant received no earnings from the Employer.
    - (2) In the case of a Participant who is an “exempt employee,” his or her highest base annual salary for services performed as an Eligible Employee during the last sixty (60) months of his or her employment with the Employer. For purposes of this paragraph (ii), the last sixty (60) months of an Employee’s employment with the Employer shall be determined without regard to any month during which the Participant received no earnings from the Employer.
    - (3) In the case of a Participant who is a Casual Employee on his or her Severance Date, the greater of (i) his or her actual earnings for services performed as an Eligible Employee paid for a Plan Year which includes his or her Severance Date or, if higher, his or her actual earnings for services performed as an Eligible Employee for any one of the four preceding Plan Years or (ii) his or her actual earnings for services performed as an Eligible Employee during his or her last five (5) Vesting Years ending immediately prior to or coincident with his or her Severance Date.

For purposes of this paragraph (i), a Participant's Final Earnings shall take into account Salary Continuation Pay and a Participant's classification as a non-exempt, exempt employee, or Casual Employee shall be determined by the payroll or personnel records maintained by the Employer which shall be binding and conclusive for all purposes of the Plan.

- (ii) If a Participant subsequently becomes a member of the "Yale University Retirement Account Plan," such Participant's Final Earnings shall be determined as provided above without regard to whether he or she is an Eligible Employee.
- (iii) For purposes of determining the Final Earnings of a Local 34 Staff Member:
  - (1) The hourly base earning rate for any period during which he or she is assigned to the "Interim Employment Pool" shall be the greater of his or her actual hourly base earning rate or his or her hourly base earning rate as determined immediately prior to his or her assignment to the Interim Employment Pool.<sup>1</sup>
  - (2) In the case of a Local 34 Staff Member who incurs a Severance on or after his or her Early Retirement Date during the term of the collective bargaining agreement dated April 1, 1984 between the Employer and Local 34, FUE, UNITE HERE, the full amount of his or her "slotting" money, if any, shall be added to Final Earnings as set forth under the terms of that collective bargaining agreement.
- (iv) If a Participant described in this subsection (b), other than a Police Officer or Police Supervisor, incurs a Severance or ceases to accrue Benefit Years on or after January 20, 2017 and subsequently is rehired or again begins to be credited with Benefit Years or fractions thereof, the portion of his or her normal retirement benefit accruing after such rehire or recommencement of Benefit Years credit, shall not be calculated using his or her Final Earnings as defined in this subsection (b) but shall be calculated using his or her Final Earnings as defined in subsection (a) above.

2.14 "Hour of Service" means:

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<sup>1</sup> Upon a reduction in hours or months of employment prior to January 19, 1992, the hourly base earning rate of a Local 34 Staff Member following such reduction shall be determined in accordance with the terms of the collective bargaining agreement then in effect between the Employer and Local 34, FUE, UNITE HERE.

- (a) Each hour for which an Employee is directly paid or entitled to payment by the Employer for the performance of duties with such hours credited to the Employee for the applicable computation period in which the duties were performed and each hour for which an Employee ordinarily would be scheduled to perform the duties of his or her employment but is absent therefrom:
- (i) For any period of severance of less than 30 days;
  - (ii) For a period, not to exceed one (1) year, on account of a leave of absence approved by the Employer; provided, however, (i) in the case of a leave of absence other than terminal long-term disability leave of absence, such hours shall only be credited to the Employee upon his or her return to work on the scheduled expiration date of such leave or, if earlier, upon a Severance on or after the Employee's Early Retirement Date and (ii) in the case of terminal long-term disability leave of absence, such hours shall only be credited to the Employee upon his or her Severance;
  - (iii) For any period on account of layoff that commences within eight (8) years of the Employee's Normal Retirement Date; provided, however, that a period on account of layoff shall cease as of the date his or her retirement benefit is calculated for purposes of commencing benefit payments and such hours shall only be credited to the Employee upon his or her return to work as an Eligible Employee or, if earlier, upon the commencement of benefit payments;
  - (iv) For any period during which a Local 34 Staff Member is assigned to the "Interim Employment Pool;" provided, however, hours credited under this paragraph shall be limited to the difference between the Local 34 Staff Member's scheduled hours as determined immediately prior to his or her assignment to the Interim Employment Pool and his or her hours credited under subsection (a);<sup>2</sup>
  - (v) For a period not to exceed 25 years during which a Police Officer is receiving long-term disability benefits under the Employer's long-term disability program; provided, that the long term disability is a result of (1) an injury sustained in the line of duty (defined as an illness or injury sustained when effecting or attempting to effect an arrest, while responding to calls for police service of an emergency nature or while handling calls of a hazardous nature) or (2) an injury sustained while on duty in the scope of his or her employment (defined as an illness or injury sustained as a result of the specific discharge of duty, but excluding illnesses not directly arising out of police activities and chronic illnesses

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<sup>2</sup> For employment periods prior to January 19, 1992, hours credited to a Local 34 Staff Member, if any, under this paragraph shall be credited in accordance with the terms of the collective bargaining agreement then in effect between the Employer and Local 34, FUE, UNITE HERE.

or conditions such as heart or hypertension conditions) on or after July 1, 2002 (March 2, 2006, in the case of a Police Officer who is a Police Supervisor);

- (vi) For each period during which a Police Officer is absent from work on account of holiday, sick, vacation time but only to the extent provided under the collective bargaining agreement between the Employer and the Yale Police Benevolent Association, as in effect from time to time); and
- (vii) For any period on account of “qualified military service” to the extent required under Code Section 414(u).

Any Hours of Service credited to an Employee under the paragraphs above shall be (i) based on the Employee’s regularly scheduled hours determined immediately before his or her absence (or, in the case of an Employee who is irregularly scheduled to work, his or her average daily hours worked based on the 12-month period ending immediately before his or her absence) and (ii) credited to the applicable computation period in which such hours would have been performed by the Employee.

- (b) Notwithstanding subsection (a) above, an Hour of Service shall be credited to an Employee for hour for which an Employee is directly paid or entitled to payment by the Employer:
  - (i) For back pay, irrespective of mitigation of damages, either awarded or agreed to by the Employer with such hours credited to the Employee for the applicable computation period to which the award or agreement pertains rather than to the computation period in which the award, agreement or payment is made; and
  - (ii) For reasons (such as holidays, vacation, sickness or disability, death in the family, jury duty, and military duty) other than for the performance of duties for the applicable computation period to the extent not otherwise credited under subsection (a). No more than 501 Hours of Service shall be credited under this paragraph for any single continuous period (whether or not such period occurs in a single computation period) unless otherwise provided in the Plan. Hours under this paragraph shall be calculated and credited pursuant to Section 2530.200b-2 of the Department of Labor Regulations which is incorporated herein by this reference.
- (c) In the case of an Employee who is absent from work for any period by reason of pregnancy, the birth of a child, the placement of a child with the individual in connection with adoption, or for purposes of caring for such a child immediately following birth or placement, the Plan shall treat as Hours of Service solely for purposes of determining whether a Break in Service has occurred, the following:

- (i) Each hour which otherwise would have been credited but for such absence; or
  - (ii) If the hours described in paragraph (i) above cannot be determined, 8 hours of service per normal workday of absence but not to exceed 501 hours. The hours described in this paragraph shall be credited to the Employee for the applicable computation period in which the absence begins, if such crediting prevents a Break in Service. In any other case, such hours shall be credited to the Employee for the following applicable computation period.
- (d) To the extent required by law or regulation, an Hour of Service shall be credited for employment with other members of a controlled group of corporations and any other entity or circumstance required to be aggregated with Employer pursuant to Code Section 414 and the Treasury regulations thereunder. Hours of Service shall also be credited to any individual who is considered an Employee for purposes of the Plan under Code Sections 414(n) or 414(o) and the Treasury regulations thereunder.
- (e) Notwithstanding anything in this Section to the contrary, an Employee shall not receive duplicative credit for the same Hours of Service credited to him or her under this Section and any other provision of the Plan.
- 2.15 “Leased Employee” means any individual who pursuant to an agreement between a recipient employer (the Employer, any other employer required to be aggregated with the Employer under Code Sections 414(b), (c), (m) and (o), and any related persons determined in accordance with Code Section 414(n)(6)) and any other person (“leasing organization”) has performed services for a recipient employer on a substantially full time basis for a period of at least one (1) year, and such services are performed under the primary direction or control by the recipient employer. Notwithstanding the foregoing, an individual shall not be treated as a Leased Employee (i.e., not considered an Employee of the recipient employer) if Leased Employees do not constitute more than 20 percent of the recipient employer’s nonhighly compensated workforce and such individual is covered by a money purchase pension plan providing (i) a nonintegrated employer contribution rate of at least ten (10) percent of compensation as defined under Code Section 415(c)(3); (ii) immediate participation; and (iii) full and immediate vesting. Contributions or benefits provided to a Leased Employee by a leasing organization which are attributable to services performed for a recipient employer shall be treated as provided by the recipient employer.
- 2.16 “Normal Retirement Date” means a Participant’s 65<sup>th</sup> birthday or, if later, the completion of at least five (5) years of participation in the Plan.
- 2.17 “Participant” means an Employee who becomes covered under the Plan.
- 2.18 “Plan Year” means the period of 12 months commencing July 1, annually.

- 2.19 “Salary Continuation Pay” means, in the case of a Participant who is an Eligible Employee on his or her Severance Date, amounts designated as salary continuation pay under the payroll records maintained by the University and paid to a Participant following his or her Severance Date.
- 2.20 “Severance” means the termination of an Employee’s employment with the Employer by reason of such Employee’s death, retirement, resignation or discharge. An Employee shall not incur a Severance by reason of the following:
- (a) Absence due to service in the Armed Forces of the United States, if the Employee makes application to the Company for resumption of work with the Company, following discharge, within the time specified by then applicable law or absence due to qualified military service if so required by Code Section 414(u);
  - (b) Absence on account of a terminal long-term disability leave of absence approved by the Employer that is prior to the Participant’s Normal Retirement Date; or
  - (c) Any other types of absence as the Employer may determine by uniform policy.
- 2.21 “Severance Date” means, in the case of any Employee who incurs a Severance, the day on which such Employee is deemed to have incurred such Severance as determined in accordance with the provisions of Section 2.21. In the case of any Employee who incurs a Severance as provided under Section 2.21 and who is entitled to a subsequent payment of compensation for reasons other than future services (e.g., as back pay for past services rendered or as payments in the nature of severance pay), the Severance Date of such Employee shall be as of the effective date of the Severance event (e.g., the date of his or her death, effective date of a resignation or discharge, etc.), and the subsequent payment of the aforementioned type of post-Severance compensation shall not operate to postpone the timing of the Severance Date for purposes of the Plan.
- 2.22 “Trustee” means the person or institution, if any, who or which is for the time being the trustee of the assets and property of the Plan.
- 2.23 “Vested Participant” means a Participant who is credited with five (5) Vesting Years, who has reached his or her Normal Retirement Date, or effective on or after January 1, 2007, his or her death while performing qualified military service (as defined in Code Section 414(u)(5)).
- 2.24 “Vesting Year” means a credit used to measure a Participant’s service, to determine among other things, whether he or she is a Vested Participant.
- (a) For purposes of determining Vesting Years, the vesting computation period shall be the Plan Year.
  - (b) A Participant shall be credited with Vesting Years or fractions thereof as follows:

- (i) A Vesting Year shall be credited for each Plan Year during which a Participant completes 1,000 Hours of Service.
  - (ii) If, under paragraph (i) above, (1) a Participant is not credited with a Vesting Year for the Plan Year that contains his or her Date of Employment or Reemployment, such Participant shall be credited with  $1/365.25^{\text{th}}$  of a Vesting Year for each day he or she is scheduled to work at least 20 hours per week, (2) a Participant is not credited with a Vesting Year for the Plan Year that contains his or her Severance Date, such Participant shall be credited with  $1/365.25^{\text{th}}$  of a Vesting Year for each day he or she is scheduled to work at least 20 hours per week or is receiving Salary Continuation Pay, or (3) in the case of a Participant who is scheduled to work less than 20 hours per week, such Participant shall be credited with  $1/365.25^{\text{th}}$  of a Vesting Year for each day he or she was employed during the Plan Year if his or her actual Hours of Service for such Plan Year on an annualized basis would have equaled or exceeded 1,000 Hours of Service.
- (c) For purposes of determining a Participant's Vesting Years, (i) fractional Vesting Years shall be aggregated, (ii) Hours of Service credited to the Participant for a vesting computation period shall include all Hours of Service credited to the Participant including Hours of Service credited while he or she was not an Eligible Employee, and (iii) a Participant's Vesting Years shall be taken into account at all times unless disregarded pursuant to subsection (d).
- (d) All Vesting Years shall be taken into account; except, however, that Vesting Years prior to a 1-Year Break in Service shall not be taken into account:
- (i) Until the Participant has completed a Vesting Year after his or her return to the Employer's employ, and
  - (ii) If the Participant is not a Vested Participant and the number of consecutive 1-Year Breaks in Service equals or exceeds the greater of five (5) or the aggregate number of Vesting Years before such 1-Year Break.

### ARTICLE 3 PARTICIPATION

#### 3.1 Participation Date.

An Eligible Employee shall become a Participant in the Plan as follows:

- (a) An Eligible Employee who is credited with one (1) Year of Eligibility Service shall become a Participant in the Plan as of the first day of the Plan Year following his or her Employment Commencement Date. An Eligible Employee shall be credited with one (1) Year of Eligibility Service if he or she is credited with at least 1,000 Hours of Service for his or her initial eligibility computation period that begins on his or her Employment Commencement Date and ends on the last day of the first Plan Year that begins on or after his or her Employment Commencement Date.
- (b) An Eligible Employee who is not credited with one (1) Year of Eligibility Service shall become a Participant in the Plan as of the first day of the first Plan Year for which he or she is credited with one (1) Year of Service. An Eligible Employee shall be credited with one (1) Year of Service if he or she is credited with at least 1,000 Hours of Service for any Plan Year following his or her initial eligibility computation period.
- (c) If an Employee subsequently becomes an Eligible Employee, he or she shall become a Participant in the Plan as of the later of: (i) the date he or she becomes an Eligible Employee or (ii) his or her participation date as determined under subsection (a) or (b) above whichever is earlier.
- (d) A Police Officer who is a Police Supervisor (as determined under Section 2.10(a)(iii)) shall be eligible to make a one-time election to commence participation in the Plan effective July 1, 2006; provided, that he or she (i) makes an irrevocable election during the election period beginning June 1, 2006 and ending June 30, 2006 to cease his or her participation in the Yale University Retirement Account Plan as of June 30, 2006 and commence participation in this Plan as of July 1, 2006 and (ii) was participating in the Yale University Retirement Account Plan during the election period. If a Police Supervisor is not employed by the Employer on July 1, 2006, any election made hereunder shall have no force or effect.

Hours of Service credited to the Participant for his or her initial eligibility computation period and any subsequent eligibility computation period shall include all Hours of Service credited to the Participant including Hours of Service credited while he or she was not an Eligible Employee. A Participant's Year of Eligibility Service or Year of Service shall be taken into account at all times unless disregarded pursuant to Section 3.2.

### 3.2 Break in Service.

If a Participant incurs five (5) consecutive 1-year Breaks in Service prior to becoming a Vested Participant, his or her Year of Eligibility Service or Year of Service shall be disregarded.

### 3.3 Participation of Former Participants.

- (a) If a Participant continues in the employ of the Employer but his or her Year of Eligibility Service or Year of Service is disregarded under Section 3.2, he or she shall be treated as a newly hired Employee as of the first day of the Plan Year following his or her fifth consecutive 1-year Break in Service. Such Participant shall again participate in the Plan as determined under Section 3.1 except that the first day of the Plan Year following his or her fifth consecutive 1-year Break in Service shall be treated as his or her Employment Commencement Date.
- (b) If a Vested Participant incurs a Severance, he or she shall resume participation in the Plan upon his or her rehire date. If a Participant who is not a Vested Participant incurs a Severance, he or she shall resume participation in the Plan upon his or her rehire date unless his or her Year of Eligibility Service or Year of Service is disregarded under Section 3.2. In such case, the Participant shall be treated as a newly hired Employee as of his or her rehire date and shall again participate in the Plan as determined under Section 3.1 except that his or her rehire date shall be treated as his or her Employment Commencement Date.

### 3.4 Termination of Participation.

A Vested Participant shall cease to participate in the Plan upon the earlier of his or her death or the date the Participant is no longer entitled to any benefits from the Plan. A Participant who is not a Vested Participant shall cease to participate in the Plan upon his or her Severance Date or, if earlier, upon incurring five (5) consecutive 1-year Breaks in Service.

**ARTICLE 4  
RETIREMENT BENEFITS**

4.1 Normal Retirement Benefit.

A Participant's annual normal retirement benefit shall be calculated as follows:

- (a) The normal retirement benefit of a Participant, other than a Participant who is a Police Officer, who incurs a Severance on or after January 20, 2002 shall be equal to a multiplier of his or her Final Earnings using the below-listed Final Earnings tiers multiplied by the number of his or her Benefit Years:

<u>Portion of Participant's Final Earnings</u>	<u>Multiplier</u>
Up to \$30,000	1.50%
\$30,001 to \$55,000	1.40%
Over \$55,000	1.30%

Beginning as of the 2004 calendar year and each calendar year thereafter, the Final Earnings tiers shall be adjusted on the dates of across-the-board wage increases by the average (mean) of the across-the-board increases for Local 34 and Local 35 Members and rounded to the nearest thousand as shown in the following table. Any adjustment in the Final Earnings tiers and the effective date of such adjustment shall be reflected in Appendix A to the Plan, the terms of which are incorporated into the Plan by this reference.

- (b) The normal retirement benefit of a Participant who incurs a Severance prior to January 20, 2002 or, in the case of a Participant who is a Police Officer, prior to July 1, 1993 and, in the case of a Local 34 Staff Member, on or after April 4, 1984 or in the case of any other Participant on or after January 19, 1985, shall be equal to a multiplier of his or her Final Earnings using the below-listed Final Earnings tiers multiplied by the number of his or her Benefit Years except as provided in the paragraphs below:

<u>Portion of Participant's Final Earnings</u>	<u>Multiplier</u>
Up to \$10,000	1.15%
\$10,001 to \$15,000	1.10%
\$15,001 to \$20,000	1.05%
Over \$20,000	1.00%

- (i) If, on or after September 1, 1998 and prior to September 1, 2000, a Participant, other than a Participant who is a Police Officer, who incurs a Severance on or after his or her Early Retirement Date, then his or her normal retirement benefit shall be calculated using a multiplier that is increased by 0.1% over the multipliers listed above.

- (ii) If, on or after August 31, 1996 and prior to September 1, 1998, a Participant, other than a Participant who is a Police Officer, who incurs a Severance on or after his or her Early Retirement Date, then his or her normal retirement benefit shall be calculated using a multiplier that is increased by 0.15% over the multipliers listed above.

The normal retirement benefit of a Local 34 Staff Member who incurs a Severance prior April 4, 1984 or, in the case of any other Participant, including a Participant who is a Police Officer, prior to January 19, 1985, shall be equal to that amount as determined in accordance with the terms of the Plan then in effect.

- (c) The normal retirement benefit of a Participant whose Final Earnings is calculated under both subsections (a) and (b) of Section 2.13 shall be equal to the sum of (i) and (ii) below:
  - (i) His or her “Post-January 21, 2017 Benefit” which is equal to a multiplier of his or her Final Earnings as determined under Section 2.13(a) using the Final Earnings tiers set forth in subsection (a) above multiplied by the number of his or her Benefit Years credited to him or her for the period his or her Final Earnings are calculated under Section 2.13(a).
  - (ii) His or her “Pre-January 20, 2017 Benefit” which is equal to a multiplier of his or her Final Earnings as determined under Section 2.13(b) using the Final Earnings tiers set forth in subsection (a) above multiplied by the number of his or her Benefit Years credited to him or her for the period his or her Final Earnings are calculated under Section 2.13(b).
- (d) The normal retirement benefit of a Participant who is a Police Officer who incurs a Severance on or after July 1, 2004 and who is not a Police Officer described in subsection (d) below shall be equal to the sum of (i) and (ii) below:
  - (i) His or her “Police Benefit” which is equal to 2.5% of his or her Final Earnings multiplied by the number of his or her Benefit Years attributable to his or her employment as a Police Officer as defined in Section 2.10(iv) (“Police Officer Benefit Years”).
  - (ii) His or her “Non-Police Benefit,” if any, which is equal to the sum of (A) 2.5% of his or her Final Earnings multiplied by the number of his or her Benefit Years attributable to his or her employment prior to January 1, 2016 while as an Eligible Employee but not as a Police Officer and (B) a multiplier of his or her Final Earnings using the Final Earnings tiers listed in subsection (a) above multiplied by the number of his or her Benefit Years attributable to his or her employment on or after January 1, 2016 while as an Eligible Employee but not as a Police Officer.

- (e) The normal retirement benefit of a Participant who is a Police Officer on October 1, 2011 and who incurs a Severance on or after that date shall be equal to the sum of (i) and (ii) below:
- (i) His or her “Police Benefit” which is equal to the sum of (A) 2.5% of his or her Final Earnings multiplied by the number of his or her Benefit Years attributable to his or her employment as a Police Officer as defined in Section 2.10(iv) (“Police Officer Benefit Years”) not to exceed 20 Vesting Years and (B) 3% of his or her Final Earnings multiplied by the number of his or her Police Officer Benefit Years in excess of 20 Vesting Years.
  - (ii) His or her “Non-Police Benefit,” if any, which is equal to the sum of (A) 2.5% of his or her Final Earnings multiplied by the number of his or her Benefit Years attributable to his or her employment prior to January 1, 2016 while as an Eligible Employee but not as a Police Officer and (B) a multiplier of his or her Final Earnings using the Final Earnings tiers listed in subsection (a) above multiplied by the number of his or her Benefit Years attributable to his or her employment on or after January 1, 2016 while as an Eligible Employee but not as a Police Officer.

In the case of a Police Officer who is hired or rehired after October 1, 2011 or a Participant who subsequently becomes a Police Officer after October 1, 2011, his or her normal retirement benefit shall be calculated in accordance with subsection (c) above.

- (f) The normal retirement benefit of a Participant who is a Police Officer who incurs a Severance prior to July 1, 2004 and on or after July 1, 1993 shall be equal to the sum of (i) and (ii) below:
- (i) His or her “Police Benefit” which is equal to a multiplier of his or her Final Earnings using the below-listed Final Earnings tiers multiplied by the number of his or her Benefit Years attributable to his or her employment as a Police Officer while an Eligible Employee (“Police Officer Benefit Years”).

<u>Portion of Participant’s Final Earnings</u>	<u>Multiplier</u>
Up to \$10,000	1.65%
\$10,000 to \$15,000	1.60%
\$15,001 to \$20,000	1.55%
Over \$20,000	1.50%

Notwithstanding the foregoing, if, on or after December 2, 1998 and prior to July 1, 2004, such Police Officer incurs a Severance on or after attaining age 55, his or her normal retirement benefit shall be equal to a multiplier of 2.0% of his or her Final Earnings multiplied by the number of his or her Police Officer Benefit Years.

- (ii) His or her “Non-Police Benefit,” if any, which is equal to a multiplier of his or her Final Earnings using the Final Earnings tiers listed in subsection (b) above multiplied by the number of his or her Benefit Years but excluding Police Officer Benefit Years or fractions thereof taken into account under paragraph (i) above.

#### 4.2 Early Retirement Benefit.

A Participant’s annual early retirement benefit shall be calculated as follows:

- (a) The early retirement benefit of a Participant who incurs a Severance on or after his or her Early Retirement Date, other than a Participant who has an accrued benefit earned in whole or in part as a Police Officer as determined on such Severance, shall be equal to his or her normal retirement benefit as calculated under Section 4.1, as reduced by 0.011% (4%/365 days) for each day that his or her Annuity Starting Date precedes his or her Normal Retirement Date except as provided in the paragraphs below:
  - (i) If such Participant instead incurs a Severance on or after July 1, 1986 upon attaining at least age 55 and completing at least 30 Vesting Years, the daily early retirement reduction of 0.011% (4%/365 days) shall decrease to 0.0055% (2%/365).
  - (ii) If such Participant instead incurs a Severance on or after July 1, 1988 upon attaining at least age 60 and completing at least 25 Vesting Years (30 Vesting Years for a Participant who incurs a Severance prior to January 20, 2002), the daily early retirement reduction of 0.011% shall decrease to 0%.
- (b) The early retirement benefit of a Participant who incurs a Severance on or after July 1, 2004 and whose accrued benefit was earned in whole or in part as a Police Officer as determined on such Severance, shall be equal to the sum of (i) his or her normal retirement “Police Benefit” as calculated under Section 4.1(c) or, if applicable, Section 4.1(d) and (ii) his or her normal retirement “Non-Police Benefit,” if any, as calculated under Section 4.1(c) or, if applicable, Section 4.1(d) and, in the case of both the Police Benefit and Non-Police Benefit without application of an early retirement reduction factor regardless of whether the Police Officer incurs a Severance prior to his or her Early Retirement Date. For purposes of this paragraph, the Early Retirement Date of a Police Officer who has an accrued benefit earned in whole or in part as a Police Officer on such Severance, means the later of (i) his or her 50<sup>th</sup> birthday or (ii) the day on which the sum of his or her age plus Vesting Years equals 70. A Participant who is a Police Officer who incurs a Severance prior to July 1, 2004, however, shall be entitled to an early retirement “Police Benefit” as follows:

- (i) If such Police Officer incurs a Severance on or after December 2, 1998 and prior to July 1, 2004 and on or after his or her Early Retirement Date, his or her early retirement “Police Benefit” shall be equal to his or her normal retirement “Police Benefit” as calculated under Section 4.1(e) without reduction. For purposes of this paragraph, Early Retirement Date means the later of (i) his or her 50<sup>th</sup> birthday or (ii) the day on which the sum of his or her age plus Vesting Years equals 70.
  - (ii) If such Police Officer incurs a Severance on or after July 1, 1985 and prior to December 2, 1998 and on or after his or her Early Retirement Date, his or her early retirement “Police Benefit” shall be equal to his or her normal retirement “Police Benefit” as calculated under Section 4.1(b) or 4.1(e), as applicable, without reduction. For purposes of this paragraph, Early Retirement Date means the later of (i) his or her 55<sup>th</sup> birthday or (ii) the day on which the sum of his or her age plus Vesting Years equals 70.
  - (iii) If such Police Officer incurs a Severance prior to July 1, 1985 and on or after his or her Early Retirement Date, his or her early retirement benefit shall be equal to his or her normal retirement benefit as calculated under Section 4.1(b) as reduced by 0.011% (4%/365 days) for each day that his or her Annuity Starting Date precedes his or her Normal Retirement Date. For purposes of this paragraph, Early Retirement Date means the later of (i) his or her 55<sup>th</sup> birthday or (ii) the day on which the sum of his or her age plus Vesting Years equals 75.
- (c) A Police Officer who incurs a Severance on or after January 19, 1989 but prior to July 1, 1993 shall receive, in addition to his or her early retirement benefit as calculated under subsection (b) above, a monthly supplemental retirement benefit if he or she also incurs a Severance on or after his or her Early Retirement Date (as defined in subsection (b)(ii)) and prior to his or her date of eligibility for social security benefits. The monthly amount of the supplemental retirement benefit payable to a Police Officer shall be equal to his or her annual full-time equivalent salary rate, multiplied by 0.3%, multiplied by the number of his or her full years of full-time service in the Yale University Police Department (where such service was regularly scheduled at 20 hours or more per week) while an Eligible Employee, multiplied by a fraction, the numerator of which, is the number of whole months from his or her Severance Date until the first of the month following the month of the Participant’s sixty-second birthday and the denominator of which is eighty-four (84) months. Payments of the supplemental retirement benefit shall commence with the first month following the Police Officer’s Severance Date and shall end with the month in which he or she becomes eligible for primary or disability social security benefits, whichever is earlier.

#### 4.3 Vested Retirement Benefit.

The annual vested retirement benefit of a Vested Participant who incurs a Severance on or after July 1, 2004 prior to his or her Early Retirement Date, other than a Vested Participant who has an accrued benefit earned in whole or in part as a Police Officer as determined on such Severance, shall be equal to his or her normal retirement benefit as calculated under Section 4.1 as reduced by 0.011% (4%/365 days) for each day that his or her Annuity Starting Date precedes his or her Normal Retirement Date.

The annual retirement benefit of a Vested Participant who incurs a Severance on or after July 1, 2004 prior to his or her Early Retirement Date and who has an accrued benefit earned in whole or in part as a Police Officer as determined on such Severance, shall be equal to his or her normal or early retirement benefit as calculated under Sections 4.1 and 4.2, respectively, without reduction.

If a Participant incurs a Severance prior to becoming a Vested Participant, he or she shall receive no benefit under the Plan. For Participants who did not complete an Hour of Service on or after July 1, 2000, the rules of this Section that were in effect before July 1, 2000 shall apply.

#### 4.4 Adjustments to Retirement Benefit.

Notwithstanding the above Sections, a Participant's applicable retirement benefit shall be adjusted as set forth below:

- (a) In the case of a Participant who incurs a Severance in a calendar year after the calendar year in which he or she attains age 70½ and who is not receiving benefit payments under the Plan, his or her normal retirement benefit shall be equal to the greater of his or her normal retirement benefit as calculated under Section 4.1 or the Actuarial Equivalent of the normal retirement benefit that would have been payable to the Participant had he or she incurred a Severance on the day he or she attained age 70½. In no event shall the adjustment described in this subsection (a) be greater than the adjustment required under Code Section 401(a)(9)(C)(iii).
- (b) In the case of a Participant who incurs a Severance prior to August 31, 1992 pursuant to the Yale University Early Retirement Incentive Plan, his or her normal or early retirement benefit shall be equal to that amount as determined in accordance with the terms of the Plan then in effect.

#### 4.5 Payment of Retirement Benefits.

A Participant's applicable retirement benefit, if any, shall be payable following his or her Severance Date and shall be equivalent to a single life annuity commencing on the dates set forth below:

- (a) A monthly normal retirement benefit equal to 1/12 of the normal retirement benefit calculated pursuant to Section 4.1 shall be payable commencing on the first day of the month coincident with or next following the Participant's Normal Retirement Date or, if later, the first day of the month following the day his or her benefit payment elections are received by the Employer.
- (b) A monthly early retirement benefit equal to 1/12 of the early retirement benefit calculated pursuant to Section 4.2 shall be payable commencing on the first day of the month coincident with or next following the Participant's Early Retirement Date or, if later, the first day of the month following the day his or her benefit payment elections are received by the Employer.
- (c) A monthly vested retirement benefit equal to 1/12 of the vested retirement benefit calculated pursuant to Section 4.3 shall be payable commencing on the first day of the month coincident with or next following the Participant's Normal Retirement Date or, if later, the first day of the month following the day his or her benefit payment elections are received by the Employer; provided, however:
  - (i) A Participant other than a Police Officer who incurs a Severance on or after July 1, 1985 may elect an Annuity Starting Date as early as the first day of the month coincident with or next following the later of (i) his or her 55<sup>th</sup> birthday or (ii) the day on which the sum of his or her age plus Vesting Years equals 75.
  - (ii) A Police Officer who incurs a Severance on or after December 2, 1998 may elect an Annuity Starting Date as early as the first day of the month coincident with or next following the later of (i) his or her 50<sup>th</sup> birthday or (ii) the day on which the sum of his or her age plus Vesting Years equals 70 (the later of (i) his or her 55<sup>th</sup> birthday or (ii) the day on which the sum of his or her age plus Vesting Years equals 70 in the case of a Police Officer who incurs a Severance on or after July 1, 1985 and prior to December 2, 1998).
- (d) Any Participant may elect an Annuity Starting Date as early as the first day of the month following his or her Severance Date or as soon as practicable thereafter; provided, that:
  - (i) On or after July 1, 2016, the lump sum value of the Participant's applicable retirement benefit is \$20,000 or less (determined as of the elected Annuity Starting Date and in accordance with Section 2.3(b)). The \$20,000 amount in the preceding sentence shall be adjusted on July 1 of each year to reflect increases (but not decreases) in the Consumer Price Index (CPI-W) as of January 1 of each year (with any increase not a multiple of \$1,000 rounded to the next lowest multiple of \$1,000).

- (ii) In the case of a Participant who incurs a Severance on or after July 1, 2001, the lump sum value of his or her applicable retirement benefit is \$15,000 or less (determined as of the elected Annuity Starting Date and in accordance with Section 2.3(b)). The \$15,000 amount in the preceding sentence shall be adjusted on July 1 of each year to reflect increases in the Consumer Price Index (CPI-W) as of January 1 of each year (with any increase not a multiple of \$1,000 rounded to the next lowest multiple of \$1,000) until the amount reaches \$20,000.
- (iii) In the case of a Participant who incurs a Severance on or after July 1, 1997 and prior to July 1, 2001, the lump sum value of his or her applicable retirement benefit is \$7,000 or less.
- (iv) In the case of a Participant who incurs a Severance prior to July 1, 1997, such Participant may elect an Annuity Starting Date prior to the dates set forth in paragraphs (i) and (ii) to the extent permitted under the terms of the Plan then in effect.

If a Participant does not elect an Annuity Starting Date prior to the first day of the month coincident with or next following the Participant's Normal Retirement Date, such failure to elect shall be deemed an election to defer the payment of his or her normal retirement benefit beyond his or her Normal Retirement Date but in no event later than his or her Required Beginning Date as described in Section 11.10(d). If a Participant elects an Annuity Starting Date subsequent to the first day of the month coincident with or next following the Participant's Normal Retirement Date but prior to his or her Required Beginning Date as described in Section 11.10(d), a make-up payment shall be made in an amount equal to any missed payment or payments for the period commencing as of the first day of the month coincident with or next following the Participant's Normal Retirement Date to the date of the actual make-up payment (with an appropriate interest adjustment for that period).

#### 4.6. Accumulated Plan Sick and Vacation Days.

The Accumulated Plan Sick Days and Accumulated Plan Vacation Days of a Participant shall be applied to commence the earlier payment of a normal retirement benefit or early retirement benefit by an amount of time equal to his or her Accumulated Plan Sick Days and/or Accumulated Plan Vacation Days as follows:

- (a) The Accumulated Plan Sick Days of a Participant shall be used to calculate his or her Benefit Years as provided in Sections 2.5(c) unless the Participant makes an election to have his or her Accumulated Plan Sick Days, rounded down to the nearest whole day, applied under this Section.
- (b) The Accumulated Plan Vacation Days of a Participant who is an Eligible Employee on his or her Severance Date shall be used to calculate his or her

Benefit Years as provided in Sections 2.5(d) unless the Participant makes an election to have his or her Accumulated Plan Vacation Days, rounded down to the nearest whole day, applied under this Section.

- (c) The Accumulated Plan Vacation Days, rounded up to the nearest whole day, of a Participant who is not an Eligible Employee on his or her Severance Date shall be automatically be applied under this Section.

Upon such election or application, the Participant shall be entitled to a retirement benefit equal to the early or normal retirement benefit he or she would have otherwise received at the scheduled retirement date and such retirement benefit shall not be reduced because the Participant receives no pay for his or her Accumulated Plan Sick Days. The provisions of this Section shall be administered in accordance with the applicable collective bargaining agreements in effect from time to time.

#### 4.7 Suspension of Benefits.

- (a) If a Participant remains employed with the Employer after his or her Normal Retirement Date, his or her normal retirement benefit shall be suspended for each calendar month during which the Participant completes 40 or more Hours of Service. No adjustment to the Participant's normal retirement benefit shall be made on account of such suspension; provided, that the notice requirements set forth in subsection (c) are satisfied and except to the extent adjustment is otherwise required under Section 4.4(a).
- (b) If a Participant incurs a Severance, commences monthly benefits, and thereafter, is rehired as an Eligible Employee, his or her payments shall not be withheld unless he or she is expected to complete at least 900 or more Hours of Service during a 12-month period. Effective July 1, 1993, a Participant who was a Police Officer at the time of his or her retirement shall not have his or her payments withheld under the preceding sentence regardless of the number of Hours of Service he or she is expected to complete if he or she is re-employed by the Employer in any position other than as a Police Officer. In the event a Participant is rehired on or after his or her Normal Retirement Date, no payment shall be withheld until the notice requirements set forth in subsection (c) are satisfied.
- (c) The Employer shall notify the Participant by personal delivery or first class mail during the first calendar month in which benefits are suspended or payments are withheld. Such notification shall contain a description of the specific reasons why benefit or payments are being suspended, a general description of the Plan provisions relating to the suspension of payments, a copy of such provisions, and a statement to the effect that applicable Department of Labor regulations may be found in § 2530.203-3 of the Code of Federal Regulations. In addition, the suspension notification shall inform the Participant of the Plan's procedures for affording a review of the suspension of benefits. No benefit shall be suspended

and no payment shall be withheld pursuant to this Section until the notice requirements of this subsection are satisfied.

- (d) A Participant described in subsections (a) or (b) above, shall be eligible to receive credit for additional Benefit Years for any period of reemployment as an Eligible Employee. Upon such Participant's subsequent Severance, his or her retirement benefit shall be properly and equitably adjusted by the actuarial equivalent of any payments theretofore made to him or her under the Plan.

#### 4.8 Increase in Monthly Payments for Certain Retirees.

- (a) Effective May 1, 2009, the monthly benefit of a Participant who is receiving annuity payments as of May 1, 2009 (excluding a contingent pensioner or beneficiary who is receiving survivor benefits under Sections 5.1(b), 5.1(c) or Article 7) and whose Severance occurred prior to January 20, 2002 and on or after his or her Early Retirement Date shall be the greatest of:
  - (i) His or her current monthly benefit amount determined as of April 1, 2009;
  - (ii) \$700 as actuarially reduced to reflect the early retirement discount described in Section 4.2(a) or the payment of benefits in the form of a Contingent Pensioner Annuity or a Term Certain Life Annuity as each are described in Sections 5.1(b) or 5.1(c), respectively;
  - (iii) \$35 multiplied by his or her Benefit Years (including fractions thereof) as actuarially reduced to reflect the early retirement discount described in Section 4.2(a) or the payment of benefits in the form of a Contingent Pensioner Annuity or a Term Certain Life Annuity as each are described in Sections 5.1(b) or 5.1(c), respectively; or
  - (iv) His or her current monthly benefit amount determined as of April 1, 2009 plus \$50, not to exceed \$2,000.
- (b) Effective July 1, 2006, all Participants (or their beneficiaries) receiving annuity payments as of July 1, 2006 whose Severance occurred in 2001 or earlier and on or after their Early Retirement Date shall have the amount of their monthly benefit payment increased by 4%; provided, that in the case of Participants (but not beneficiaries) who retired with 10 or more Vesting Years, their monthly benefit payment shall be the greater of their monthly benefit payment after application of the 4% increase or the applicable minimum monthly benefit payment as set forth in the following schedule:

<u>Vesting Years</u>	<u>Minimum Monthly Benefit Payment</u>
10 – 19	\$275
20 - 29	\$550
30 - 39	\$825

40 - 49	\$1,100
50 or more	\$1,375

- (c) Effective January 1, 2004, all Participants (or their beneficiaries) receiving annuity payments as of January 1, 2004 whose Severance occurred in 2001 or earlier and on or after their Early Retirement Date shall have the amount of their monthly benefit payment increased by the applicable percentage as set forth in the following schedule; provided, that in the case of Participants (but not beneficiaries) who retired with 10 or more Vesting Years, their monthly benefit payment shall be the greater of their monthly benefit payment after application of the percentage increase or \$200.

<u>Year of Severance</u>	<u>Monthly Benefit Payment % Increase</u>
1989 or before	25%
1990-1991	20%
1992-1993	17%
1994-1995	14%
1996-1997	11%
1998-1999	8%
2000-2001	5%
2002 or after	0%

- (d) Effective July 1, 2001, all Participants (or their beneficiaries) receiving annuity payments as of July 1, 2001 whose Severance occurred in 1995 or earlier shall have the amount of their monthly benefit payment increased by a percentage in accordance with the following schedule:

<u>Year of Severance</u>	<u>Monthly Benefit Payment % Increase</u>
1988 or before	20%
1989	18%
1990	16%
1991	14%
1992	12%
1993	10%
1994	8%
1995	6%
1996 or after	0%

- (e) Prior to July 1, 1997, increases in monthly benefit payments, if any, shall be determined in accordance with the terms of the Plan then in effect.

## ARTICLE 5 FORM OF BENEFITS

### 5.1 Forms of Benefit Payment.

An unmarried Participant's applicable retirement benefit shall be paid in the form of a Single Life Annuity as described in subsection (a) below and a married Participant's applicable retirement benefit shall be paid in the form of a Qualified Joint and Survivor Annuity unless a Qualified Election is made by the Participant's within his or her Applicable Election Period or the Participant's applicable retirement benefit is paid in the form of a mandatory single lump sum payment as described in subsection (e). A "Qualified Joint and Survivor Annuity" means a Contingent Pensioner Annuity as described in subsection (b) below that provides monthly payments equal to 100% (50% for Annuity Starting Dates prior to July 1, 2008) of the Participant's payment for the lifetime of the Participant's spouse if he or she survives the Participant. A Participant may, upon making a Qualified Election in accordance with Section 5.2 below, choose one of the optional forms of payment described in subsections (a), (b), or (c) below or, if eligible, the optional form of payment described in subsection (d) below unless the Participant's applicable retirement benefit is paid in the form of a mandatory single lump sum payment as described in subsection (e).

- (a) A Single Life Annuity that provides monthly payments for the Participant's lifetime commencing as of a date provided in Section 4.5 and ending on the last day of the month in which his or her death occurs.
- (b) A Contingent Pensioner Annuity that provides reduced monthly payments for the Participant's lifetime commencing as of a date provided in Section 4.5 and ending on the last day of the month in which his or her death occurs and monthly payments equal to 50%, 66-2/3%, or 100% of the Participant's monthly payment to the Participant's designated contingent pensioner, as each are elected by the Participant, commencing as of the first day of month following the Participant's death and ending on the last day of the month in which the contingent pensioner's death occurs. If the designated contingent pensioner is not the Participant's spouse, the Contingent Pensioner Annuity form of benefit shall be limited to a 50% or a 66-2/3% Contingent Pensioner Annuity whichever may be required under Code Section 401(a)(9) and Treasury regulations thereunder.
- (c) A Term Certain Life Annuity that provides reduced monthly payments for the longer of the Participant's lifetime or a specified number of months (120, 180, or 240) as elected by the Participant. Monthly payments to the Participant shall commence as of a date provided in Section 4.5 and, if the Participant's death occurs within the term period, shall continue to the beneficiary or beneficiaries designated by the Participant for the balance of such term period.
  - (i) A Participant may designate more than one beneficiary and may change his or her designated beneficiary or beneficiaries at any time. A

Participant may also designate a secondary beneficiary or beneficiaries to receive any remaining payments on the Participant's death in the event the designated beneficiary predeceases the Participant or dies during the term period.

- (ii) If the Participant fails to designate a secondary beneficiary and the Participant's designated beneficiary predeceases the Participant, any payments payable on the Participant's death shall be paid in a lump sum to the Participant's estate.
  - (iii) If the Participant fails to designate a secondary beneficiary and the Participant's designated beneficiary dies while receiving payments during the term period, the designated beneficiary's interest in the remaining payments shall be paid in a lump sum to the designated beneficiary's estate.
  - (iv) In the event the deceased Participant or deceased designated beneficiary under paragraphs (ii) and (iii) above, respectively, is not a resident of Connecticut at the date of his or her death, the Administrator, in its discretion, may require the establishment of ancillary administration in Connecticut. If the administration of the deceased Participant's or deceased designated beneficiary's estate is not otherwise required, the Administrator, in its discretion, may pay the remaining payments (or interest therein) to the deceased Participant's or deceased designated beneficiary's heirs at law (determined in accordance with the laws of the State of Connecticut as they existed at the date of the Participant's or designated beneficiary's death).
- (d) A Single Lump Sum Payment that provides a one-time payment of the lump sum value of a Participant's applicable retirement benefit with no further benefits payable to the Participant, his or her spouse or other beneficiary. This optional form of benefit shall be available to Participants as follows:
- (i) In the case of any Participant whose Annuity Starting Date is on or after July 1, 2016 if the lump sum value of his or her applicable retirement benefit is \$20,000 or less (determined as of the elected Annuity Starting Date and in accordance with Section 2.3(b)). The \$20,000 amount in the preceding sentence shall be adjusted on July 1 of each year to reflect increases (but not decreases) in the Consumer Price Index as of January 1 of each year (with any increase not a multiple of \$1,000 rounded to the next lowest multiple of \$1,000).
  - (ii) In the case of any Participant whose Annuity Starting Date is on or after January 1, 2009 if the lump sum value of his or her applicable retirement benefit is \$15,000 or less (determined as of the elected Annuity Starting Date and in accordance with Section 2.3(b)). The \$15,000 amount in the

preceding sentence shall be adjusted on July 1 of each year to reflect increases in the Consumer Price Index as of January 1 (July 1 for Plan Years beginning prior to July 1, 2012) of each year (with any increase not a multiple of \$1,000 rounded to the next lowest multiple of \$1,000) until the amount reaches \$20,000.

- (iii) In the case of a Participant who incurs a Severance prior to his or her Early Retirement Date on or after July 1, 2001 if the lump sum value of his or her vested retirement benefit is \$15,000 or less (determined as of the elected Annuity Starting Date and in accordance with Section 2.3(b)). The \$15,000 amount in the preceding sentence shall be adjusted on July 1 of each year to reflect increases in the Consumer Price Index (CPI-W) as of January 1 of each year (with any increase not a multiple of \$1,000 rounded to the next lowest multiple of \$1,000) until the amount reaches \$20,000.
  - (iv) In the case of a Participant who incurs a Severance prior to his or her Early Retirement Date on or after July 1, 1997 but prior to July 1, 2001 if the lump sum value of his or her vested retirement benefit is \$7,000 or less.
  - (v) In the case of a Participant who incurs a Severance prior to his or her Early Retirement Date prior to July 1, 1997 to the extent permitted under the terms of the Plan then in effect.
- (e) A mandatory Single Lump Sum Payment that provides a one-time payment of the lump sum value of a Participant's applicable retirement benefit with no further benefits payable to the Participant, his or her spouse or other beneficiary. The mandatory Single Lump Sum Payment shall apply to a Participant if the lump sum value of his or her applicable retirement benefit is below \$5,000 or less determined as of Severance or, if later, within a reasonable time on or after July 1, 2016. For purposes of this subsection (e), if the \$5,000 or less threshold is increased under Code Section 411(a)(11) such increase shall be incorporated herein by this reference. In such case, the mandatory Single Lump Sum Payment shall apply to a Participant if the lump sum value of his or her applicable retirement benefit is equal to or less than the threshold established under Code Section 411(a)(11) determined as of Severance occurring after a change to Code Section 411(a)(11) or, if later, within a reasonable time on or after the effective date of such change. In the event a mandatory Single Lump Sum Payment is greater than \$1,000 (or such other amount determined from time to time under Code Section 401(a)(31)(B)), such payment shall be made to an individual retirement plan designated by the Plan Administrator in the form of a Direct Rollover (as defined in Section 5.3(d)) if the Participant does not elect to receive the payment directly or have such distribution paid directly to an Eligible Retirement Plan (as defined in Section 5.3(c)) specified by such Participant.

The form of benefit payment described in subsections (b), (c), (d), and (e) shall be the Actuarial Equivalent of the Participant's applicable retirement benefit payable as a Single Life Annuity.

## 5.2 Qualified Election.

A Participant must make a "Qualified Election" to commence the payment of his or her retirement benefits as follows:

- (a) The payment of a Participant's retirement benefit shall not commence prior to the Participant's Normal Retirement Date unless the Participant and, if applicable, his or her spouse consents (in writing or in such other form as may be permitted under the Code or ERISA and any guidance issued thereunder) to receive payment prior to such date.
- (b) A Participant may waive the Single Life Annuity or, in the case of a Participant who is married, may waive the Qualified Joint and Survivor Annuity with the consent of his or her spouse and elect an optional form of payment described in Section 5.1.
- (c) An election shall be a Qualified Election only if the Participant has received an explanation (in writing or in such other form as may be permitted under the Code or ERISA and any guidance issued thereunder) that conforms to the requirements of the Code and ERISA during his or her Applicable Election Period; provided, that effective as of July 1, 2007, such explanation shall include: (i) the terms and conditions of the required form of benefit payment; (ii) the Participant's right to make, and the effect of, an election to waive the required form of benefit payment; (iii) the Participant's right to make, and the effect of, a revocation of a previous election to waive the required form of benefit payment; (iv) a general description of the material features and an explanation of the relative values of the available optional forms of benefit payment under the Plan; (v) a statement that the Participant has the right to defer his or her Annuity Starting Date until his or her Normal Retirement Date and a description of the consequences of failing to do so; and (vi) the rights of the Participant's spouse to refuse to consent to an Annuity Starting Date prior to the Participant's Normal Retirement Date or to the Participant's waiver of the required form of benefit payment. A Participant's marital status shall be his or her marital status as determined on the day the explanation described herein is provided to the Participant.
- (d) A Participant's Applicable Election Period shall commence no less than 30 days and no more than 180 days (90 days for Plan Years beginning prior to July 1, 2007) before his or her Annuity Starting Date. Notwithstanding the foregoing, if a Participant, after receiving the explanation described in subsection (c) above, elects an optional form of benefit and the spouse consents to the optional form of benefit (if necessary), the Plan shall not fail to satisfy the requirements of subsection (b) merely because the Annuity Starting Date is less than 30 days after

the explanation is given to the Participant; provided, that (i) the explanation is provided prior to the Annuity Starting Date; (ii) the distribution does not commence before the expiration of the 7-day period that begins the day after the explanation is provided to the Participant; and (iii) prior to the expiration of the 7-day period, or the Annuity Starting Date, if later, the Participant may revoke his or her election of an optional form of benefit.

- (e) Any elections made hereunder shall not be a Qualified Election with respect to a married Participant unless: (i) the Participant's spouse consents in writing (or in such other form as may be permitted under Code or ERISA and any guidance issued thereunder) to the waiver; (ii) the waiver designates a form of benefit payment that may not be changed without spousal consent unless the spouse expressly permits designations by the Participant without any further spousal consent; (iii) the Participant's spouse acknowledges the effect of the Participant's election; and (iv) the Participant spouse's consent is witnessed by a Plan representative or notary public. An election that permits a Participant to designate another form of benefit without any requirement of further consent by such spouse must acknowledge that the spouse has the right to limit consent to a specific form of benefit and that the spouse voluntarily elects to relinquish such rights. If it is established to the satisfaction of the Employer that there is no spouse, the spouse cannot be located, or because of such other circumstances as the Treasury Regulations may prescribe, a waiver by the Participant alone shall be deemed a Qualified Waiver. Any consent by a spouse (or establishment that the consent of a spouse may not be obtained) shall (i) be effective only with respect to such spouse and (ii) be irrevocable; provided, however, a Participant may revoke a Qualified Waiver without the consent of the spouse at any time before distribution is made or distributions commence.

### 5.3 Direct Rollovers.

Notwithstanding any other provision herein, a Distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Rollover Plan specified by the Distributee in a Direct Rollover to the extent the Eligible Rollover Plan accepts the Distributee's Eligible Rollover Distribution. For purposes of this Section:

- (a) "Distributee" means an Employee or former Employee, the Employee's or former Employee's surviving spouse, 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) or, effective January 1, 2009, a non-spouse Beneficiary.
- (b) "Eligible Rollover Distribution" means 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: (i) any distribution that is one of a series of substantially equal periodic payment (not less frequently than annually) made for

the life of the Distributee or the joint lives of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; (ii) any distribution to the extent such distribution is required under Code Section 401(a)(9); and (iii) any distribution that is reasonably expected to total less than \$200 during a year.

- (c) "Eligible Retirement Plan" means (i) an individual retirement account described in Code Section 408(a) and, effective after December 31, 2007, an individual retirement account described in Code Section 408A, (ii) an individual retirement annuity described in Code Section 408(b), (iii) a qualified plan described in Code Section 401(a) or 403(a), (iv) effective after December 31, 2001, an annuity contract described in Code Section 403(b), (v) effective after December 31, 2001, an eligible plan under Code Section 457(b) which is maintained by a state, 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 amounts transferred into such plan from this Plan, and (vi) effective after December 31, 2008 and in the case of a non-spouse Beneficiary, an individual retirement account or annuity described in Code Sections 408(a) or (b), respectively, that is treated as an inherited IRA pursuant to the provisions of Code Section 402(c)(11).
- (d) The term "Direct Rollover" means a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

#### 5.4 Required Distribution Rules.

Notwithstanding anything in the Plan to the contrary, the distribution of retirement benefits under the Plan shall be made in accordance with Code Section 401(a)(9) and final Treasury Regulations thereunder and the provisions of Section 11.10 shall override any payment option in the Plan inconsistent with Code Section 401(a)(9).

#### 5.5 Lapsed Benefits.

(a) If a Vested Participant fails to file a claim for benefits on or after his or her Normal Retirement Date, and, after reasonable efforts by the Employer, the Participant cannot be located, the Participant shall be presumed dead and his or her benefit forfeited or a Qualified Pre-Retirement Survivor Annuity (as described in Article 7) shall be paid to the Participant's surviving spouse.

(b) If, after reasonable efforts by the Employer, such surviving spouse cannot be located then the surviving spouse shall be presumed to have predeceased the Participant.

(c) Notwithstanding the foregoing rules, if after such a forfeiture the Participant shall claim the forfeited benefit or a surviving spouse shall claim the Qualified Pre-Retirement Survivor Annuity (a "claimant"), the amount forfeited shall be reinstated and paid to the claimant as soon as practical following the claimant's

production of reasonable proof of his or her identity and entitlement to the benefit (determined pursuant to the Plan's claims and claims review procedures as described in Article X).

(d) For purposes of this Section, the Administrator may use any reasonable measures to locate a Participant or a surviving spouse, including using certified mail, using governmental letter-forwarding services, or using internet search tools or commercial locator services, and may consider the cost of the measures relative to the benefit when determining which measures to use.

## **ARTICLE 6 DISABILITY BENEFIT**

Notwithstanding anything in the Plan to the contrary, a monthly disability benefit shall be payable solely as provided under this Article 6.

### 6.1 Eligibility for Disability Benefit.

If a Participant has completed ten (10) Vesting Years and becomes totally and permanently disabled (as defined in Section 6.4 below) while in the employ of the Employer on or after the Effective Date and prior to his or her Normal Retirement Date, he or she shall be eligible for a monthly disability benefit as provided in Sections 6.2 and 6.3.

### 6.2 Amount of Disability Benefit.

The amount of the monthly disability benefit shall be equal to 1/12 of the Participant's annual normal retirement benefit calculated pursuant to Section 4.1. Such monthly amount shall then be reduced by the amount of any periodic cash payments provided for him or her under or on account of any workers' compensation law or similar law which became payable to him or her on or after the date he or she becomes eligible for disability retirement benefits hereunder.

### 6.3 Commencement and Duration of Disability Benefit.

If the Administrator determines that a Participant is permanently and totally disabled as provided in Section 6.4, the monthly disability benefit shall be payable as of the later of the first day of the month following the Participant's Severance Date or the date the Participant is determined to be totally and permanently disabled as set forth in the Certificate of Award described in Section 6.4 and shall cease to be payable following:

- (a) The Participant's Normal Retirement Date at which time, his or her normal retirement benefit described in Section 4.1 shall be payable to the Participant in accordance with Article 5.
- (b) The Participant's Early Retirement Date and his or her election to commence payment of an early retirement benefit or vested retirement benefit whichever is applicable, at which time, his or her early retirement benefit or a vested retirement benefit as described in Section 4.2 and 4.3, respectively, shall be payable to the Participant in accordance with Article 5.
- (c) The Participant's death; provided, however, there shall be paid to his or her surviving spouse, if he or she is survived by a spouse, the benefit described in Article 7 hereof.

- (d) The date on which (i) the Participant is no longer determined to be permanently and totally disabled by the U.S. Social Security Administration, (ii) the Administrator determines, upon the basis of a requested medical examination, that the Participant is no longer determined to be permanently and totally disabled, or (iii) the Participant refuses to submit to medical examination requested by the Administrator in accordance with Section 6.4.

#### 6.4 Determination of Total and Permanent Disability.

For purposes of this Article 6, a Participant shall be deemed to be permanently and totally disabled if (i) the Participant furnishes to the Administrator a Certificate of Award issued by the U.S. Social Security Administration setting forth that he or she is entitled to a disability retirement benefit under the Act by reason of total and permanent disability and (ii) the Administrator determines, on the basis of the Certificate of Award, that the Participant is wholly and permanently prevented from engaging in any occupation or employment for wage or profit as a result of bodily injury or disease, which is nonoccupational in origin, except if such employment is found by the Administrator to be for the purposes of rehabilitation. A Participant shall not be deemed disabled for the purposes of this Article if, on the basis of proof satisfactory to the Administrator, it is determined that his or her incapacity resulted from service in the armed forces of the United States for which a service-connected government disability pension is payable. The Administrator may, in its sole discretion, require a Participant to submit to medical examination at any time, but not more often than annually.

**ARTICLE 7  
DEATH BENEFITS**

7.1 Death Benefits.

If a Vested Participant dies prior to commencing benefits payments under Article 5, his or her surviving spouse or minor children shall be entitled to a death benefit as set forth below:

- (a) A Vested Participant with one or more Hours of Service on or after July 1, 1985.
  - (i) In the case of a married Vested Participant who dies prior to commencing benefits payments under Article 5, his or her surviving spouse shall be entitled to a Qualified Pre-Retirement Survivor Annuity as described in Section 7.2 unless the surviving spouse is eligible to elect or is required to receive the Actuarial Equivalent of the Qualified Pre-Retirement Survivor Annuity in a single lump sum payment. A surviving spouse shall be eligible to elect a single lump sum payment or shall receive a single lump sum payment if the Actuarial Equivalent of the Qualified Pre-Retirement Survivor Annuity would be payable as a Single Lump Sum Payment or a mandatory Single Lump Sum Payment under Sections 5.1(d) or 5.1(e), respectively.
  - (ii) In the case of an unmarried Vested Participant who dies while employed by the Employer and prior to attaining age 55, his or her minor children, if any, shall be entitled to a "Children's Survivor Benefit" as described in Section 7.4.
- (b) A Vested Participant with less than one Hour of Service on or after July 1, 1985. In the case of a Vested Participant who dies prior to commencing benefits payments under Article 5, a death benefit, if any, shall be payable as determined under the terms of the Plan then in effect.

7.2 Qualified Pre-Retirement Survivor Annuity.

A Qualified Pre-Retirement Survivor Annuity means a survivor annuity for the life of the surviving spouse of a Vested Participant which shall be paid and determined as follows:

- (a) If a Vested Participant dies on or after his or her earliest retirement date, the lifetime annuity payable to his or her surviving spouse may commence as early as the first day of the month following the Participant's date of death but no later than the Participant's Normal Retirement Date and shall end on the last day of the month in which the surviving spouse's death occurs. The monthly amount shall be equal to the amount the surviving spouse would have received if the Participant had (i) commenced the payment of his or her retirement benefits in the form of a 100% Contingent Pensioner Annuity as described in Section 5.1(b) with

his or her spouse as the contingent pensioner on the first day of the month following his or her date of death (or, if later, the Annuity Starting Date elected by the spouse) and (ii) died the day thereafter.

- (b) If a Vested Participant is an Employee who dies prior to his or her earliest retirement date, the lifetime annuity payable to his or her surviving spouse may commence as early as the first day of the month following the Participant's date of death but no later than the Participant's Normal Retirement Date and shall end on the last day of the month in which the surviving spouse's death occurs. The monthly amount shall be equal to the amount the surviving spouse would have received if the Participant had (i) incurred a Severance on the date of his or her death, (ii) survived to age 55 if death occurs prior to age 55, (iii) commenced the payment of his or her retirement benefits in the form of a 100% Contingent Pensioner Annuity as described in Section 5.2(b) with his or her spouse as the contingent pensioner on the first day of the month following his or her attainment of age 55 (or, if later, his or her date of death or the Annuity Starting Date elected by the spouse), and (iv) died the day thereafter.
- (c) If the Vested Participant is a former Employee who dies prior to his or her earliest retirement date, the lifetime annuity payable to his or her surviving spouse may commence as early as of the first day of the month following the date the Participant would have attained his or her earliest retirement date but no later than the Participant's Normal Retirement Date and shall end on the last day of the month in which the surviving spouse's death occurs. The monthly amount shall be equal to the amount the surviving spouse would have received if the Participant had (i) commenced the payment of his or her retirement benefits in the form of a 100% Contingent Pensioner Annuity as described in Section 5.2(b) with his or her spouse as the contingent pensioner on the Annuity Starting Date elected by the spouse, and (ii) died the day thereafter.
- (d) Notwithstanding the subsections above, if the lifetime annuity payable to a Vested Participant's surviving spouse would otherwise be paid to the Vested Participant in the form of a mandatory Single Lump Sum Payment under Section 5.1(e), such payment shall be made to the Vested Participant's surviving spouse in the same manner as described in Section 5.1(e); provided, that the provisions pertaining to "Direct Rollovers" to an "Eligible Retirement Plan" shall not apply to a Vested Participant's surviving spouse.

### 7.3 Spousal Elections.

A surviving spouse must consent to the payment or commencement of the Qualified Pre-Retirement Survivor Annuity prior to the Participant's Normal Retirement Date and if he or she is eligible to elect that the Qualified Pre-Retirement Survivor Annuity be paid in a single lump sum, he or she may elect payment in such form by waiving the annuity form of payment. Both elections shall be made in such form and in such manner comparable to that required under Section 5.2. In the case of a surviving spouse

described in Section 7.2(c) who is eligible to elect a lump sum, he or she may elect that payment of the lump sum be made as soon as administratively feasible following the Participant's death. This Section shall not apply to a surviving spouse whose Qualified Pre-Retirement Survivor Annuity is paid in the form of a mandatory Single Lump Sum Payment under Section 5.1(e).

#### 7.4 Children's Survivor Benefit.

The Children's Survivor Benefit shall be equal to and payable as follows:

- (a) On or after February 1, 2009, the Children's Survivor Benefit shall be a monthly amount equal to the amount a surviving spouse of equal age to the Participant would have received had payments commenced on the first day of the month following the Participant's date of death under Section 7.2(b). The monthly amount shall be payable in equal shares to the Participant's minor children (determined at the time of death), shall begin on the first day of the month following the Participant's date of death and shall end on the last day of the month in which each child attains age 19 or dies, whichever is earlier, unless the present value of the minor child's share of the Children's Survivor Benefit is paid in the form of a single lump sum. A minor child's share of the Children's Survivor Benefit shall automatically be paid in the form of a single lump sum if the present value of the minor child's share of the Children's Survivor Benefit (determined using the Applicable Interest Rate described in Section 2.3(b) and assuming monthly payments until the end of the month in which the minor child attains age 19) would be payable as a Single Lump Sum Payment under Section 5.1(d) or the guardian of such minor child may elect that the present value of the minor child's share of the Children's Survivor Benefit be paid in the form of single lump sum. The payment of a Children's Survivor Benefit in the form of a single lump sum shall be made as soon as administratively feasible following the Participant's death.
- (b) Prior to February 1, 2009 and on or after July 1, 1985, the Children's Survivor Benefit shall be equal to the Actuarial Equivalent of the Qualified Pre-Retirement Survivor Annuity a surviving spouse of equal age to the Participant would have received had payments commenced on the first day of the month following the Participant's date of death under Section 7.3(b) and payable in equal shares to the Participant's minor children (determined at the time of death) in the form of a single lump sum.

#### 7.5 Required Distribution Rules.

Notwithstanding anything in the Plan to the contrary, the distribution of death benefits under the Plan shall be made in accordance with Code Section 401(a)(9) and final Treasury Regulations thereunder and the provisions of Section 11.10 shall override any payment option in the Plan inconsistent with Code Section 401(a)(9).

**ARTICLE 8**  
**COSTS OF THE PLAN**

8.1 Employer Contributions.

The entire costs of the benefits of the Plan shall be paid by the Employer. The Employer shall contribute each year such amount as the Administrator may determine, upon recommendation of a qualified actuary, to be necessary in order to comply with applicable requirements of law as to the maintenance of adequate funding standards and to avoid the existence of any accumulated funding deficiency. All such contributions shall be paid to the issuer of an insurance contract or into a separate trust fund as determined by the Administrator. If and to the extent that the Administrator determines that such costs should be funded by a trust fund, the Employer shall appoint a Trustee and shall execute with such Trustee a trust agreement providing for the administration of the funds of the Plan, in such form and containing such provisions as the Employer may deem appropriate, including, but not by way of limitation, the powers and authority of the Trustee, and the authority of the Employer to amend the agreement, to terminate the trust and to settle the accounts of the Trustee.

8.2 Irrevocability.

None of the assets of the Plan shall, in any event, upon termination of the Plan or otherwise, revert to the Employer or be used for any purpose whatsoever other than for the exclusive benefit of Employees, Participants and their spouses and beneficiaries, except that in the event of termination of the Plan, after all liabilities of the Plan have been satisfied, any property remaining in the Plan as the result of erroneous actuarial assumptions or computations shall be returned to the Employer.

8.3 Mistake of Fact.

Any contribution made by the Employer because of a mistake of fact shall be returned to the Employer within one year of the contribution.

**ARTICLE 9  
AMENDMENT AND TERMINATION**

9.1 Amendment

The Employer shall have the right at any time, and from time to time, to amend, in whole or in part, any of the provisions of this Plan. Effective February 8, 2003, for purposes of this paragraph, amendments to the Plan may be made as follows:

- (a) By action of the Employer.
- (b) By action of the Employer's Vice President for Human Resources and Administration (or holding such office at the Employer that shall assume the functions and responsibilities of the Vice President for Human Resources and Administration) with respect to technical and legal amendments to comply with changes in law or regulations applicable to the Plan as amended from time to time.

9.2 Termination.

The Employer shall have the right at any time to terminate the Plan, subject, nevertheless, to the provisions of Section 8.2 hereof. Upon termination or partial termination of the Plan, the rights of all affected employees to benefits accrued to the date of such termination are nonforfeitable. In the event of termination of the Plan, including the indefinite suspension of the Employer's contributions, the assets and property of the Plan shall be applied as follows:

- (a) First, to provide for the following pensions:
  - (i) Those pensions the payment of which had commenced at or prior to the beginning of the 3-year period ending on the date of termination, based on the provisions of the Plan (as in effect during the 5-year period ending on such date) under which such pensions would be the lowest.
  - (ii) Those pensions (other than those described in subsection (a)(i) above) which would have become payable as of the beginning of the 3-year period if the Participant had retired prior to the beginning of the 3-year period and if his or her pension had commenced (in the normal form under the Plan) as of the beginning of such period, based on the provisions of the Plan (as in effect during the 5-year period ending on such date) under which such service pensions would be the lowest.
- (b) Second, to (i) all other pensions, if any, guaranteed under Title IV of the Employee Retirement Income Security Act of 1974 (ERISA) (determined without regard to section 4022B(a) of the Employee Retirement Income Security Act of 1974 (ERISA) and (ii) to all other additional benefits, if any, which would be

determined under the preceding clause (i) if ERISA Section 4022(b)(5) did not apply. For purposes of this subsection, ERISA Section 4021 shall be applied without regard to subsection (c) thereof.

- (c) Third, to all other vested benefits under the Plan.
- (d) Fourth, to all other benefits under the Plan.

### 9.3 Allocation upon Termination.

For purposes of the allocations under the foregoing Section 9.2:

- (a) Amounts allocated under any of the four subsections of Section 9.2 with respect to any benefit shall be properly adjusted for any allocation of assets with respect to that benefit under a prior subsection.
- (b) If the assets available for allocation under either of the first two subsections of the foregoing Section 9.2 are insufficient to satisfy in full the benefits of all individuals in any one subsection, the assets shall be allocated pro rata among such individuals on the basis of the present value (as of the termination date) of their respective benefits described in that subsection.
- (c) If the assets available for allocation under Section 9.2(c) are not sufficient to satisfy in full the benefits of the individuals described in said Section 9.2(c), then:
  - (i) Except as stated in paragraph (ii) below, the assets shall be allocated to the benefits of individuals described in the said Section 9.2(c) on the basis of the individuals in said Section 9.2(c) under the Plan as in effect at the beginning of the 5-year period ending on the date of termination of the Plan; and
  - (ii) If the assets available for allocation under paragraph (i) above are sufficient to satisfy in full the benefits therein described (without regard to this paragraph (ii)), then for purposes of said paragraph (i), benefits described therein shall be determined on the basis of the Plan as amended by the most recent Plan amendment effective during such 5-year period under which the assets available for allocation are sufficient to satisfy in full the benefits described in said paragraph (i), and any assets remaining to be allocated under said paragraph (i) shall be allocated thereunder on the basis of the Plan as amended by the next succeeding Plan amendment effective during such period.

Unless the Administrator determines otherwise, all benefits due pursuant to Sections 9.2 and 9.3 shall be payable commencing at age sixty-five, provided, however, that if any benefit payable under the provisions of this Section amounts

to less than Ten Dollars (\$10) per month, the Administrator may direct that the commuted value thereof be paid in a single lump sum.

#### 9.4 Limitation on Benefits.

- (a) Notwithstanding any other provisions of the Plan to the contrary, for Plan Years beginning on or after July 1, 1994, the benefit of any Highly Compensated Employee and any Highly Compensated Former Employees shall be limited to a benefit that is not discriminatory under Code Section 401(a)(4) in the event of plan termination.
- (b) Notwithstanding any other provisions of the Plan to the contrary, for Plan Years beginning on or after July 1, 1994, retirement benefits (which include, among other benefits, any periodic income, any withdrawal values payable to a living Employee, and any death benefits not provided for by insurance on the Employee's life) distributed to any of the 25 most Highly Compensated Employee and any Highly Compensated Former Employees with the greatest compensation in the current or any prior Plan Year shall be restricted to an amount no greater than an amount equal to the payment that would be made on behalf of such Employee under a straight life annuity that is the actuarial equivalent of the sum of the Employee's retirement benefit, the employee's other benefits under the Plan (other than a social security supplement), and the amount of the payments that the Employee is entitled to receive under a social security supplement.
- (c) The restrictions in subsection (b) above, shall not apply, however, if any of the following requirements is satisfied: (i) after payment to an Employee described in subsection (b) above of his or her retirement benefits under the Plan, the value of Plan assets equals or exceeds 110 percent of the value of current liabilities as defined in Code Section 412(l)(7); (ii) the value of retirement benefits under the Plan for an Employee described in subsection (b) above is less than one percent (1%) of the value of current liabilities before distribution; or (iii) the value of retirement benefits under the Plan for an Employee described in subsection (b) above does not exceed the amount described in Code Section 411(a)(11)(A).
- (d) For purposes of this subsection and the Plan, a "Highly Compensated Employee" means an Employee who performed services for the Employer during the Plan Year and, effective as of July 1, 2016, who received compensation (as defined in Code Section 415) during the calendar year ending with or within the Plan Year from the Employer in excess of \$120,000 (as adjusted in such manner as permitted under Code Section 414(q)(1)). A "Highly Compensated Former Employee" is any Employee who was (i) a Highly Compensated Employee on his or her Severance Date or (ii) a Highly Compensated Employee at any time after attaining age 55. Notwithstanding the foregoing, an Employee whose Severance Date is prior to 1987 shall be treated as a Highly Compensated Former Employee only if during the severance year (or year preceding the severance year) or any year after the Employee attains age 55 (or the last year ending before the

Employee's 55th birthday), the Employee either received compensation in excess of \$50,000 or was a 5% owner. For Plan Years beginning prior to July 1, 1997, the determination of a Highly Compensated Employee and Highly Compensated Former Employees shall be made in accordance with Code Section 414(q) then in effect, the terms of which are specifically incorporated herein by reference.

- (e) In the event that it should subsequently be determined by statute, court decision, ruling by the Commissioner of Internal Revenue or otherwise that the provisions of this Section are no longer necessary to qualify the Plan under the Internal Revenue Code, this Section 9.5 shall be ineffective without the necessity of further amendment of the Plan.

## **ARTICLE 10 ADMINISTRATION**

### 10.1 Plan Administrator.

The Employer is hereby designated the Administrator of the Plan and shall be responsible for the management of the Plan. The Employer shall also be the “named fiduciary” with respect to the control or management of the assets of the Plan within the meaning of ERISA Section 402(a)(2). Notwithstanding the foregoing, the Employer, through action by its governing board, known as the “Corporation,” may delegate in whole or in part any of its administrative responsibilities (described in Section 10.2) to an officer of the Employer or to a committee (described in Section 10.3 below) as set forth herein.

### 10.2 Administrative Responsibilities.

The Employer, acting through the Vice President for Human Resources and Administration (“Vice President”) or such other officer who assumes the functions and responsibilities of the Vice President for Human Resources and Administration, has all discretionary authority and powers necessary to administer the Plan (other than discretionary authority and powers to control and manage the assets of the Plan), including, without limitation, the discretionary authority and power to:

- (a) Determine all questions involving the construction and interpretation of the terms of the Plan (including any uncertain terms) subject to such general rules and interpretations of the Plan as may be made by the Employer or, if so authorized, a committee;
- (b) Resolve all questions regarding the administration of the Plan, including all questions concerning eligibility to participate in the Plan and as he or she deems necessary to carry out the terms of the Plan to establish uniform and nondiscriminatory administrative rules and procedures for the Plan, all in accordance with such general rules for administration as may be promulgated by the Employer or, if so authorized, a committee;
- (c) Maintain all necessary records for the administration of the Plan other than those maintained by other Employees of the Employer or a third-party administrator and to prepare, and file or distribute, such reports and descriptive information concerning the Plan as shall be required by ERISA;
- (d) Approve, from time to time, the list of individuals or entities authorized to carry out administrative procedures established hereunder by the Vice President and to perform administrative functions requested by the Vice President, including the computation and determination of the amount and kind of benefits payable to Participants or their Beneficiaries and direction to the Trustee to make payment of such benefits to Participants or their Beneficiaries, and to monitor, from time to time, the effectiveness of established general administrative procedures and the

effectiveness of those authorized to carry out plan administration to ensure that they are performing the requested administrative functions in accordance with Plan provisions and as directed by the Vice President;

- (e) Review and approve contracts or other documents that relate to the administration of the Plan and to execute such contracts or other documents (or authorize the execution of such contracts or other documents) on behalf of the Employer or the Plan;
- (f) Appoint, employ or change, when appropriate, legal, accounting, clerical, or other consultants to assist in carrying out the administration of the Plan;
- (g) To correct any defect, supply any omission, or reconcile any inconsistency in such manner and to such extent as he or she deems necessary or advisable to carry out the purpose of the Plan; and
- (h) To review and resolve all claims for benefits under the Plan in a manner consistent with Sections 10.6 and 10.7.

Any action taken or any determination made in good faith by the Employer or the Vice President in the exercise of authority conferred upon it or him or her by the Plan shall be final, conclusive and binding upon all parties, the Employer, the Participants, and all other persons concerned. Any exercise of discretionary authority by the Employer or the Vice President shall be given deference, if it is subject to judicial review, and shall be overturned only if it is arbitrary or capricious.

### 10.3 Establishment of Committees.

The Employer, through action by the Corporation, has delegated to the Vice President for Human Resources and Administration (“Vice President”) or to such other officer who assumes the functions and responsibilities of the Vice President for Human Resources and Administration the authority to establish, as he or she deems necessary, one or more committees to establish rules and procedures for the administration of the Plan. Under the authority granted by the Corporation, the Vice President may, in his or her discretion, delegate all or a portion of his or her duty and responsibility to adjudicate claims for benefits as described in Section 10.2(h). The Vice President shall appoint the members of a committee (who shall be officers of the Employer or other senior personnel); the number of members, to be determined by the Vice President. The Vice President may delegate, in writing, any duties and responsibilities, including fiduciary and non-fiduciary duties and responsibilities, to the committee as he or she deems reasonable, appropriate, and within his or her authority granted by the Corporation, and the committee shall be granted such discretionary authority and powers to perform such duties or to carry out such responsibilities. The Vice President may designate a member of a committee to be its chairperson or may authorize the committee to select its own chairperson. The Vice President may remove any member of any committee at any time and may disband a

committee at any time. Vacancies occurring on any committee may be filled by the Vice President.

#### 10.4 Committee Action.

A committee may adopt such bylaws and regulations as it deems desirable for the conduct of its affairs. A committee shall appoint one of its members or another Employee of the Employer to serve as its secretary (the "Secretary"), to record its proceedings and to maintain a file of all records and documents pertaining to matters submitted to or considered by the committee and to forward all necessary communications to the Vice President. A committee shall meet upon the call of its chairperson and at such other times as the committee may designate. Any action of the committee shall be pursuant to a majority vote taken at a meeting, or pursuant to the written consent of a majority of its members without a meeting, and such action shall constitute the action of the committee and be binding in the same manner as if all members of the committee had joined therein. Any other person dealing with the committee may conclusively rely upon any certificate or other written instrument signed by the Secretary or any two or more other members of the committee which purports to have been duly authorized by the committee. A majority of the members of the committee shall constitute a quorum. The members of a committee shall serve without compensation for their services hereunder. It is intended that the Employer shall furnish any committee with such administrative, professional, clerical, and other assistance as is necessary in the performance of its duties. A member of a committee may resign by delivering a written notice of resignation to the Vice President, and such resignation shall be effective on the date specified in such notice. Any action taken or any determination made in good faith by a committee in the exercise of authority conferred upon it by the Vice President shall be final, conclusive and binding upon all parties, the Employer, the Participants, and all other persons concerned. Any exercise of discretionary authority by a committee shall be given deference, if it is subject to judicial review, and shall be overturned only if it is arbitrary or capricious.

#### 10.5 Management and Control of Plan Assets.

The Employer shall have all discretionary authority and powers necessary to control and manage the assets of the Plan. Any action taken or any determination made in good faith by the Employer in the exercise of authority conferred upon it by the Plan shall be final, conclusive and binding upon all parties, the Employer, the Participants, and all other persons concerned. Any exercise of discretionary authority by the Employer under this Section 10.5 shall be given deference, if it is subject to judicial review, and shall be overturned only if it is arbitrary or capricious.

#### 10.6 Claims Procedure.

A Participant, beneficiary, or in either case, his or her authorized representative (the "Claimant") shall file a claim for benefits under procedures established by the Vice President for Human Resources and Administration ("Vice President") or such other

officer who assumes the functions and responsibilities of the Vice President for Human Resources and Administration or his or her delegate (the foregoing referred to as the “Claims Administrator”) subject to the following:

- (a) A claim shall be filed with the Claims Administrator on such forms and in such manner as the Claims Administrator shall prescribe.
- (b) The Claimant shall be furnished with a written or electronic notice of decision with respect to a claim within 90 days (45 days in the case of a disability benefit claim) following receipt by the Claims Administrator of a claim and all necessary documents and information. The 90-day period (45-day period in the case of a disability benefit claim) may be extended should special circumstances require an extension of time for processing the claim. In the case of a retirement benefit claim, the 90-day period may be extended up to an additional 90 days. In the case of a disability benefit claim, the 45-day period may be extended up to an additional 30 days and the first 30-day extension period may be extended for up to an additional 30 days beyond the original extension (for a total of 105 days). The Claimant shall be furnished with written or electronic notice of any extension prior to the expiration of the initial period or extension period. The notice shall indicate the special circumstances requiring an extension of time and the date by which a final decision is expected to be rendered.
- (c) In the event a claim is denied, written or electronic notice thereof shall be mailed or delivered to the Claimant, specifically (i) setting forth the reasons for the denial, (ii) citing the relevant provisions of the Plan upon which the denial is based, (iii) if appropriate, describing any additional information or material necessary for perfection of the claim (together with an explanation why such material or information is necessary), (iv) explaining the Plan’s claims review procedures, and (v) informing the Claimant of his or her right to bring a civil action under ERISA Section 502(a) if his or her claim is denied upon review. In the case of a disability benefit claim, such notice shall also include (i) a copy of any internal rules, guidelines, protocol or other similar criterion on which the determination was based and (ii) an explanation of any scientific or clinical judgment if the determination is based on a medical necessity or experimental treatment (or similar exclusion or limit).
- (d) In the case of a denial of a claim, a Claimant may request a review of his or her claim by following the administrative procedures for a review as set forth in the Section below.

## 10.7 Claims Review Procedures

Any Claimant whose claim filed pursuant to Section 10.6 has been denied in whole or in part may request a review of his or her claim. Such Claimant must exhaust the Plan’s claim reviews procedures as set forth in this Section prior to seeking any other form of relief. The Claimant shall file a request for review under procedures established by the

Vice President for Human Resources and Administration (“Vice President”) or such other officer who assumes the functions and responsibilities of the Vice President for Human Resources and Administration or his or her delegate (the foregoing referred to as the “Claims Review Administrator”) subject to the following:

- (a) A Claimant seeking review shall file a request for review, together with a statement of his or her position, in writing with the Claims Review Administrator no later than 60 days (180 days in the case of a disability benefit claim) after the mailing or delivery of the written notice of denial provided for in Section 10.2 above.
- (b) A full and fair review of the claim shall be conducted taking into account all claim related comments, documents, records, and other information submitted by the Claimant without regard to whether such information was submitted or considered under the initial determination. The Claimant may submit written comments, documents, records, and other information relating to his or her claim. The Claimant shall be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relating to his or her claim for benefits. In the case of a disability benefit claim, if the initial determination was based in whole or in part on a medical judgment, the review will be done in consultation with a healthcare professional who has appropriate training and experience in the relevant field of medicine, who was not consulted in connection with the previous notice of denial and who is not that person’s subordinate. By filing a request for review, the Claimant shall be deemed to consent to such consultation and the sharing of pertinent medical claim information. If a medical or vocational expert is contacted in connection with a review, the Claimant shall have the right to learn the identity of such person.
- (c) The Claimant shall be furnished with a written or electronic notice of decision with respect to a request for review within the following timeframe whichever is applicable:
  - (i) If the Claims Review Administrator is the Vice President for Human Resources and Administration (“Vice President”) or such other officer who assumes the functions and responsibilities of the Vice President or if the Claims Review Administrator is a committee established by the Vice President that does not hold regularly scheduled meetings at least quarterly, the Claims Review Administrator, the Claimant shall be furnished with a written or electronic notice of decision with respect to a request for review within 60 days (45 days in the case of a disability benefit claim) following receipt by the Claims Review Administrator of the request for review and all necessary documents and information. The 60-day period (45-day period in the case of a disability benefit claim) may be extended up to an additional 60 days (45 days in the case of a disability benefit claim) should special circumstances require an extension of time for processing the claim. The Claimant shall be furnished with written or electronic notice of

the extension prior to the expiration of the initial period. The notice shall indicate the special circumstances requiring an extension of time and the date by which a final decision is expected to be rendered.

- (ii) If the Claims Review Administrator is a committee established by the Vice President that holds regularly scheduled meetings at least quarterly and the request for review does not involve a disability benefit claim, the Claims Review Administrator shall render its decision on review, no later than the date of its meeting immediately following receipt of the request for review and all necessary documents and information unless the request for review and all necessary documents and information is filed within 30 days preceding the date of such meeting. In such case, the Claims Review Administrator shall render its decision no later than the date of its second meeting following receipt of the request for review. Should special circumstances require an extension of time for processing the claim, the Claims Review Administrator shall render its decision no later than the date of its third meeting following receipt of the request for review. The Claimant shall be furnished with written or electronic notice of the extension prior to the commencement of the extension. The notice shall indicate the special circumstances requiring an extension of time and the date by which a final decision is expected to be rendered. The Claimant shall be furnished with a written or electronic notice of decision within five (5) days after the decision is rendered. If the request for review involves a disability benefit claim, the Claims Review Administrator shall render its decision within the timeframe described in paragraph (i) above.
- (d) In the event a claim is denied upon review, written or electronic notice of such denial shall be mailed or delivered to the Claimant specifically (i) setting forth the reasons for the denial, (ii) citing the relevant provisions of the Plan upon which the denial is based, (iii) informing the Claimant that he or she is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relating to his or her claim, and (iv) informing the Claimant of his or her right to bring a civil action under ERISA Section 502(a). In the case of a disability benefit claim, such notice shall also include (i) a copy of any internal rules, guidelines, protocol or other similar criterion on which the determination was based and (ii) an explanation of any scientific or clinical judgment if the determination is based on a medical necessity or experimental treatment (or similar exclusion or limit).
- (e) Any decision made hereunder shall be binding upon the Claimant and the University, and the Administrator shall take appropriate action to carry out such decision.

#### 10.8 Plan Expenses.

The expenses of administering the Plan shall be borne by the Employer. Notwithstanding the foregoing, the Administrator may direct that the Plan shall bear such expenses of administration (by direct payment or reimbursement to the Employer) as are not prohibited by applicable statute or regulation.

#### 10.9 Limitation on Fiduciary Responsibility.

No fiduciary of the Plan shall be liable:

- (a) For his or her own act, or failure to act, except as he or she has thereby occasioned actual loss to the Plan or an Employee or his or her beneficiary by failing properly to discharge a duty or responsibility expressly imposed upon him both by the Plan and by law.
- (b) For the act, or failure to act, of another fiduciary of the Plan except as he or she may commit one or more of the following breaches of his or her fiduciary responsibilities:
  - (i) If he or she participates knowingly in, or knowingly undertakes to conceal an on of another fiduciary, knowing such act or omission is act or is a breach;
  - (ii) If, by his or her failure to observe applicable standards in the administration of his or her specific responsibilities which give rise to his or her status as a fiduciary, he or she has enabled such other fiduciary to commit a breach; or
  - (iii) If he or she has knowledge of a breach by such other fiduciary and fails to make reasonable efforts under the circumstances to remedy the breach.

#### 10.10 Employer Authority.

Where not otherwise expressly provided herein, whenever the Employer under the terms of this Plan is permitted or required to do or perform any act or matter or thing it shall be done and performed by any officer thereunto duly authorized by the Employer.

#### 10.11 Indemnification.

In addition to whatever rights of indemnification a member of the Corporation, officer, employee or other individual may be entitled to under the governing instruments of the Employer (or under any provision of law or any other agreements), the Employer shall satisfy any liability actually and reasonably incurred by any such person, including expenses, attorneys' fees, judgment, fines, and amounts paid in settlement, in connection with any threatened, pending, or completed action, suit, or proceeding which is related to

the exercise or failure to exercise by the person of any of the powers, authority, responsibilities, or discretion provided under the Plan, or reasonably believed by the person to be provided thereunder, or any action taken by the person in connection with it.

**ARTICLE 11  
MISCELLANEOUS**

11.1 Participants' Rights; Acquittance.

Neither the creation of the Plan nor the payment of any benefits shall be construed as giving to any Participant or other person any legal or equitable right against the Employer, or any officer or employee thereof, except as herein provided. Under no circumstances shall the terms of employment of any Participant be modified or in any way affected hereby.

11.2 Spendthrift Clause.

The right of any Participant, spouse, or beneficiary to any benefit or to any payment hereunder shall not be subject to alienation or assignment. The preceding sentence shall not apply to qualified domestic relations order as defined in Code Section 414(p) or any domestic relations order entered before January 1, 1985.

11.3 Construction of Plan

This Plan shall be construed according to the laws of the State of Connecticut, and all provisions hereof shall be administered according to, and its validity shall be determined under, the laws of such state.

11.4 Gender and Number

Whenever any words are used herein in the masculine gender they shall be construed as though they were also used in the feminine gender in all cases where they would so apply, and wherever any words are used herein in the singular form they shall be construed as though they were also used in the plural form in all cases where they would so apply.

11.5 Trustee.

The Trustee is hereby designated as a fiduciary of the Plan. The Trustee's powers and duties as such fiduciary shall be such, and only such, as are expressly set forth in the trust agreement establishing the trust fund of the assets and property of the Plan, and the Trustee shall be liable therefor only to the extent and under the conditions set forth as to other fiduciaries of the Plan in Section 10.5 hereof.

11.6 Merger or Consolidation of Plan.

In the event of any merger or consolidation of this Plan with any other plan, or any transfer of any assets or liabilities of this Plan to another plan, each Participant then terminated, shall be entitled to receive a benefit, immediately after such merger, consolidation or transfer, which is equal to or greater than the benefit such Participant

would have been entitled to receive immediately prior to such merger, consolidation or transfer if the Plan had then terminated.

#### 11.7 Maximum Retirement Benefits.

- (a) Subject to the adjustments hereinafter set forth, the maximum annual amount of retirement income payable to a Participant in the form of a straight life annuity under this Plan shall not exceed the lesser of:
  - (i) \$90,000 (\$160,000 for limitation years beginning on or after July 1, 2002, the “Dollar Limit”); or
  - (ii) 100% of the Participant’s average compensation for the three consecutive Years of Service during which he or she had the greatest aggregate compensation from the Employer (the “Percentage Limit”).

For purposes of this Section 11.7, (i) the limitation year shall be the Plan Year and (ii) average compensation for the Percentage Limit shall be based on Plan Years.

- (b) One or more of the following adjustments shall be applied, if applicable:
  - (i) **Adjustments for Payment Form.** When benefits are paid other than as a straight life annuity (or a qualified joint and survivor annuity, which requires no adjustment under this subsection), optional forms of benefits will not exceed the actuarial equivalent of a straight life annuity providing the annual retirement income described in subsection (a) above. For limitation years beginning on or after July 1, 1995, the actuarially equivalent straight life annuity shall be the greater of the annuity benefit computed using the interest rate and mortality table specified in Section 2.3 or the annuity benefit computed a 5% interest rate and the applicable mortality table specified in Section 2.3. For limitation years beginning prior to July 1, 1995, the actuarially equivalent straight life annuity shall be computed using the greater of a 5% interest rate or the interest rate specified in Section 2.3.
  - (ii) **Adjustment for Cost of Living.** As of each January 1, the Dollar Limit shall be adjusted annually for increases in the cost of living in accordance with Regulations prescribed by the Secretary of the Treasury under Code Section 415(d) and will apply to limitation years ending with or within the calendar year for which the adjustment applies.
  - (iii) **Adjustment for Fewer Than Ten Years of Participation/Service.** If a Participant has completed less than a total of ten years of participation, the Participant’s Dollar or Percentage Limits shall be adjusted by multiplying such amount by a fraction, the numerator of which is the Participant’s number of Years of Participation (or part thereof) (Years of Service (or

part thereof) for the Percentage Limit) in the Plan, and the denominator of which is ten. In no event will the adjustments reduce the Dollar or Percentage Limits to an amount less than one-tenth of such limits.

- (iv) Adjustment for Increase in the Limitations of Code Section 415(b). Benefit increases resulting from the increase in the limitations of Code Section 415(b) shall be provided to all Employees participating in the Plan who have one Hour of Service on or after the first day of the first limitation year ending after December 31, 2001.
- (c) Adjustment for Early or Deferred Commencement for Limitations Years beginning prior to July 1, 2002.
  - (i) If the retirement income payable to a Participant commences after age 65, the Dollar Limit (as reduced in subsection (b)(iii) above, if necessary) shall not exceed its actuarial equivalent based upon the age at which such retirement income commences and computed using (i) the interest rate and mortality table specified in Section 2.3 or (ii) a 5% interest rate and the applicable mortality table specified in Section 2.3.
  - (ii) If the retirement income payable to a Participant commences prior to age 62, the Dollar Limit shall be the actuarial equivalent of an annual benefit beginning at age 62 as determined in paragraph (i) above reduced for each month by which retirement income commences before the month in which the Participant attains age 62. The reduced Dollar Limit shall be the lesser of the actuarially equivalent amount of the Dollar Limit at age 62 (determined in accordance with subsection (c)(i) above) computed using (i) the interest rate and mortality table specified in Section 2.3 or (ii) a 5% interest rate and the applicable mortality table specified in Section 2.3; provided, however, that if such retirement income commences on or after age 55, the dollar limitation in subsection (a) shall not be reduced to less than \$75,000. If the retirement income commences before age 55, the dollar limitation shall not be reduced to be less than the amount which is the equivalent of \$75,000 at age 55.
- (d) Adjustment for Early or Deferred Commencement for Limitations Years beginning on or after July 1, 2002.
  - (i) If the retirement income payable to a Participant commences after age 65, the Dollar Limit applicable to the Participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the Dollar Limit applicable to the Participant at age 65 (as reduced in subsection (b)(iii) above, if necessary). The actuarial equivalent of the Dollar Limit applicable at an age after age 65 is determined as the lesser of (i) the actuarial equivalent (at such age) of the Dollar Limit computed using the interest rate and mortality table

specified in Section 2.3 or (ii) the actuarial equivalent (at such age) of the Dollar Limit computed using a 5 percent interest rate assumption and the applicable mortality table specified in Section 2.3. For these purposes, mortality between age 65 and the age at which benefits commence shall be ignored.

(ii) If the retirement income payable to a Participant commences prior to age 62, the Dollar Limit applicable to the Participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the Dollar Limit applicable to the Participant at age 62 (as reduced in subsection (b)(iii) above, if necessary). The Dollar Limit applicable at an age prior to age 62 is determined as the lesser of (i) the actuarial equivalent (at such age) of the Dollar Limit computed using the interest rate and mortality table specified in Section 2.3 or (ii) the actuarial equivalent (at such age) of the Dollar Limit computed using a 5% interest rate and the applicable mortality table specified in Section 2.3. Any decrease in the Dollar Limit determined in accordance with this subparagraph (ii) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the Participant. If any benefits are forfeited upon death, the full mortality decrement is taken into account.

(e) Calculation of Lump Sum Distributions. In the event retirement benefits payable to a Participant are paid in the form of a lump sum during a Plan Year beginning after December 31, 2003, the actuarially equivalent straight life annuity (that is used for demonstrating compliance with Code Section 415) shall be determined as follows:

(i) Annuity Starting Date in Plan Years Beginning After 2005. If the Annuity Starting Date of the Participant's form of benefit is in a Plan Year beginning after 2005, the actuarially equivalent straight life annuity is equal to the greatest of (1) the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using the interest rate and mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form; (2) the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using a 5.5 percent interest rate assumption and the applicable mortality table defined in the Plan; or (3) the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using the applicable interest rate and applicable mortality table defined in the Plan, divided by 1.05.

- (ii) Annuity Starting Date in Plan Years Beginning in 2004 or 2005. If the Annuity Starting Date of the Participant's form of benefit is in a Plan Year beginning in 2004 or 2005, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the Participant's form of benefit, computed using whichever of the following produces the greater annual amount: (1) the interest rate and mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form or (2) a 5.5% interest rate assumption and the applicable mortality table defined in the Plan.
- (f) Code Section 415 Compensation. Compensation for Code Section 415 purposes means compensation as described in Treasury Regulation § 1.415(c)-2(b) (Treasury Regulation § 1.415-2(d)(2) as in effect for Limitation Years beginning prior to July 1, 2007) not to exceed \$200,000 (or such other amount determined from time to time under Code Section 401(a)(17)). 415 Compensation shall include (i) amounts includible in the gross income of a Participant under the rules of Code Section 409A or Code Section 457(f)(1)(A) or because the amounts are constructively received by the Participant during Limitation Years beginning on or after July 1, 2007 and (ii) differential wage payments (as defined in Code Section 3401(h)(2)) paid to a Participant on or after January 1, 2009 during qualified military service (as defined in Code Section 414(u)(5)). For Limitation Years beginning on or after July 1, 2007, 415 Compensation shall not include any amounts paid after a Participant's Severance or amounts earned but not paid during the Limitation Year solely because of the timing of pay periods and pay dates.
- (g) Notwithstanding anything contained in this Section 11.7 to the contrary, the limitations, adjustments, and other requirements prescribed in this Section 11.7 shall at all times comply with the provisions of Code Section 415 and the final regulations thereunder, the terms of which are specifically incorporated herein by reference.

#### 11.8 Applicability.

The provisions of this Plan as amended effective July 1, 1976, shall apply to all persons who are Employees on that date. The rights of all persons who ceased to be Employees prior to July 1, 1976 by reason of death, retirement for reasons of disability or age, or otherwise shall be determined under the "Yale University Retirement Plan for Non-Faculty Employees" as the same existed at the time such employment terminated.

## 11.9 Maximum Compensation.

In addition to other applicable limitations under the Plan, and notwithstanding any other provisions of the Plan, the annual compensation of each Participant taken into account under the Plan for Plan Years commencing on or after July 1, 1994 shall not exceed \$150,000 (\$200,000 for Plan Years commencing on or after July 1, 2002), as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the Plan Year that begins with or within such calendar year. For Plan Years beginning prior to July 1, 1997, the family aggregation rules described in Code Section 414(q)(6) shall apply to the extent required therein. For purposes of determining benefit accruals for Plan Years commencing on or after July 1, 2002, the annual compensation limit for Plan Years beginning before July 1, 2002 shall be \$200,000.

## 11.10 Minimum Required Distributions.

Notwithstanding anything in the Plan to the contrary, the distribution of vested benefits under the Plan shall be made in accordance with Code Section 401(a)(9) and final Treasury Regulations thereunder and the provisions of this Section shall override any payment option in the Plan inconsistent with Code Section 401(a)(9).

### (a) Time and Manner of Distribution.

- (i) **Required Beginning Date.** A Participant's benefits shall be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.
- (ii) **Death of Participant Before Distributions Begin.** If a Participant dies before distributions begin, the Participant's benefits shall be distributed, or begin to be distributed, no later than as follows:
  - (1) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then, except as provided in subsection (c), distributions to the surviving spouse shall 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 70  $\frac{1}{2}$ , if later.
  - (2) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then, except as provided in subsection (c), distributions to the Designated Beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
  - (3) 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 shall be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

- (4) 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 paragraph (ii), other than subparagraph (1) above, shall apply as if the surviving spouse were the Participant.

For purposes of this paragraph (ii) and subsection (c), unless subparagraph (4) above applies, distributions are considered to begin on the Participant's Required Beginning Date. If subparagraph (4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under subparagraph (1). If, prior to the Participant's Required Beginning Date, distributions under an annuity purchased from an insurance company irrevocably commence to the Participant (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under subparagraph (1)), the date distributions are considered to begin is the date distributions actually commence.

- (iii) **Forms of Distribution.** Unless the Participant's benefits are distributed in a single sum or in the form of an annuity purchased from an insurance company on or before the Required Beginning Date, distributions under the Plan shall be made in accordance with subsection (c) as of the first Distribution Calendar Year. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder shall be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury Regulations.
- (b) **Minimum Required Distributions.** On or after January 1, 2003 and notwithstanding anything in the Plan to the contrary, the distribution of benefits shall be made in accordance with Code Section 401(a)(9) and Treasury Regulations issued thereunder on June 15, 2004.
  - (i) **Determination of Amount to be Distributed Each Year.**
    - (1) **General Annuity Requirements.** If a Participant's benefit is paid in the form of an annuity, payments under the annuity shall satisfy the following requirements:
      - (A) The annuity distributions shall be paid in periodic payments made at intervals not longer than one year;

- (B) The distribution period shall be over a life (or lives) or over a period certain not longer than the period described in paragraph (ii) or (iii); and
  - (C) Payments shall either be nonincreasing or increase only as permitted under Treasury Regulation § 1.401(a)(9)-6, Q&A-14.
- (2) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under subsection (a)(ii)(1) or (2)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, *e.g.*, bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first Distribution Calendar Year shall be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.
- (3) Additional Accruals after First Distribution Calendar Year. Any additional benefits accruing to the Participant in a calendar year after the first Distribution Calendar Year shall be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.
- (ii) Requirement for Joint Life Annuities that Commence During Participant's Lifetime Where the Co-Annuitant is not the Participant's Spouse. If the Participant's benefit is being distributed in the form of a Survivor Annuity for the joint lives of the Participant and a non-spouse co-annuitant, annuity payments to be made on or after the Participant's Required Beginning Date to such co-annuitant after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Treasury Regulation § 1.401(a)(9)-6, Q&A-2. The applicable percentage is based on the adjusted Participant/co-annuitant age difference. The adjusted Participant/co-annuitant age difference is determined by first calculating the excess of the age of the Participant over the age of the co-annuitant based on their ages on their birthdays in a calendar year. If the Participant is younger than age 70, the age difference determined in the previous sentence is reduced by the number of years that the Participant is younger than age 70 on the Participant's birthday in the calendar year that

contains the Annuity Starting Date. In the case of an annuity that provides for increasing payments, the requirement of this paragraph will not be violated merely because benefit payments to the co-annuitant increase, provided the increase is determined in the same manner for the Participant and the co-annuitant.

(iii) Requirements for Minimum Distributions Where Participant Dies Before Date Distributions Begin.

(1) Participant Survived by Designated Beneficiary. Except as provided in subsection (c), if the Participant dies before the date distribution of his or her benefit begins and there is a Designated Beneficiary, the Participant's benefit shall be distributed, beginning no later than the time described in subsection (a)(ii)(1) or (2), over the life of the Designated Beneficiary or over a period certain not exceeding:

(A) Unless the Annuity Starting Date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the Designated Beneficiary's age as of the Designated Beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or

(B) If the Annuity Starting Date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the Designated Beneficiary's age as of the Designated Beneficiary's birthday in the calendar year that contains the Annuity Starting Date.

(2) 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 vested benefit shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Participant dies before the date distribution of his or her vested benefit begins, the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this paragraph (iii) shall apply as if the surviving spouse were the Participant, except that the time by which distributions must begin will be determined without regard to subsection (a)(ii)(1).

- (iv) Minimum Required Distributions Made or Commencing Prior to January 1, 2003. Notwithstanding anything in the Plan to the contrary, the distribution of benefits under the Plan shall be made in accordance with Code Section 401(a)(9) and the Treasury Regulations issued thereunder and then in effect, including the minimum distribution incidental benefit requirement of Section 1.401(a)(9)-2.
- (c) Elections.
  - (i) Election to Apply 5-Year Rule to Distributions to Designated Beneficiaries. If the Participant dies before distributions begin and there is a Designated Beneficiary, distribution to the Designated Beneficiary is not required to begin by the date specified in subsection (a)(ii), but the Participant's entire vested interest in the Plan shall be distributed to the Designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death. Participants or Designated Beneficiaries may elect on an individual basis whether the 5-year rule or the life expectancy rule in subsection (b)(iii) 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 subsection (a), 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 Designated Beneficiary makes an election under this subsection, distributions shall be made in accordance with subsection (b)(iii). 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 either the Participant or the surviving spouse begin, this election shall apply as if the surviving spouse were the Participant.
  - (ii) Election to Allow Designated Beneficiary Receiving Distributions Under 5-Year Rule to Elect Life Expectancy Distributions. A Designated Beneficiary who is receiving payments under the 5-year rule described in paragraph (i) above may make a new election to receive payments under the life expectancy rule until December 31, 2003, provided that all amounts that would have been required to be distributed under the life expectancy rule for all Distribution Calendar Years before 2004 are distributed by the earlier of December 31, 2003 or the end of the 5-year period.
  - (iii) Election under TEFRA Section 242(b)(2). Notwithstanding any provision in this Section to the contrary, distributions under the Plan 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).

- (d) Definitions. For purposes of this Section, the following definitions shall apply:
- (i) “Designated Beneficiary” means the individual who is designated as the Beneficiary under the Plan and is the Designated Beneficiary under Code Section 401(a)(9) and Treasury Regulation § 1.401(a)(9)-1, Q&A-4.
  - (ii) “Distribution Calendar Year” means 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 that 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 subsection (a)(ii).
  - (iii) “Life Expectancy” means life expectancy as computed by use of the Single Life Table in Treasury Regulation § 1.401(a)(9)-9.
  - (iv) “Required Beginning Date” means:
    - (1) April 1 of the calendar year following the calendar year in which the Participant attains age 70½ or, if later, April 1 of the calendar year following the calendar year in which the Participant incurs a Severance; and
    - (2) April 1 of the calendar year following the calendar year in which the Participant attained age 70½ in the case of a Participant who attained age 70½ prior to 1997.

#### 11.11 Benefit Restrictions.

Notwithstanding any other provisions of the Plan, if the Plan’s adjusted funding target attainment percentage is less than 80% or if the University is in bankruptcy, the following limitations shall apply:

- (a) Limitations Applicable if the Plan’s Adjusted Funding Target Attainment Percentage is less than 80%, but not less than 60%. If the Plan’s adjusted funding target attainment percentage for a Plan Year is less than 80% (or would be less than 80% to the extent described in paragraph (ii) below) but is not less than 60%, then the limitations set forth in this subsection (a) shall apply.
  - (i) 50% Limitation on Single Sum Payments, Other Accelerated Forms of Distribution, and Other Prohibited Payments. A Participant or beneficiary shall not be permitted to elect, and the Plan shall not pay, a single sum payment or other optional form of benefit that includes a prohibited payment with an annuity starting date on or after the applicable Code

Section 436 measurement date, and the Plan shall not make any payment for the purchase of an irrevocable commitment from an insurer to pay benefits or any other payment or transfer that is a prohibited payment, unless the present value of the portion of the benefit that is being paid in a prohibited payment does not exceed the lesser of:

- (1) 50% of the present value of the benefit payable in the optional form of benefit that includes the prohibited payment; or
- (2) 100% of the PBGC maximum benefit guarantee amount (as defined in Treasury Regulation § 1.436-1(d)(3)(iii)(C)).

The limitation set forth in this paragraph (i) shall not apply to any payment of a benefit which under Code Section 411(a)(11) may be immediately distributed without the consent of the Participant. If an optional form of benefit that is otherwise available under the terms of the Plan is not available to a Participant or beneficiary as of the annuity starting date because of the application of the requirements of this paragraph (i), the Participant or beneficiary shall be permitted to elect to bifurcate the benefit into unrestricted and restricted portions as described in Treasury Regulation § 1.436-1(d)(3)(iii)(D). The Participant or beneficiary may also elect any other optional form of benefit otherwise available under the Plan at that annuity starting date that would satisfy the 50%/100% PBGC maximum benefit guarantee amount limitation described in this paragraph (i), or may elect to defer the benefit in accordance with any general right to defer commencement of benefits under the Plan.

- (ii) **Plan Amendments Increasing Liability for Benefits.** No amendment to the Plan that has the effect of increasing liabilities of the Plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable shall take effect in a Plan Year if the adjusted funding target attainment percentage for the Plan Year is:

- (1) Less than 80%; or
- (2) 80% or more, but would be less than 80% if the benefits attributable to the amendment were taken into account in determining the adjusted funding target attainment percentage.

The limitation set forth in this paragraph (ii) shall not apply to any amendment to the Plan that provides a benefit increase under a plan formula that is not based on Annual Compensation; provided, that the rate of such increase does not exceed the contemporaneous rate of increase in the average wages of participants covered by the amendment.

- (b) Limitations Applicable if the Plan's Adjusted Funding Target Attainment Percentage is less than 60%. If the Plan's adjusted funding target attainment percentage for a Plan Year is less than 60% (or would be less than 60% to the extent described in paragraph (ii) below), then the limitations in this subsection (b) shall apply.
- (i) Single Sums, Other Accelerated Forms of Distribution, and Other Prohibited Payments Not Permitted. A Participant or beneficiary shall not be permitted to elect, and the Plan shall not pay, a single sum payment or other optional form of benefit that includes a prohibited payment with an annuity starting date on or after the applicable Code Section 436 measurement date, and the Plan shall not make any payment for the purchase of an irrevocable commitment from an insurer to pay benefits or any other payment or transfer that is a prohibited payment. The limitation set forth in this paragraph (i) shall not apply to any payment of a benefit which under Code Section 411(a)(11) may be immediately distributed without the consent of the Participant.
  - (ii) Shutdown Benefits and Other Unpredictable Contingent Event Benefits not Permitted to be Paid. An unpredictable contingent event benefit with respect to an unpredictable contingent event occurring during a Plan Year shall not be paid if the adjusted funding target attainment percentage for the Plan Year is:
    - (1) Less than 60%; or
    - (2) 60% or more, but would be less than 60% if the adjusted funding target attainment percentage were redetermined applying an actuarial assumption that the likelihood of occurrence of the unpredictable contingent event during the Plan Year is 100 percent.
  - (iii) Benefit Accruals Frozen. Benefit accruals under the Plan shall cease as of the applicable Code Section 436 measurement date. In addition, if the Plan is required to cease benefit accruals under this paragraph (iii), then the Plan is not permitted to be amended in a manner that would increase the liabilities of the Plan by reason of an increase in benefits or establishment of new benefits.
- (c) Limitations Applicable if the University is in Bankruptcy. A Participant or beneficiary shall not be permitted to elect, and the Plan shall not pay, a single sum payment or other optional form of benefit that includes a prohibited payment with an annuity starting date that occurs during any period in which the University is a debtor in a case under title 11, United States Code, or similar Federal or State law, except for payments made within a Plan Year with an annuity starting date that occurs on or after the date on which the Plan's enrolled actuary certifies that the Plan's adjusted funding target attainment percentage for that Plan Year is not less

than 100%. In addition, during such period in which the University is a debtor, the Plan shall not make any payment for the purchase of an irrevocable commitment from an insurer to pay benefits or any other payment or transfer that is a prohibited payment, except for payments that occur on a date within a Plan Year that is on or after the date on which the Plan's enrolled actuary certifies that the Plan's adjusted funding target attainment percentage for that Plan Year is not less than 100%. The limitation set forth in this subsection (c) shall not apply to any payment of a benefit which under Code Section 411(a)(11) may be immediately distributed without the consent of the Participant.

- (d) Provisions Applicable After Limitations Cease to Apply.
- (i) Resumption of Prohibited Payments. If a limitation on prohibited payments under subsection (a)(i), subsection (b)(i), or subsection (c) applied to the Plan as of a Code Section 436 measurement date, but that limit no longer applies to the Plan as of a later Code Section 436 measurement date, then that limitation shall not apply to benefits with annuity starting dates that are on or after that later Code Section 436 measurement date.
  - (ii) Shutdown and Other Unpredictable Contingent Event Benefits. If an unpredictable contingent event benefit with respect to an unpredictable contingent event that occurs during the Plan Year is not permitted to be paid after the occurrence of the event because of the limitation of subsection (b)(ii), but is permitted to be paid later in the same Plan Year (as a result of additional contributions or pursuant to the Plan's enrolled actuary's certification of the adjusted funding target attainment percentage for the Plan Year that meets the requirements of Treasury Regulation § 1.436-1(g)(5)(ii)(B)), then that unpredictable contingent event benefit shall be paid, retroactive to the period that benefit would have been payable under the terms of the Plan (determined without regard to subsection (b)(ii)). If the unpredictable contingent event benefit does not become payable during the Plan Year in accordance with the preceding sentence, then the Plan shall be treated as if it does not provide for that benefit.
  - (iii) Resumption of Benefit Accruals. If a limitation on benefit accruals under subsection (b)(iii) applied to the Plan as of a Code Section 436 measurement date, but that limitation no longer applies to the Plan as of a later Code Section 436 measurement date, then benefit accruals shall resume prospectively and that limitation shall not apply to benefit accruals that are based on service on or after that later Code Section 436 measurement date, except as otherwise provided under the Plan. The Plan shall comply with the rules relating to partial years of participation and the prohibition on double proration under Department of Labor Regulation 29 CFR § 2530.204-2(c) and (d).

- (iv) Treatment of Plan Amendments That Do Not Take Effect. If a Plan amendment does not take effect as of the effective date of the amendment because of the limitation of subsection (a)(ii) or subsection (b)(iii), but is permitted to take effect later in the same Plan Year (as a result of additional contributions or pursuant to the Plan's enrolled actuary's certification of the adjusted funding target attainment percentage for the Plan Year that meets the requirements of Treasury Regulation § 1.436-1(g)(5)(ii)(C)), then the Plan amendment must automatically take effect as of the first day of the Plan Year (or, if later, the original effective date of the amendment). If the Plan amendment cannot take effect during the same Plan Year, then it shall be treated as if it were never adopted, unless the Plan amendment provides otherwise.
- (e) Notice Requirement. In accordance with ERISA Section 101(j), the Plan Administrator shall provide a written notice to Participants and Beneficiaries within 30 days after certain specified dates if the Plan becomes subject to a limitation described in subsection (a)(i), subsection (b), or subsection (c).
- (f) Methods to Avoid or Terminate Benefit Limitations. In general, the methods the University may use to avoid or terminate one or more of the benefit limitations under subsections (a) through (c) for a Plan Year include employer contributions and elections to increase the amount of Plan assets which are taken into account in determining the adjusted funding target attainment percentage, making an employer contribution that is specifically designated as a current year contribution that is made to avoid or terminate application of certain of the benefit limitations, or providing security to the Plan. For purposes of this subsection (f), Code Section 436(b)(2), (c)(2), (e)(2), and (f) and Treasury Regulation § 1.436-1(f) are incorporated herein by this reference.
- (g) Special Rules.
  - (i) Rules of Operation for Periods Prior to and After Certification of Plan's Adjusted Funding Target Attainment Percentage.
    - (1) In General. Code Section 436(h) and Treasury Regulation § 1.436-1(h) set forth a series of presumptions that apply (i) before the Plan's enrolled actuary issues a certification of the Plan's adjusted funding target attainment percentage for the Plan Year and (ii) if the Plan's enrolled actuary does not issue a certification of the Plan's adjusted funding target attainment percentage for the Plan Year before the first day of the 10th month of the Plan Year (or if the Plan's enrolled actuary issues a range certification for the Plan Year pursuant to Treasury Regulation § 1.436-1(h)(4)(ii) but does not issue a certification of the specific adjusted funding target attainment percentage for the Plan by the last day of the Plan

Year). For any period during which a presumption under Code Section 436(h) and Treasury Regulation § 1.436-1(h) applies to the Plan, the limitations under subsections (a) through (c) shall be applied to the Plan as if the adjusted funding target attainment percentage for the Plan Year were the presumed adjusted funding target attainment percentage determined under the rules of Code Section 436(h) and Treasury Regulation § 1.436-1(h)(1), (2), or (3). These presumptions are set forth in subparagraphs (2) through (4) below.

- (2) **Presumption of Continued Underfunding Beginning First Day of Plan Year.** If a limitation under subsections (a), (b), or (c) applied to the Plan on the last day of the preceding Plan Year, then, commencing on the first day of the current Plan Year and continuing until the Plan's enrolled actuary issues a certification of the adjusted funding target attainment percentage for the Plan for the current Plan Year, or, if earlier, the date subparagraph (3) or (4) below applies to the Plan:
  - (A) The adjusted funding target attainment percentage of the Plan for the current Plan Year is presumed to be the adjusted funding target attainment percentage in effect on the last day of the preceding Plan Year; and
  - (B) The first day of the current Plan Year is a Code Section 436 measurement date.
- (3) **Presumption of Underfunding Beginning First Day of 4<sup>th</sup> Month.** If the Plan's enrolled actuary has not issued a certification of the adjusted funding target attainment percentage for the Plan Year before the first day of the 4<sup>th</sup> month of the Plan Year and the Plan's adjusted funding target attainment percentage for the preceding Plan Year was either at least 60% but less than 70% or at least 80% but less than 90%, or is described in Treasury Regulation § 1.436-1(h)(2)(ii), then, commencing on the first day of the 4<sup>th</sup> month of the current Plan Year and continuing until the Plan's enrolled actuary issues a certification of the adjusted funding target attainment percentage for the Plan for the current Plan Year, or, if earlier, the date subparagraph (4) below applies to the Plan:
  - (A) The adjusted funding target attainment percentage of the Plan for the current Plan Year is presumed to be the Plan's adjusted funding target attainment percentage for the preceding Plan Year reduced by 10 percentage points; and

- (B) The first day of the 4<sup>th</sup> month of the current Plan Year is a Code Section 436 measurement date.
- (4) **Presumption of Underfunding On and After First Day of 10<sup>th</sup> Month.** If the Plan’s enrolled actuary has not issued a certification of the adjusted funding target attainment percentage for the Plan Year before the first day of the 10<sup>th</sup> month of the Plan Year (or if the Plan’s enrolled actuary has issued a range certification for the Plan Year pursuant to Treasury Regulation § 1.436-1(h)(4)(ii) but has not issued a certification of the specific adjusted funding target attainment percentage for the Plan by the last day of the Plan Year), then, commencing on the first day of the 10<sup>th</sup> month of the current Plan Year and continuing through the end of the Plan Year:
- (A) The adjusted funding target attainment percentage of the Plan for the current Plan Year is presumed to be less than 60%; and
  - (B) The first day of the 10<sup>th</sup> month of the current Plan Year is a Code Section 436 measurement date.
- (ii) **New Plans, Plan Termination, Certain Frozen Plans, and Other Special Rules.**
- (1) **First 5 Plan Years.** The limitations in subsection (a)(ii), subsection (b)(ii), and subsection (b)(iii) shall not apply to a new plan for the first 5 Plan Years of the Plan, determined under the rules of Code Section 436(i) and Treasury Regulation § 1.436-1(a)(3)(i).
  - (2) **Plan Termination.** The limitations on prohibited payments in subsection (a)(i), subsection (b)(i), and subsection (c) shall not apply to prohibited payments that are made to carry out the termination of the Plan in accordance with applicable law. Any other limitations under this Section shall not cease to apply as a result of termination of the Plan.
  - (3) **Exception to Limitations on Prohibited Payments Under Certain Frozen Plans.** The limitations on prohibited payments set forth in subsection (a)(i), subsection (b)(i), and subsection (c) shall not apply for a Plan Year if the terms of the Plan, as in effect for the period beginning on September 1, 2005, and continuing through the end of the Plan Year, provide for no benefit accruals with respect to any Participants. This subparagraph (3) shall cease to apply as of the date any benefits accrue under the Plan or the date on which a Plan amendment that increases benefits takes effect.

- (4) Special Rules Relating to Unpredictable Contingent Event Benefits and Plan Amendments Increasing Benefit Liability. During any period in which none of the presumptions under subsection (g)(i) apply to the Plan and the Plan's enrolled actuary has not yet issued a certification of the Plan's adjusted funding target attainment percentage for the Plan Year, the limitations under subsection (a)(ii) and subsection (b)(ii) shall be based on the inclusive presumed adjusted funding target attainment percentage for the Plan, calculated in accordance with the rules of Treasury Regulation § 1.436-1(g)(2)(iii).
- (iii) Special Rules Under PRA 2010.
  - (1) Payments Under Social Security Leveling Options. For purposes of determining whether the limitations under subsection (a)(i) or subsection (b)(i) apply to payments under a social security leveling option, within the meaning of Code Section 436(j)(3)(C)(i), the adjusted funding target attainment percentage for a Plan Year shall be determined in accordance with the "Special Rule for Certain Years" under Code Section 436(j)(3) and any Treasury Regulations or other published guidance thereunder issued by the Internal Revenue Service.
  - (2) Limitation on Benefit Accruals. For purposes of determining whether the accrual limitation under subsection (b)(iii) applies to the Plan, the adjusted funding target attainment percentage for a Plan Year shall be determined in accordance with the "Special Rule for Certain Years" under Code Section 436(j)(3) (except as provided under section 203(b) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, if applicable).
- (iv) Interpretation of Provisions. The limitations imposed by this subsection shall be interpreted and administered in accordance with Code Section 436 and Treasury Regulation § 1.436-1.
- (h) Special Optional Forms of Benefit if 50% Limitation Applied to Single Sum Payments. In addition, during a period when subsection (a)(i) applies to the Plan, Participants and Beneficiaries shall be permitted to elect payment in any optional form of benefit otherwise available under the Plan that provides for the current payment of the unrestricted portion of the benefit (as described in Treasury Regulation § 1.436-1(d)(3)(iii)(D)), with a delayed commencement for the restricted portion of the benefit (subject to other applicable qualification requirements, such as Code Sections 411(a)(11) and 401(a)(9)).

- (i) Definitions. The definitions in the following Treasury Regulations shall apply for purposes of subsections (a) through (h): Treasury Regulation § 1.436-1(j)(1) defining adjusted funding target attainment percentage; Treasury Regulation § 1.436-1(j)(2) defining annuity starting date; Treasury Regulation § 1.436-1(j)(6) defining prohibited payment; Treasury Regulation § 1.436-1(j)(8) defining Code Section 436 measurement date; and Treasury Regulation § 1.436-1(j)(9) defining an unpredictable contingent event and an unpredictable contingent event benefit.

**ARTICLE 12**  
**TOP HEAVY STATUS**

12.1 Applicability.

This Section shall apply only in the event the Plan is “top-heavy” (as defined below) for a Plan Year and Code Section 416 is in effect and applicable.

12.2 Minimum Vesting Rules.

For any Plan Year during which the Plan is top-heavy, a Participant shall be vested as follows: the accrued benefit of a Participant shall be 20% vested in him only after two (2) Years of Service, and additional 20% for each Year of Service thereafter, so that said accrued benefit shall be 100% vested in him after six (6) Years of Service.

12.3 Minimum Benefits.

For any Plan Year during which the Plan is top-heavy, each non-Key Employee’s accrued benefit (expressed as a normal retirement benefit payable annually in the form of a single life annuity commencing at Normal Retirement Date with no ancillary benefits) or the actuarial equivalent thereof, shall be not less than the multiple of: (i) the Participant’s average compensation (for the five consecutive years when the Participant had the greatest aggregate compensation from the Employer, but adjusted for years not included in a Year of Service) times (ii) 2% per year of service (not to exceed 20%). For Plan Years beginning on or after July 1, 2002, for purposes of satisfying the minimum benefit requirements of Code Section 416(c)(1) and the Plan, in determining years of service with the Employer, any service with the Employer shall be disregarded to the extent that such service occurs during a Plan Year when the Plan benefits (within the meaning of Code Section 410(b)) no Key Employee or former Key Employee.

12.4 Definitions.

For purposes of this Section, the following definitions shall apply:

- (a) A “top-heavy plan” means, with respect to any Plan Year, the Plan if, as of the Determination Date, the sum of (i) the present value of the cumulative accrued benefits as of the most recent Valuation Date for Key Employees under all defined benefit plans of an Aggregation Group and (ii) the accounts as of the most recent Valuation Date for Key Employees under all defined contribution plans of an Aggregation Group exceeds 60 percent of the sum of (i) the present value of the cumulative accrued benefits as of the most recent Valuation Date for all employees under all defined benefit plans of an Aggregation Group and (ii) the accounts as of the most recent Valuation Date for all employees under all defined contribution plans of an Aggregation Group. For Plan Years beginning on or after July 1, 2002, the present value of the cumulative accrued benefits and the accounts of an employee as of the Determination Date shall be increased by the

distributions made with respect to the employee under the Plan and any plan aggregated with the Plan under Code Section 416(g)(2) during the 1-year period ending on the Determination Date. The preceding sentence shall also apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the plan under Code Section 416(g)(2)(A)(i). In the case of a distribution made for a reason other than severance of employment, death, or disability, this provision shall be applied by substituting “5-year period” for “1-year period.” In addition, the present value of the cumulative accrued benefits and accounts of any individual who has not performed services for the Employer during the 1-year period ending on the Determination Date shall not be taken into account.

- (b) “Aggregation group” means each plan in which a Key Employee is a participant and each other plan which enables a plan to meet the requirements of Code Sections 401(a)(4) or 410.
- (c) “Top-heavy group” means any aggregation group if the sum (as of the determination date) of (i) the present value of the cumulative accrued benefits for Key Employees under all defined benefit plans included in such group and (ii) the aggregate of the accounts of Key Employees under all defined contribution plans included in such group, exceeds 60% of a similar sum determined for all employees.
- (e) “Key Employee” means any Participant or former employee, who at any time during the Plan Year or any of the four preceding Plan Years, is (i) an officer of the Employer having annual compensation greater than 50% of the amount in effect under Code Section 415(b)(1)(A) for any such Plan Year but not more than 50 Employees (or if lesser the greater of three or 10% of the Employees), (ii) one of ten Employees having annual compensation greater than the amount in effect under Code Section 415(c)(1)(A) and owning both more than a 1/2% interest and the largest interests in the Employer, (iii) a 5% owner of the Employer, or (iv) a 1% owner of the Employer having an annual compensation from the Employer of more than \$150,000. For Plan Years beginning on or after July 1, 2002, “Key Employee” means any Participant or former employee (including any deceased employee) who at any time during the Plan Year was an officer of the Employer having annual compensation greater than \$130,000 (as adjusted under Code Section 416(i)(1) for Plan Years beginning after July 1, 2003), a 5-percent owner of the Employer, or a 1-percent owner of the Employer having annual compensation of more than \$150,000. For this purpose, annual compensation means compensation within the meaning of Code Section 415(c)(3). The determination of who is a key employee will be made in accordance with Code Section 416(i)(1) and the applicable regulations and other guidance of general applicability issued thereunder.
  - (i) “Non-Key Employee” means an employee who is not a Key Employee.

- (ii) The terms Key Employee, former Key Employee, and non-Key Employee shall include the beneficiaries of such individuals.
- (f) “Aggregation Group” means either a Required Aggregation Group or a Permissive Aggregation Group as hereinafter determined:
  - (i) Required Aggregation Group means each qualified plan of the Employer in which at least one Key Employee is a Participant during the Plan Year or any of the four (4) preceding Plan Years (regardless of whether the Plan was terminated) and any other qualified plan with the Employer which enables any plan in which a Key Employee participates to meet the requirements of Code Sections 401(a)(4) or 410.
  - (ii) Permissive Aggregation Group means the Required Aggregation Group plus any other plan(s) which the Employer may elect to include provided the resulting group taken as a whole would continue to satisfy the requirements of Code Sections 401(a)(4) and 410. No plan in the Permissive Aggregation Group will be considered a top heavy plan if the Permissive Aggregation Group is not a top heavy group. Only a plan that is part of the Required Aggregation Group will be considered a top heavy plan if the Permissive Aggregation Group is a top heavy group.
- (g) “Determination Date” means, with respect to any Plan Year, the last day of the preceding Plan Year, or in the case of the first Plan Year of any plan, the last day of the first Plan Year.
- (h) “Valuation Date” means, with respect to a defined benefit plan, the valuation date used for computing plan costs for minimum funding and, with respect to a defined contribution plan, the most recent valuation within a 12-month period ending on the Determination Date.

IN WITNESS WHEREOF, the University has caused this instrument to be executed on this 28 day of JUNE, 2017.

YALE UNIVERSITY

By:   
Michael A. Peel  
Vice President for Human Resources and Administration

FIRST AMENDMENT TO THE  
YALE UNIVERSITY  
RETIREMENT PLAN FOR STAFF EMPLOYEES  
(Restated as of July 1, 2017)

The Yale University Retirement Plan for Staff Employees (the "Plan") is hereby amended as follows:

- I. The reference to "subsection (f)" in Section 2.5 (f) of the Plan is amended effective July 1, 2017 to read as "subsection (g)".
- II. The reference to "subsection (d)" in Section 4.1(d) of the Plan is amended effective July 1, 2017 to read as "subsection (e)".
- III. The second sentence of Section 5.1(e) of the Plan is amended effective July 1, 2017 to read as follows:

"The mandatory Single Lump Sum Payment shall apply to a Participant if the lump sum value of his or her applicable retirement benefit is \$5,000 or less determined as of Severance or, if later, within a reasonable time on or after July 1, 2016."

- IV. A new Section 5.6 is added to the Plan immediately following Section 5.5 of the Plan effective February 19, 2018 to read as follows:

5.6 Special 2018 Payment Election.

Notwithstanding any provision of the Plan to the contrary, a Participant described in Appendix B to the Plan may elect to receive his or her retirement benefit under the Plan immediately in the form of a lump sum or annuity, as provided in Appendix B to the Plan. Appendix B to the Plan describes the eligibility for such payment option, the election period with respect to such payment option and the amount payable under such payment option."

- V. A new Appendix B is added to the Plan immediately following Appendix A to the Plan effective February 19, 2018 to read as follows:

"APPENDIX B  
SPECIAL 2018 PAYMENT ELECTION

- (a) Notwithstanding any Plan provision to the contrary, the provisions of this Appendix B shall control with respect to payments to 2018 Window Eligible Participants of Plan benefits who elect pursuant to this Appendix B to receive an immediate benefit. A Participant described in subsection (b) of this Appendix B (a "2018 Window

Eligible Participant”) may elect to receive his or her retirement benefit under the Plan immediately in the form of a lump sum or annuity, as provided below. The Employer or its delegate may make such rules and establish such procedures in connection with this special payment election as the Employer or its delegate shall determine in its sole discretion.

(b) A “2018 Window Eligible Participant” means a Participant who (i) is a Vested Participant, (ii) incurred a Severance on or before October 31, 2017, (iii) is not currently in service with the Employer, and (iv) is not receiving payments of his or her applicable retirement benefit under the Plan at the time of his or her election in accordance with subsection (c) of this Appendix B. Death beneficiaries of Participants who have deferred receipt of their death benefit under the Plan are also a “2018 Window Eligible Participant”. Notwithstanding anything in this subsection to the contrary, the following Participants are not eligible for the special payment election described in this Appendix and are thus not 2018 Window Eligible Participants:

- (i) any Participant who has a benefit subject to a qualified domestic relations order or a domestic relations order being evaluated for qualified status, or has stated to the Employer that he or she has a domestic relations order, pending domestic relations order or divorce decree awarding a portion of his or her benefit to a spouse, former spouse or child;
- (ii) any Participant that cannot be located by the Employer after a reasonable search unless he or she contacts the Employer or its delegate by a deadline set by the Employer;
- (iii) any Participant whose vested Plan benefit has a lump sum present value as of May 1, 2018 of less than \$5,000 and is thus subject to a mandatory Single Lump Sum Payment under Section 5.1(e) of the Plan;
- (iv) any Participant who has or should have commenced payment of his or her benefit in accordance with Section 11.10 of the Plan;
- (v) any Participant who is a casual employee;

- (vi) any Participant who is a former Police Officer;
- (vii) any Participant currently receiving long term disability benefits under the Employer's long term disability plan; and
- (viii) any Participant whose current address is not on file with the Plan's record keeper on February 18, 2018.

For the avoidance of doubt, alternate payees are not eligible to make an election under this Appendix B. Notwithstanding anything in this subsection to the contrary, the Employer may make such rules and establish such procedures in connection with eligibility to participate in this special payment election as the Employer shall determine in its sole discretion.

- (c) A 2018 Window Eligible Participant may elect, in accordance with procedures established by the Employer or its delegate, to have his or her entire retirement benefit under the Plan paid or commenced immediately (as specified in subsection (e) below) in one of the following forms (as applicable), with the benefit amount adjusted pursuant to subsection (f) below:
  - (i) a single lump sum;
  - (ii) a Single Life Annuity;
  - (iii) if married, a 50% Contingent Pensioner Annuity as described in Section 5.1(b) of the Plan, with his or her spouse as joint annuitant; or
  - (iv) if married, a 100% Contingent Pensioner Annuity (which is the Qualified Joint and Survivor Annuity for Annuity Starting Dates on and after July 1, 2008) as described in Section 5.1(b) of the Plan, with his or her spouse as joint annuitant; or
  - (v) if eligible for early or normal retirement under Sections 4.1 or 4.2 of the Plan, any other benefit form otherwise available to the Participant under the terms of the Plan.
- (d) The time period during which a 2018 Window Eligible Participant shall have to elect to receive an immediate distribution shall run from February 19, 2018 to April 6, 2018 (the "Deadline"). To elect to receive, or begin to receive, benefits under this Appendix B, a

valid election in the form and manner prescribed by the Employer or its delegate must be submitted to the Employer or its designee and postmarked by the Deadline. For the avoidance of doubt, any election under this Appendix B postmarked after the Deadline shall be void. If the 2018 Window Eligible Participant is married and he or she elects to receive his or her benefit in any form other than a spousal 100% Contingent Pensioner Annuity, the election shall be valid (and timely) only if he or she makes a Qualified Election as described in Section 5.2 of the Plan to the Employer or its delegate in accordance with procedures established by the Employer. Once a timely election to receive an immediate benefit has been made, the Participant must submit to the Employer or its designee the forms required to elect a form of benefit payment by the deadline established by the Employer in such election forms (generally 60 days). In no event can the forms required to elect a form of benefit payment be submitted later than June 4, 2018. Failure to timely return such election forms regarding the form of benefit will cause the Participant's election to receive an immediate distribution under this Appendix B to become invalid. Notwithstanding the foregoing, if prior to the Deadline, a missing former employee contacts the Employer or its designee or a 2018 Window Eligible Participant requests additional information or calculations or has provided some but not all required information to make an election, the Employer or its delegate may extend the deadline for such individual in accordance with uniform and consistent procedures established by the Employer or its delegate.

- (e) If a 2018 Window Eligible Participant elects to have his or her retirement benefit under the Plan paid pursuant to this Appendix B, payment of his or her retirement benefit (as calculated and adjusted pursuant to subsection (f) below) shall be made or commenced as soon as administratively practicable on or after May 1, 2018 with May 1, 2018 being the Annuity Starting Date; provided, however, that if the 2018 Window Eligible Participant elects to receive his or her benefit in a single lump sum, payment will be made as soon as practicable after May 1, 2018, without any interest being paid for the time period between May 1, 2018 and the payment date.
- (f) For purposes of this Appendix B, benefit amounts payable to a 2018 Window Eligible Participant shall be calculated as follows:

(i) **Eligible for Early or Normal Retirement Benefit.** For a Participant who as of May 1, 2018 *is eligible* to take early or normal retirement pursuant to Sections 4.1, 4.2 or 4.3 of the Plan and whose Normal Retirement Date is on or after May 1, 2018, his or her retirement benefit shall be as follows, depending on the form of benefit elected by such Participant:

1. Lump Sum. An amount equal to the greater of (a) the Actuarial Equivalent present value of the benefit that would be payable to the Participant as a single life annuity commencing on May 1, 2018 had the Participant elected such benefit, or (b) the Actuarial Equivalent present value as of May 1, 2018 of the Participant's Normal Retirement Benefit commencing on the Participant's Normal Retirement Date. The calculation under subpart (a) takes into account any subsidized early retirement subsidies for which the Participant is eligible. The calculation under subpart (b) reflects a reduction to take into account the Participant's age on May 1, 2018 and the fact that the benefit is being paid before the Participant has reached his or her Normal Retirement Date. The Actuarial Equivalent is determined using the interest rates and mortality tables specified under Section 2.3(b) of the Plan, i.e., the Applicable Interest Rate in effect for February 2017 and the Applicable Mortality Table in effect on May 1, 2018.

2. Annuity. Since the Participant is benefit eligible, the benefit amount for a particular annuity form will be the same as if the Participant had elected such annuity form to commence as of May 1, 2018 irrespective of this Appendix B.

(ii) **Eligible for Vested Retirement Benefit.** For a Participant who as of May 1, 2018 *is not eligible* to take early or normal retirement pursuant to Sections 4.1, 4.2 or 4.3 of the Plan and whose Normal Retirement Date is on or after May 1, 2018 (i.e., the Participant is eligible for a vested retirement benefit under Section 4.3 of the Plan but has not reached his or her earliest benefit commencement date), his or her retirement benefit shall be as follows, depending on the form of benefit elected by such Participant:

1. Lump Sum. An amount equal to the Actuarial Equivalent present value as of May 1, 2018 of the Participant's Normal Retirement Benefit commencing on the Participant's

Normal Retirement Date. This calculation reflects a reduction to take into account the Participant's age on May 1, 2018 and the fact that the benefit is being paid before the Participant has reached his or her Normal Retirement Date. The Actuarial Equivalent is determined using the interest rates and mortality tables specified under Section 2.3(b) of the Plan, i.e., the Applicable Interest Rate in effect for February 2017 and the Applicable Mortality Table in effect on May 1, 2018.

2. Annuity. The Participant can select to receive an immediate annuity commencing on May 1, 2018 that is the Actuarial Equivalent of the lump sum amount determined under subparagraph (ii)(1) above. The Actuarial Equivalent is determined using the interest rates and mortality tables specified under Section 2.3(b) of the Plan to convert the lump sum amount to a single life annuity taking into account the age of the Participant on May 1, 2018. If the Participant chooses a form of annuity other than the single life annuity, the payment amount under such other form is determined by converting the single life annuity amount to the amount for the chosen annuity form using interest rates and mortality factors under Section 2.3(a)(i) of the Plan, taking into account the form of annuity elected by the Participant and the ages of the Participant and joint annuitant (if any) on May 1, 2018.

(iii) **Eligible for Late Retirement.** For a Participant whose Normal Retirement Date is prior to May 1, 2018, his or her retirement benefit shall be as follows, depending on the form of benefit elected by such Participant:

1. Lump Sum. An amount equal to the Actuarial Equivalent present value as of May 1, 2018 of the Participant's Normal Retirement Benefit commencing on the Participant's Normal Retirement Date (or, if later, the Participant's Severance Date). The calculation reflects an increase to take into account the Participant's age on May 1, 2018 and the fact that the benefit is being paid after the Participant has reached his or her Normal Retirement Date. The Actuarial Equivalent is determined using the interest rates and mortality tables specified under Section 2.3(b) of the Plan, i.e., the Applicable Interest Rate in effect for February 2017 and the Applicable Mortality Table in effect on May 1, 2018.

2. *Annuity.* The Participant can select to receive either an immediate annuity commencing on May 1, 2018 that is either (a) the Actuarial Equivalent of the lump sum amount determined under subpart (iii)(1)(a) above, or (b) the benefit described in the last paragraph of Section 4.5 of the Plan (i.e., his or her normal retirement benefit plus a lump sum make-up payment for the benefit amounts that would have been received during the period between the Participant's Normal Retirement Date and May 1, 2018). The Actuarial Equivalent is determined using the interest rates and mortality tables specified under Section 2.3(b) of the Plan to convert the lump sum amount to a single life annuity taking into account the age of the Participant on May 1, 2018. If the Participant chooses a form of annuity other than the single life annuity, the payment amount under such other form is determined by converting the single life annuity amount to the amount for the chosen annuity form using interest rates and mortality factors under Section 2.3(a)(i) of the Plan, taking into account the form of annuity elected by the Participant and the ages of the Participant and joint annuitant (if any) on May 1, 2018.

(iv) **Deferred Beneficiary.** For a Beneficiary who as of May 1, 2018 is entitled to a deferred death benefit, his or her retirement benefit shall be as follows, depending on the form of benefit elected by such Beneficiary:

1. *Lump Sum.* An amount equal to the Actuarial Equivalent present value as of May 1, 2018 of the Beneficiary's deferred retirement benefit. This calculation reflects a reduction to take into account the Beneficiary's age on May 1, 2018 and the fact that the benefit is being paid before the Participant would have reached his or her Normal Retirement Date. The Actuarial Equivalent is determined using the interest rates and mortality tables specified under Section 2.3(b) of the Plan, i.e., the Applicable Interest Rate in effect for February 2017 and the Applicable Mortality Table in effect on May 1, 2018. If the Beneficiary is currently eligible for early retirement subsidies for the deferred benefit, such subsidies shall be taken into account in calculating the Actuarial Equivalent present value.

2. *Annuity.* If the Beneficiary is benefit eligible, the benefit amount for a particular annuity form will be the same as if the Beneficiary had elected such annuity form to commence as of May

1, 2018 irrespective of this Appendix B. If the Beneficiary is not benefit eligible, the Beneficiary can select to receive an immediate annuity commencing on May 1, 2018 that is the Actuarial Equivalent of the lump sum amount determined under subparagraph (iv)(1) above. The Actuarial Equivalent is determined using the interest rates and mortality tables specified under Section 2.3(b) of the Plan to convert the lump sum amount to a single life annuity taking into account the age of the Beneficiary on May 1, 2018. If the Beneficiary chooses a form of annuity other than the single life annuity, the payment amount under such other form is determined by converting the single life annuity amount to the amount for the chosen annuity form using interest rates and mortality factors under Section 2.3(a)(i) of the Plan, taking into account the form of annuity elected by the Beneficiary and the age of the Beneficiary on May 1, 2018.”

V. This First Amendment shall be effective as of the dates set forth herein.

\* \* \*

IN WITNESS WHEREOF, the University has caused this instrument to be executed on this 26 day of June, 2018.

YALE UNIVERSITY

By:

  
\_\_\_\_\_

Janet Lindner  
Vice President, Human Resources and Administration

  
**RICHARD PEARLBERG**  
NOTARY PUBLIC  
MY COMMISSION EXPIRES MARCH 31, 2020

SECOND AMENDMENT TO THE  
YALE UNIVERSITY  
RETIREMENT PLAN FOR STAFF EMPLOYEES  
(Restated as of July 1, 2017)

The Yale University Retirement Plan for Staff Employees (the "Plan") is hereby amended as follows:

I. Article 8 is amended by adding the following new Section 8.4:

8.4 Annuity Contracts.

Notwithstanding any other provision of the Plan to the contrary, on or before June 30, 2019, the Plan shall purchase one or more annuity contracts (including group annuity contracts) in accordance with and to effect the following:

- (a) The entire benefit rights of each Annuitized Individual (as defined in subsection (e) below) shall be (i) fully guaranteed by an insurance company, insurance service or insurance organization licensed to do business in a state, (ii) legally enforceable by the sole choice of the Annuitized Individual against the insurance company, insurance service or insurance organization and (iii) guaranteed by the insurance company, insurance service or insurance organization by way of an irrevocable commitment to pay benefit liabilities with respect to the Annuitized Individual.
- (b) A contract, policy or certificate that describes the benefits to which each Annuitized Individual is entitled shall be issued to each Annuitized Individual by the insurance company, insurance service or insurance organization.
- (c) After the annuity contract purchase described in this Section occurs, the Annuitized Individual covered by such contract shall no longer be a Participant in the Plan and shall no longer have any rights under the Plan (except to the extent that such Annuitized Individual is entitled to benefits under the Plan that are not guaranteed under such annuity contract), and the Plan shall have no further obligation to make any payment with respect to any Plan benefit of the Annuitized Individual that has been guaranteed under the annuity contract, including with respect to any survivor, beneficiary or other person claiming by

or through the Annuitized Individual. The Plan shall not be the contract-holder of the annuity contract nor shall such annuity contract be held as a Plan asset.

- (d) The annuity contract shall provide for the continued payment of the Annuitized Individual's Plan benefit in the same form as in effect under the Plan immediately before the annuity contract purchase, and any beneficiary, joint pensioner, contingent annuitant, joint annuitant or survivor benefit election, qualified domestic relations order or similar designation shall continue to apply to the Annuitized Individual's benefit.
- (e) For purposes of this Section, an "Annuitized Individual" means a Participant (i) who is a Managerial and Professional Staff Member retiree whose last position as an Employee was in a salaried job classification, and (ii) whose entire benefit under the Plan has an Annuity Starting Date (whether paid to the Participant or to the Participant's beneficiary, spouse or alternate payee pursuant to a qualified domestic relations order) that occurred on or before July 1, 2018. For purposes of the definition of "Annuitized Individual," any benefit for which the Plan has no liability immediately before the annuity purchase is disregarded. Furthermore, the appropriate officers of the Employer may, on behalf of the Employer in its capacity as the Plan's sponsor and not as a fiduciary of the Plan, make de minimis changes to the list of Annuitized Individuals for administrative purposes, and the final list of Annuitized Individuals (or, where applicable, their beneficiaries, spouses and alternate payees) shall be the list of individuals designated as "Annuitants" and "Contingent Annuitants" (or similar terms) that is included as an exhibit to the annuity contract that the Plan purchases.

II. This Second Amendment shall be effective as of the date of execution set forth below.

\* \* \*

IN WITNESS WHEREOF, the University has caused this instrument to be executed on this 11 day of January, 2019.

YALE UNIVERSITY

By: 

Janet Lindner  
Vice President, Human Resources and Administration

THIRD AMENDMENT TO THE  
YALE UNIVERSITY  
RETIREMENT PLAN FOR STAFF EMPLOYEES  
(Restated as of July 1, 2017)

The Yale University Retirement Plan for Staff Employees as amended and restated July 1, 2017 and as thereafter amended (the "Plan") is hereby amended as follows effective as of the date this Amendment is executed:

- I. Subsection (b) of Section 9.1 of the Plan, Amendment, is hereby amended in its entirety to read as follows:

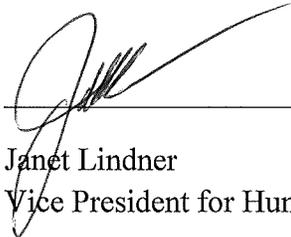
"(b) By action of the Employer's Vice President for Human Resources and Administration (or holding such office at the Employer that shall assume the functions and responsibilities of the Vice President for Human Resources and Administration) with respect to:

- (i) technical and legal amendments to comply with changes in law or regulations applicable to the Plan as amended from time to time; or
- (ii) changes to the Plan that the person in such position reasonably believes will not have the effect of significantly increasing the cost of the Plan to the Employer."

IN WITNESS WHEREOF, the University has caused this Amendment to be executed on this 16<sup>th</sup> day of December, 2019.

YALE UNIVERSITY

By:

  
\_\_\_\_\_  
Janet Lindner  
Vice President for Human Resources and Administration

FOURTH AMENDMENT TO THE  
YALE UNIVERSITY  
RETIREMENT PLAN FOR STAFF EMPLOYEES  
(Restated as of July 1, 2017)

The Yale University Retirement Plan for Staff Employees as amended and restated July 1, 2017 and as thereafter amended (the "Plan") is hereby amended as follows:

- I. References in the Plan to "Police Supervisor(s)" are hereby amended to be read as "Command Staff."
- II. The second paragraph of Article 1 of the Plan, **DECLARATION**, is hereby amended in its entirety to read as follows:

"The Plan is maintained in part pursuant to collective bargaining agreements between the Employer and (i) Local 34, FUE, UNITE HERE, (ii) Local 35, FUE, UNITE HERE, (iii) Yale Police Benevolent Association, (iv) The Cedarhurst School Professional Staff Chapter New Haven Federation of Teachers, AFT Local #933, AFT-CT, AFL-CIO, and (v) Yale University Security Officers Association ("YUSOA")."

- III. Subsection 2.10(a)(iii) of the Plan, *Local 502 Staff Member*, is hereby renamed and amended in its entirety to read as follows:

"(iii) *YUSOA Staff Member*: An Employee whose employment is covered by the collective bargaining agreement between the Employer and the Yale University Security Officers Association ("YUSOA"), as in effect from time to time, but excluding any YUSOA Staff Member who is classified as a "part-time, non-benefits eligible" employee within the meaning of the collective bargaining agreement between the Employer and YUSOA, as in effect from time to time;"

- IV. Subsection 2.10(a)(ix) of the Plan, *Casual Employee*, is hereby amended in its entirety to read as follows:

"(ix) *Casual Employee*: An Employee, other than an Employee described in subsections (b)(iv) or (v) below, who is classified as a (1) "Casual Employee," (2) non-union non-benefits eligible clerical and technical employee, (3) non-union non-benefits eligible service and maintenance employee, (4) "part-time, non-benefits eligible" Local 35 Staff Member within the meaning of the collective bargaining agreement between the Employer and Local 35, FUE, UNITE HERE, as in effect from time to time, (5) "part-time, non-benefits eligible" YUSOA Staff Member within the meaning of the collective bargaining agreement between the Employer and YUSOA, as in effect from time to time, or (6) Managerial and Professional Staff Member who is not regularly scheduled to work at least 20 hours per week."

- V. Section 2.14(a)(v) of the Plan, "Hour of Service," is hereby amended in its entirety to read as follows:
- "(v) For a period not to exceed 25 years of credit attributable to service and disability for which a Police Officer is receiving long-term disability benefits under the Employer's long-term disability program; provided, that the long term disability is a result of (1) an injury sustained in the line of duty (defined as an illness or injury sustained when effecting or attempting to effect an arrest, while responding to calls for police service of an emergency nature or while handling calls of a hazardous nature) or (2) an injury sustained while on duty in the scope of his or her employment (defined as an illness or injury sustained as a result of the specific discharge of duty, but excluding illnesses not directly arising out of police activities and chronic illnesses or conditions such as heart or hypertension conditions) on or after July 1, 2002 (March 2, 2006, in the case of a Police Officer who is Command Staff);"
- VI. Sections 2.22 ("Trustee"), 2.23 ("Vested Participant") and 2.24 ("Vesting Year") of the Plan are hereby renumbered as 2.23, 2.24, and 2.25, respectively.
- VII. A new Section 2.22, "Terminal Long-Term Disability," is hereby added to the Plan to read as follows:
- "2.22 "Terminal Long-Term Disability" means a disability from which a return to active service or reemployment is not expected."
- VIII. References in the Plan to "terminal long-term disability" are hereby amended to be read as "Terminal Long-Term Disability."
- IX. The reference to "subsection (c)" in Section 4.1(e) of the Plan is amended to read as "subsection (d)".
- X. The reference to subsection (f) in Section 2.5(f) of the Plan is amended to read as "subsection (g)".
- XI. The second sentence of Section 5.1(e) of the Plan is amended to remove the word "below".
- XII. This Fourth Amendment shall be effective as of July 1, 2019.

IN WITNESS WHEREOF, the Vice President for Human Resources and Administration hereby adopts and executes this Amendment this 17<sup>th</sup> day of December, 2019.

By:



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Janet Lindner

Vice President for Human Resources and Administration

FIFTH AMENDMENT TO THE  
YALE UNIVERSITY  
RETIREMENT PLAN FOR STAFF EMPLOYEES  
(Restated as of July 1, 2017)

WHEREAS, Yale University (the “University”) sponsors and maintains the Yale University Retirement Plan for Staff Employees, as amended and restated effective July 1, 2017 and as thereafter amended (the “Plan”); and

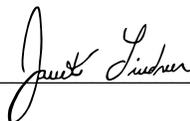
WHEREAS, pursuant to Section 9.1 of the Plan, the Vice President for Human Resources and Administration has the authority to amend the Plan for technical and legal amendments to comply with changes in law or regulations applicable to the Plan; and

WHEREAS, the University desires to amend the Plan to comply with the Setting Every Community Up for Retirement Enhancement Act of 2019.

NOW, THEREFORE, effective January 1, 2020, Sections 11.10(a)(ii)(1) and 11.10(d)(iv) of the Plan are amended to replace references to “70½” with “72”.

IN WITNESS WHEREOF, the Vice President for Human Resources and Administration hereby adopts and executes this Fifth Amendment this 16th day of December, 2020.

YALE UNIVERSITY

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

Janet Lindner

Vice President, Human Resources and Administration

SIXTH AMENDMENT TO THE  
YALE UNIVERSITY  
RETIREMENT PLAN FOR STAFF EMPLOYEES  
(Restated as of July 1, 2017)

WHEREAS, Yale University (the “University”) sponsors and maintains the Yale University Retirement Plan for Staff Employees, as amended and restated effective July 1, 2017 and as thereafter amended (the “Plan”); and

WHEREAS, pursuant to Section 9.1(b)(ii) of the Plan, the Vice President for Human Resources has the authority to amend the Plan for changes he reasonably believes will not have the effect of significantly increasing the cost of the Plan to the University; and

WHEREAS, the University desires to amend the Plan to update the eligibility of and benefits provided to (1) certain members of Locals 34 and 35, FUE, UNITE HERE, who are hired (or become members) on or after January 23, 2022 in accordance with the newly bargained terms of the collective bargaining agreements, and (2) members of certain other groups of Employees who are treated similarly to members of Local 34.

NOW, THEREFORE, effective January 23, 2022 unless otherwise indicated below, the Plan is hereby amended as follows:

1. Paragraphs (i), (ii), (iii), and (viii) of Subsection (a) of Section 2.10 of the Plan, Eligible Employee, are hereby amended in their entirety to read as follows:

- “(i) *Local 34 Staff Member*: A “Staff Member” within the meaning of the collective bargaining agreement between the Employer and Local 34, FUE, UNITE HERE, as in effect from time to time (“Local 34 Staff Member”), who (1) was hired or otherwise became a Local 34 Staff Member prior to January 23, 2022, or (2) was hired or otherwise became a Local 34 Staff Member on or after January 23, 2022 and elects (or is deemed to have elected) to participate in the Plan in accordance with Section 3.1(e);
- (ii) *Local 35 Staff Member*: An “Employee” within the meaning of the collective bargaining agreement between the Employer and Local 35, FUE, UNITE HERE, as in effect from time to time (“Local 35 Staff Member”), who (1) (a) was hired or otherwise became a Local 35 Staff Member prior to January 23, 2022, or (b) was hired or otherwise became a Local 35 Staff Member on or after January 23, 2022 and elects to participate in the Plan in accordance with Section 3.1(e), and (2) is not classified as a “part-time, non-benefits eligible” Employee within the meaning of the collective bargaining agreement between the Employer and Local 35, FUE, UNITE HERE, as in effect from time to time;

- (iii) *YUSOA Staff Member*: An Employee whose employment is covered by the collective bargaining agreement between the Employer and the Yale University Security Officers Association (“YUSOA”), as in effect from time to time (“YUSOA Staff Member”), who (1) (a) was hired or otherwise became a YUSOA Staff Member prior to January 23, 2022, or (b) was hired or otherwise became a YUSOA Staff Member on or after January 23, 2022 and elects (or is deemed to have elected) to participate in the Plan in accordance with Section 3.1(e), and (2) is not classified as a “part-time, non-benefits eligible” Employee within the meaning of the collective bargaining agreement between the Employer and YUSOA, as in effect from time to time;
  
- (viii) *C&T Non-Union Staff Member*: An Employee who is classified as a “C&T Non-Union Staff Member”, whose employment is not subject to a collective bargaining agreement (“C&T Non-Union Staff Member”), and who (1) (a) was hired or otherwise became a C&T Non-Union Staff Member prior to January 23, 2022, or (b) was hired or otherwise became a C&T Non-Union Staff Member on or after January 23, 2022 and elects (or is deemed to have elected) to participate in the Plan in accordance with Section 3.1(e), and (2) is not classified as a “part-time, non-benefits eligible” Employee as determined by the payroll or personnel records maintained by the Employer;”

2. Subsection (b) of Section 2.10 of the Plan, Eligible Employee, is hereby amended to add a new paragraph (viii), to read as follows:

“(viii) Any Local 34 Staff Member, Local 35 Staff Member, C&T Non-Union Staff Member, or YUSOA Staff Member who elects (or is deemed to have elected) to participate in the Yale University Retirement Account Plan in accordance with Section 3.1(e).”

3. Section 3.1 of the Plan, Participation Date, is hereby amended to add a new Subsection (e), to read as follows:

“(e) An Eligible Employee who is a Local 34 Staff Member, Local 35 Staff Member, C&T Non-Union Staff Member, or YUSOA Staff Member (other than an Employee who is “part-time, non-benefits eligible”) who was hired or otherwise became such a member on or after January 23, 2022, as described in Sections 2.10(a)(i), (ii), (iii) and (viii), and satisfies the requirements of subsections (a), (b) or (c) above, shall become a Participant in the Plan as follows:

(i) Local 34 Staff Member, C&T Non-Union Staff Member, or YUSOA Staff Member : A Local 34 Staff Member, C&T Non-Union Staff Member, or YUSOA Staff Member who is not an Employee classified as “part-time, non-benefits eligible” shall become a Participant in the Plan by (1) making an election to participate in the Plan by the later of (a) the 90th day after his or her

Employment Commencement Date or reemployment commencement date or date of becoming such a member, if later, or (b) May 1, 2022; or (2) failing to make an election whether to participate in the Plan by the later of (a) the 90th day after his or her Employment Commencement Date or reemployment commencement date or date of becoming such a member, if later, or (b) May 1, 2022, upon which failure such member shall be deemed to have elected to participate in the Plan. Upon the occurrence of (1) or (2) in the preceding sentence and meeting the requirements of subsections (a), (b) or (c) above (as applicable), such a member shall become a Participant as of the first day of the election period. Such members may make or change their election any time during the election period; however, after the election period ends, the election (or deemed election) becomes irrevocable.

(ii) Local 35 Staff Member: A Local 35 Staff Member who is not an Employee classified as “part-time, non-benefits eligible” shall become a Participant in the Plan by making an election to participate in the Plan by the later of (1) the 30th day after his or her Employment Commencement Date or reemployment commencement date or date of becoming such a member, if later or (2) May 1, 2022. Upon his or her election to participate in the Plan and meeting the requirements of subsections (a), (b) or (c) above (as applicable), such member shall become a Participant as of the first day of the election period. Such a member who fails to make a timely election whether to participate in the Plan shall be deemed to have elected to participate in the Yale University Retirement Account Plan, and shall become an Excluded Employee under Section 2.10(b), as of the first day after the election period ends. Such members may make or change their election any time during the election period; however, after the election period ends, the election becomes irrevocable.”

4. Effective January 1, 2020, Section 11.10(d)(iv)(2) of the Plan is amended to replace references to “72” with “70½”.

IN WITNESS WHEREOF, the University has caused this instrument to be executed on this 21st day of January, 2022.

YALE UNIVERSITY

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

John J. Whelan  
Vice President for Human Resources

**APPENDIX A  
NORMAL RETIREMENT BENEFIT  
FINAL EARNING TIERS**

<b>Effective Date</b>	<b>First Tier</b>	<b>Middle Tier</b>	<b>Upper Tier</b>
January 25, 2004	Up to \$31,000	\$31,001 to \$57,000	Over \$57,000
January 23, 2005	Up to \$32,000	\$32,001 to \$59,000	Over \$59,000
January 22, 2006	Up to \$34,000	\$34,001 to \$62,000	Over \$62,000
January 21, 2007	Up to \$35,000	\$35,001 to \$64,000	Over \$64,000
January 20, 2008	Up to \$37,000	\$37,001 to \$67,000	Over \$67,000
January 18, 2009	Up to \$38,000	\$38,001 to \$70,000	Over \$70,000
January 17, 2010	Up to \$39,000	\$39,001 to \$71,000	Over \$71,000
January 16, 2011	Up to \$40,000	\$40,001 to \$73,000	Over \$73,000
January 15, 2012	Up to \$41,000	\$41,001 to \$75,000	Over \$75,000
January 20, 2013	Up to \$42,000	\$42,001 to \$77,000	Over \$77,000
January 19, 2014	Up to \$43,000	\$43,001 to \$79,000	Over \$79,000
January 18, 2015	Up to \$45,000	\$45,001 to \$82,000	Over \$82,000
January 17, 2016	Up to \$46,000	\$46,000 to \$85,000	Over \$85,000
January 22, 2017	Up to \$47,000	\$47,001 to \$87,000	Over \$87,000
January 21, 2018	Up to \$49,000	\$49,001 to \$89,000	Over \$89,000
January 20, 2019	Up to \$50,000	\$50,001 to \$92,000	Over \$92,000
January 19, 2020	Up to \$51,000	\$51,001 to \$94,000	Over \$94,000
January 24, 2021	Up to \$53,000	\$53,001 to \$97,000	Over \$97,000
January 23, 2022	Up to \$54,000	\$54,001 to \$99,000	Over \$99,000
January 22, 2023	Up to \$55,000	\$55,001 to \$102,000	Over \$102,000
January 21, 2024	Up to \$57,000	\$57,001 to \$104,000	Over \$104,000
January 19, 2025	Up to \$58,000	\$58,001 to \$107,000	Over \$107,000
January 18, 2026	Up to \$60,000	\$60,001 to \$109,000	Over \$109,000