

DEPAUW UNIVERSITY
RETIREE HEALTH PLAN AND TRUST

A Benefit Feature under the
DePauw University Retiree Welfare
Benefit Plan

Amended and Restated Effective January 1, 2013

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DEPAUW UNIVERSITY RETIREE HEALTH PLAN AND TRUST

ARTICLE I. RESTATEMENT AND PURPOSE

DePauw University ("University") established the Emeriti Retiree Health Plan for DePauw University ("Plan"), effective July 1, 2005, for the purpose of reimbursing eligible medical expenses under Section 213(d) of the Internal Revenue Code ("Code") for eligible former employees with the University and their dependents. The University also established the University-Contribution VEBA Trust for the Emeriti Retiree Health Model Plan for DePauw University and the Employee After-Tax Contribution VEBA Trust Agreement for the Emeriti Retiree Health Model Plan for DePauw University (collectively, "Trusts"), effective July 1, 2005, to hold the University and employee contributions, respectively, made to the Plan. The University is hereby amending and restating the Plan and Trusts effective January 1, 2013, and as part of that restatement is renaming the Plan the "DePauw University Retiree Health Plan and Trust" and incorporating the terms of the Trusts herein.

It is intended that the Plan meet the requirements for qualification under Code Section 106, so that the University's contributions on behalf of Eligible Employees will be excludable from gross income for federal income tax purposes, and Code Section 105, so that benefits paid under the Plan to former Eligible Employees of the University and their Dependents will be excludable from their gross income. It is further intended that the Plan and Trusts constitute voluntary employees' beneficiary associations as defined under Code Section 501(c)(9).

The University has appointed the Trustee as a successor Trustee effective January 1, 2013, to hold the assets of the Plan in trust for the exclusive benefit of Participants and their Dependents in accordance with the requirements of Code Section 501(c)(9) and the applicable regulations. The Trusts hereunder shall serve as the funding vehicles for the Plan upon the terms and conditions set forth herein.

ARTICLE II. DEFINITIONS AND RULES OF INTERPRETATION

Section 2.01. Rules of Interpretation. In interpreting the Plan, the following rules of interpretation shall apply:

(a) The Plan shall be construed, enforced and administered and the validity thereof determined in accordance with the Code and ERISA, and in accordance with the laws of the State of Indiana when such laws are not inconsistent with the Code or ERISA.

(b) Unless the context clearly indicates to the contrary, a reference to a statute, regulation, document or provision shall be construed as referring to any subsequently enacted, adopted or executed counterpart statute, regulation, document or provision.

(c) Any headings or subheadings in the Plan are inserted for convenience of reference only and shall be ignored in the construction of any provisions of this Plan.

(d) Words used herein in the masculine gender shall be construed to include the feminine gender where appropriate and words used herein in the singular or plural shall be construed as being in the plural or singular where appropriate.

(e) If a provision of the Plan is held illegal or invalid for any reason, that provision shall be deemed null and void, but the invalidation of that provision shall not otherwise impair or affect the Plan.

Section 2.02. Definitions. When the initial letter of a word or phrase is capitalized herein, the meaning of such word or phrase shall be as follows:

(a) "Accounts" mean, collectively, a Participant's After-Tax Contribution Account and University Contribution Account.

(b) "Administrator" means the University as provided in Section 13.01. The Administrator shall serve as the plan administrator within the meaning of ERISA Section 3.

(c) "After-Tax Contribution" means an after-tax contribution to a Participant's After-Tax Contribution Account made in accordance with Article IV of the Plan.

(d) "After-Tax Contribution Account" means the account maintained for each Participant showing the aggregate of the After-Tax Contributions made by such Participant pursuant to Article IV of the Plan, after adjustments for changes in market valuation, gains and losses, expenses, distributions, or forfeitures, if any.

(e) "Appeal" means review by the Claims Supervisor of a Denial.

(f) "Child" means an Eligible Retiree's natural child, stepchild, or legally adopted child, a child who has been placed with an Eligible Retiree for adoption, or a child who has been placed with the Eligible Retiree by an authorized placement agency or by judgment, decree, or other order of a court of competent jurisdiction.

(g) "Claimant" means an individual who makes a claim for benefits under Article XI. For purposes of Article XIV, references to a Claimant include a Claimant's authorized representative.

(h) "Claims Supervisor" means a person, firm, or company which has agreed to provide technical or administrative services and advice in connection with the operation of all or a part of the Plan, and perform such other functions, including processing and payment of claims, as may be delegated to it under such contract.

(i) "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended from time to time

(j) "Code" means the Internal Revenue Code of 1986, as amended from time to time.

(k) "Denial" means any of the following: a denial, reduction, termination, or failure to provide or make payment (in whole or in part) for a benefit, including determinations based on eligibility, and, with respect to health benefits, a denial, reduction, termination or failure to provide or make payment for a benefit based on utilization review or a failure to cover a benefit because it is determined to be experimental or investigational or not medically necessary.

(l) "Dependent" means:

(1) a Spouse;

(2) a Domestic Partner who is a dependent of the Eligible Retiree under Code Section 152; and

(3) a Child of the Eligible Retiree until the end of the month in which the Child attains age twenty-six (26); provided, however, that a Child shall continue to be a Dependent after the end of the month in which the Child attains age twenty-six (26) if the Child is a Dependent under the Plan prior to attaining age twenty-six (26) and is permanently and totally disabled. A Child is permanently and totally disabled if the child is unable to engage in any substantial gainful activity due to a medically-determinable physical or mental impairment which can be expected to result in death, or which has lasted (or can be expected to last) for a continuous period of twelve (12) months or more. Proof of permanent and total disability must be provided to the Claims Supervisor prior to the Child's twenty-sixth (26th) birthday and proof of continued permanent and total disability may be required by the Claims Supervisor on an annual basis thereafter.

(m) "Domestic Partner" means an individual of the same sex of an Eligible Retiree with respect to whom one of the following criteria have been satisfied:

(1) If the Eligible Retiree and the Domestic Partner reside in a State that recognizes a marriage between persons of the same sex, a civil union, or a substantially similar legal relationship other than a common law marriage, such Eligible Retiree and Domestic Partner have established such legal relationship under applicable State law and have submitted to the Plan the relevant certificate or other documentation of such legal relationship; or

(2) Regardless of the State in which the Eligible Retiree and Domestic Partner reside, such Eligible Retiree and Domestic Partner have satisfied the following requirements:

(A) are at least eighteen (18) years old and mentally competent to enter into contracts;

(B) reside together in the same principal residence and have done so for at least twelve (12) months prior to the effective date of the Affidavit of Domestic Partnership and intend to do so indefinitely;

(C) are emotionally committed to one another and share joint responsibilities for their common welfare and financial obligations and have done so for at least twelve (12) months prior to the effective date of the Affidavit of Domestic Partnership;

(D) are not legally married to nor the domestic partner of anyone else, nor have they been married to or the domestic partner of anyone else within the twelve (12) month period prior to the effective date of the Affidavit of Domestic Partnership;

(E) are not related by blood to an extent that would prohibit marriage in the state in which they reside; and

(F) sign, notarize and submit a completed Affidavit of Domestic Partnership.

(n) "Effective Date" of the Plan and Trusts means July 1, 2005, and of this amended and restated Plan and Trusts means January 1, 2013.

(o) "Electronic Protected Health Information" or "EPHI" means "electronic protected health information" as defined at 45 CFR § 160.103, which, generally, means Protected Health Information that is transmitted by, or maintained in, electronic media. For these purposes, "electronic media" means: (i) electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or (ii) transmission media used to exchange information already in electronic storage media (*e.g.*, the internet, extranet, leased lines, dial up lines, private networks, and the physical movement of removable/transportable electronic storage media).

(p) "Eligible Employee" means a common law employee of the University who (i) is regularly scheduled to work at least twenty nine and one-half (29.5) hours per week, and (ii) was hired before January 1, 2013, but does not include: (A) leased employees as defined under Code Section 414(n); (B) any person who is providing services on a temporary basis or is designated to work only with respect to specific tasks or projects; (C) any individual who enters into an agreement with the University that they are not eligible for benefits; or (D) any individual designated in good faith by the University as an independent contractor (including, but not limited to, former employees of the University who have become employees of an unrelated employer and who continue to provide services to the University), regardless of whether the Internal Revenue Service or a court of law later determines such individual to be a common law employee for tax purposes.

(q) "Eligible Retiree" means an Eligible Employee who (i) is age fifty five (55) or older; (ii) has at least fifteen (15) years of continuous full-time employment; (iii) has a combined age and years of continuous full-time employment that totals at least eighty (80); and (iv) was hired prior to January 1, 2013. Notwithstanding the preceding sentence, for an Eligible Employee who was hired prior to July 1, 1996, "Eligible Retiree" means an Eligible Employee who (i) is age sixty two (62) or older and (ii) has completed at least fifteen (15) years of continuous full-time employment.

(r) "ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

(s) "Health Care Operations" means "health care operations" as defined by 45 CFR § 164.501, as amended. Generally, Health Care Operations include, but are not limited to, the following activities taken by or on behalf of the Plan:

- (1) Quality assessment;
- (2) Population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, disease

management, contacting health care providers and patients with information about treatment alternatives and related functions;

(3) Rating provider and Plan performance, including accreditation, certification, licensing or credentialing activities;

(4) Underwriting, premium rating and other activities relating to the creation, renewal or replacement of a contract of health insurance or health benefits, and ceding, securing or placing a contract for reinsurance of risk relating to health care claims (including stop-loss insurance and excess of loss insurance);

(5) Conducting or arranging for medical review, legal services and auditing functions, including fraud and abuse detection and compliance programs;

(6) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the Plan, including formulary development and administration, development or improvement of Payment methods or coverage policies;

(7) Business management and general administrative activities of the Plan, including, but not limited to:

(A) Management activities relating to the implementation of and compliance with HIPAA's administrative simplification requirements; or

(B) Customer service, including the provision of data analyses for policyholders, plan sponsors or other customers;

(C) Resolution of internal grievances;

(D) Due diligence in connection with the sale or transfer of assets to a potential successor in interest, if the potential successor in interest is a "covered entity" under HIPAA or, following completion of the sale or transfer, shall become a covered entity; and

(E) Any other activity considered to be a "health care operation" activity pursuant to 45 CFR § 164.501.

(t) "Health Care Professional" means a physician or other health care professional licensed, accredited, or certified to perform health services consistent with State law.

(u) "Health Plan Coverage" means a group health plan offered by the University to Eligible Retirees who retire from the University and their eligible Dependents, and shall include both a pre-65 Health Plan Coverage option and a post-65 Health Plan Coverage option.

(v) "Health Plan Premium" means the premium for the Health Plan Coverage.

(w) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended from time to time.

(x) "Incurred" means the date on which medical care or services giving rise to the claimed expense is furnished.

(y) "Individual" means any person who is the subject of Protected Health Information.

(z) "Investment Funds" means the mutual funds and other investment funds selected by the Administrator and made available under the Plan in accordance with Section 7.01 of the Plan.

(aa) "Medicare" means the program established by Title I of Public Law 89-97, as amended, entitled Health Insurance for the Aged Act, which includes Part A, Part B, and Part C.

(bb) "Other Health Insurance" means health insurance obtained by a Participant that is not Health Plan Coverage, but shall not include coverage for any individual as an active employee under an employer-sponsored group health plan.

(cc) "Participant" means any current or former Eligible Employee for whom an After-Tax Contribution Account and/or University Contribution Account is maintained under the Plan.

(dd) "Payment" means "payment" as defined by 45 § CFR 164.501, as amended. Generally, Payment activities include, but are not limited to, activities undertaken by the Plan to obtain premiums or determine or fulfill its responsibility for coverage and provision of Plan benefits that relate to an Individual to whom health care is provided. These activities include, but are not limited to, the following:

(1) Determination of eligibility, coverage and cost sharing amounts (for example, cost of a benefit, Plan maximums and copayments as determined for an Individual's claim);

(2) Coordination of benefits;

(3) Adjudication of health benefit claims (including appeals and other payment disputes);

(4) Subrogation of health benefit claims;

(5) Establishing employee or former employee contributions;

(6) Risk adjusting amounts due based on an employee's or former employee's health status and demographic characteristics;

(4) Billing, collection activities and related health care data processing;

(5) Claims management and related health care data processing, including auditing payments, investigating and resolving payment disputes and responding to an employee's or former employee's inquiries about payments;

(6) Obtaining payment under a contract for reinsurance (including stop-loss and excess of loss insurance);

(7) Medical necessity reviews or reviews of appropriateness of care or justification of charges;

(8) Utilization review, including precertification, preauthorization, concurrent review and retrospective review;

(9) Disclosure to consumer reporting agencies related to the collection of premiums or reimbursement (the following Protected Health Information may be disclosed for Payment purposes: name and address, date of birth, Social Security number, payment history, account number and name and address of the provider and/or health plan);

(10) Reimbursement to the Plan; and

(11) Any other activity considered to be a "payment" activity pursuant to 45 CFR § 164.501.

(ee) "Permanently Disabled" means, for a Participant, that the Participant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration.

(ff) "Plan" means the DePauw University Retiree Health Plan and Trust, as set forth in this document, as amended from time to time.

(gg) "Plan Year" means the twelve (12) month period beginning on each July 1 and ending on each June 30.

(hh) "Privacy Regulations" mean the regulations under the Standards for Privacy of Individually Identifiable Health Information (45 CFR Parts 160 and 164, as amended).

(ii) "Protected Health Information" means "protected health information" as defined at 45 CFR § 164.501 which, generally, means information (including demographic information) that (i) identifies an Individual (or with respect to which there is a reasonable basis to believe the information can be used to identify an Individual), (ii) is created or received by a health care provider, a health plan, or a health care clearinghouse, and (iii) relates to the past, present, or future physical or mental health or condition of an Individual; the provision of health care to an Individual; or the past, present, or future Payment for the provision of health care to an Individual.

(jj) "Qualified Medical Expenses" means those expenses Incurred by a Participant or his or her Dependent, on or after the date the Participant becomes eligible for Reimbursement Benefits, for medical care as defined in Code Section 213(d) (including premiums for Other Health Insurance and Medicare) but only to the extent such expenses are not compensated for by insurance or otherwise. A Participant shall be required to submit evidence of a Qualified Medical Expense which shall include, but not be limited to, a bill, receipt or similar documentation from the provider or issuer of health insurance providing the date of service or purchase and the type of service.

(kk) "Reimbursement Benefits" means the reimbursement of Qualified Medical Expenses with funds from the balance in a Participant's Accounts.

(ll) "Security Incident" means "security incident" as defined at 45 CFR § 164.304, which, generally, means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

(mm) "Spouse" means the marital partner of an Eligible Employee or Eligible Retiree who is legally recognized as such under Federal law.

(nn) "Summary Health Information" means "summary health information" as defined by 45 CFR § 164.504(a), as amended, which generally is information that may be individually identifiable health information, and:

(1) that summarizes the claims history, claims expenses, or type of claims experienced by Individuals for whom the University has provided health benefits under a group health plan; and

(2) from which the information described at § 164.514(b)(2)(i) of the Privacy Regulations has been deleted, except that the geographic information described in § 164.514(b)(2)(i)(B) of the Privacy Regulations need only be aggregated to the level of a five digit zip code.

(oo) "Trust" means the trust established by the University hereunder to receive and hold University Contributions under the Plan and the trust established by the University hereunder to receive and hold After-Tax Contributions under the Plan. The Trusts are each intended to qualify as a voluntary employees' beneficiary association under Code Section 501(c)(9).

(pp) "Trust Fund" means the assets of each Trust held by the Trustee pursuant to the terms of the Plan and Trust and for the exclusive benefit of the Participants.

(qq) "Trustee" means the trustee or any successor trustee or trustees designated and appointed under the Trusts set forth in this document.

(rr) "University" means DePauw University.

(ss) "University Contributions" means the contributions to a Participant's University Contribution Account made in accordance with Article IV of the Plan.

(tt) "University Contribution Account" means the account maintained for each Participant showing the aggregate of the University Contributions made by the University pursuant to Article IV of the Plan, after adjustments for changes in market valuation, gains and losses, expenses, distributions, or forfeitures, if any.

(uu) "USERRA" means the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended from time to time.

ARTICLE III.
PARTICIPATION

Section 3.01. Participation. An Eligible Employee shall become a Participant under the Plan on the first day of the month following the Eligible Employee's date of hire; provided, however, that an Eligible Employee hired on or after January 1, 2013, shall not be eligible to participate in the Plan. Notwithstanding the preceding provisions, any Participant in the Plan on the Effective Date of this restatement shall continue to be a Participant.

Section 3.02. Change in Status. A Participant is required to notify, in writing, the Administrator of (i) a change in address, (ii) eligibility for and/or entitlement to Medicare, or (iii) any change in status that might affect the Participant's or Dependent's coverage under the Plan or Health Plan Coverage. Notice must be given within sixty (60) days of the change in status.

ARTICLE IV.
CONTRIBUTIONS

Section 4.01. University Contributions.

(a) The University shall make a University Contribution to the Plan and Trust on behalf of an Eligible Employee in an annual flat dollar amount contribution equal to One Thousand Eighty Dollars (\$1,080). The University Contribution shall be made to a Participant's University Contribution Account each month in an amount equal to the annual flat dollar amount contribution divided by twelve (12). University Contributions shall be made to a Trust hereunder for University Contributions. The University reserves the right to change the amount of the University Contribution at any time.

(b) The University shall cease making University Contributions to a Participant's University Contribution Account as of the date when the University has made University Contributions to the Account for twenty-five (25) years; provided that contributions shall terminate earlier as provided in Section 4.04.

Section 4.02. After-Tax Contributions. An Eligible Employee shall be permitted to make voluntary After-Tax Contributions to the Plan in any whole dollar amount per payroll period. The Eligible Employee must file a voluntary enrollment election with the University, in a manner prescribed by the University, to initiate after-tax payroll deductions. A Participant may change his or her elections at any time to be effective as soon as administratively feasible. After-Tax Contributions shall be paid to a Trust hereunder for After-Tax Contributions at the earliest date on which they can reasonably be segregated from the University's general assets, but in no event later than the date prescribed by the Department of Labor under its plan asset regulations.

Section 4.03. Leaves of Absence. The University will make a University Contribution to the Plan on behalf of any Participant who for a payroll period is on a paid bona fide leave of absence, paid vacation, paid holiday, or a regularly scheduled paid or unpaid summer absence, and as required by USERRA and the Family and Medical Leave Act of 1993.

Section 4.04. Termination of Contributions. University Contributions and After-Tax Contributions to a Participant's Account shall terminate on the earliest date that any of the following occurs:

- (a) the Participant's death;
- (b) the Participant is no longer an Eligible Employee;
- (c) the Plan is amended to terminate coverage for the Participant;
- (d) the Plan is terminated; or
- (e) the Participant terminates employment with the University.

ARTICLE V.
USE OF ACCOUNTS

Section 5.01. After-Tax Contributions.

(a) A Participant who is an Eligible Retiree may use his or her After-Tax Contribution Account upon termination of employment to pay for Health Plan Premiums and Reimbursement Benefits under the Plan. Upon the death of the Participant who is an Eligible Retiree, before or after termination of employment with the University, the Participant's Dependents may use any remaining balance in the Participant's After-Tax Contribution Account to pay for Health Plan Premiums (to the extent eligible for Health Plan Coverage) and Reimbursement Benefits under the Plan for the lives of the Participant's Dependents or, if earlier, the age of majority of the Participant's Dependents.

(b) A Participant who is not an Eligible Retiree may use his or her After-Tax Contribution Account upon termination of employment to pay for Reimbursement Benefits under the Plan, provided that the Participant has attained age fifty-five (55). Upon the death of the Participant who is not an Eligible Retiree, before or after termination of employment with the University, the Participant's Dependents may use any remaining balance in the Participant's After-Tax Contribution Account to pay for Reimbursement Benefits under the Plan for the lives of the Participant's Dependents or, if earlier, the age of majority of the Participant's Dependents.

Section 5.02. University Contributions.

(a) A Participant who is an Eligible Retiree may use his or her University Contribution Account upon termination of employment to pay for Health Plan Premiums and Reimbursement Benefits under the Plan. Upon the death of the Participant who is an Eligible Retiree, before or after termination of employment, the Participant's Dependents may use any remaining balance in the Participant's University Contribution Account to pay for Health Plan Premiums (to the extent eligible for Health Plan Coverage) and Reimbursement Benefits under the Plan for the lives of the Participant's Dependents or, if earlier, the age of majority of the Participant's Dependents.

(b) A Participant who is not an Eligible Retiree but who is Permanently Disabled may use his or her University Contribution Account upon termination of employment to pay for Reimbursement Benefits under the Plan. Upon the death of the Participant who is not an Eligible Retiree but who is Permanently Disabled, the Participant's Dependents may use any remaining balance in the Participant's University Contribution Account to pay for Reimbursement Benefits under the Plan for the lives of the Participant's Dependents or, if earlier, the age of majority of the Participant's Dependents.

(c) A Participant who is not an Eligible Retiree and who is not Permanently Disabled upon termination of employment shall forfeit his or her University Contribution Account at termination of employment.

Section 5.03. Payment from Accounts.

(a) Reimbursement Benefits and Health Plan Premiums shall be paid on a pro-rata basis from the balance in the Participant's After-Tax Contribution Account and University Contribution Account based upon the balance in each Account. If there are insufficient funds in the Accounts to pay the Health Plan Premiums, the Participant may pay the cost of the Health Plan Premium directly to the Health Plan Coverage. Notwithstanding the foregoing, the portion of Health Plan Premiums attributable to a Domestic Partner or Child who is not a Dependent cannot be paid from the Participant's Accounts, but must be paid by the Participant directly to the Health Plan Coverage.

(b) The Administrator may pay Health Plan Premiums either to a Participant as a reimbursement or directly to the Health Plan Coverage on behalf of the Participant.

Section 5.04. Forfeitures Upon Last to Die or Reach Majority. If any balance remains in a Participant's After-Tax Contribution Account and/or University Contribution Account on the date that the Participant and all Dependents have all died or reached the age of majority, as applicable, the entire balance of the After-Tax Contribution Account and/or University Contribution Account shall be forfeited as soon as administratively feasible following a twelve (12) month claim period.

Section 5.05. Treatment of Forfeitures.

(a) When a Participant's After-Tax Contribution Account is forfeited, the forfeited balance shall be allocated to the After-Tax Contribution Trust forfeiture account. Once a year, the After-Tax Contribution Trust forfeiture account shall be allocated on an equal basis to the After-Tax Contribution Accounts of any remaining Participants with positive balances in their After-Tax Contribution Accounts.

(b) When a Participant's University Contribution Account is forfeited, the forfeited balance shall be allocated to the University Contribution Account Trust forfeiture account. Forfeitures in the University Contribution Account Trust forfeiture account shall be used to reduce future University Contributions or to pay Plan expenses.

**ARTICLE VI.
BENEFITS**

Section 6.01. Health Plan Coverage. The terms of eligibility and benefits under the Health Plan Coverage are set forth in the applicable plan documents for the pre-65 Health Plan Coverage option and the post-65 Health Plan Coverage option. The University reserves the right to modify the terms of Health Plan Coverage, as well as the required contributions for Health Plan Coverage, at any time in the sole and absolute discretion of the University.

Section 6.02. Reimbursement Benefits. Only the Participant may submit claims for reimbursement of Qualified Medical Expenses Incurred by the Participant and his or her Dependents; provided, however, that upon the death of the Participant, the Spouse or Dependent

Domestic Partner may submit claims for reimbursement on behalf of him or herself and the Participant's Dependents, or, if none, the Dependent designated by the Participant on the applicable form may submit claims for reimbursement on behalf of the Participant's Dependents. Reimbursements are conditioned upon the submission to the Administrator of any and all requested substantiation documents.

ARTICLE VII. **INVESTMENT OF ACCOUNTS**

Section 7.01. Investments.

(a) Participants shall have the right to direct the investment of their Accounts under the Plan in the Investment Funds selected by the University in its sole and absolute discretion. In the absence of an effective election with respect to an Account, the Account shall be invested in the Investment Fund designated by the Administrator for such purpose. A Participant may elect to change the investment of future contributions to each Account by filing a new investment election at any time. A Participant may also elect to transfer a portion of the balance from one Investment Fund to another Investment Fund. A Participant may make separate elections for each Account.

(b) Upon the Participant's death, if the Participant's Account remains available for his or her Dependents, the Participant's Spouse or Dependent Domestic Partner shall have the right to direct the investment of the Participant's Accounts or, if none, the Participant's Dependent designated by the Participant on the applicable form shall have the right to direct the investment of the Participant's Accounts.

Section 7.02. Investment Statements. The Trustee shall provide each Participant an annual statement of his or her Accounts.

ARTICLE VIII. **CONTINUATION COVERAGE**

To the extent required by Code Section 4980B, if a Participant or a Dependent becomes a qualified beneficiary as defined in Code Section 4980B and agrees to pay the premium for COBRA continuation coverage on an after-tax basis, the person shall be treated as a Participant to the extent required by law, and coverage under the Health Plan Coverage shall continue as long as such premiums are paid, if applicable, but not longer than required by Code Section 4980B, subject to the terms and conditions of the Health Plan Coverage. COBRA continuation coverage is not available under this Plan for Other Health Coverage. COBRA continuation coverage shall not apply with respect to continuation coverage for Reimbursement Benefits, but Section 17.01 shall apply instead.

ARTICLE IX. **ADMINISTRATION OF THE TRUST**

Section 9.01. Trust Fund. All amounts contributed to the Trusts, all property and rights acquired or purchased with such amounts, and all income attributable to such amounts, property, or rights held as part of the Trusts, shall be transferred to the Trustee to be held, managed, invested, and distributed as part of the Trust Fund in accordance with the provisions of the Plan and Trusts.

Section 9.02. Funding Policy. The University shall be responsible for establishing the funding policy of the Plan for the provision of benefits consistent with the objectives of the Plan. All benefits shall be funded by the Trusts.

Section 9.03. Exclusive Benefit and Non-Diversion. The Trust Fund shall be held for the exclusive benefit of Participants and their Dependents under the Plan. No part of the assets and income of the Trusts shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Dependents and the payment of reasonable expenses of the Plan and Trusts, provided that contributions are conditioned on the recognition of the Trusts as exempt under the Code, and if the Trusts do not so qualify as exempt, then such contributions may be returned to the University, if determined appropriate by the University.

Section 9.04. Nondiscrimination. In administering the Trusts, all discretionary acts taken by the Trustee hereunder shall be uniform in their nature and application to all persons similarly situated and no discretionary acts shall be taken which shall be discriminatory under the provisions of Code Section 501(c)(9), or which would result in (i) benefiting one or some Participants or Dependents at the expense of another, (ii) discrimination as between Participants or Dependents similarly situated, or (iii) the application of different rules to a substantially similar set of facts.

Section 9.05. Key Employees. Notwithstanding any provisions of the Plan to the contrary, medical benefits within the meaning of Code Section 419A(d)(1) shall not be paid out of the Trusts to or on behalf of any key employee within the meaning of Code Section 416(i), unless a separate account has been established and maintained for such benefits, and the benefits or premiums for such benefits are paid solely from that separate account.

Section 9.06. Duty to Furnish Information. The Administrator and the Trustee shall furnish to one another any document, report, return, statement or other information that the other reasonably deems necessary to perform the duties imposed under the Plan, Trusts or otherwise imposed by law.

ARTICLE X. EXPENSES AND BENEFIT PAYMENTS

Section 10.01. Expenses of Plan and Trust. All reasonable expenses of administering the Plan and Trusts (including any reasonable administrative charge established by the Trustee) shall be paid by the Trustee and shall be charged against and paid from the respective Trust Fund, unless the University pays such expenses. All taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws upon or with respect to a Trust Fund or the income thereof shall be paid from the applicable Trust Fund.

Section 10.02. Trust Payments. All disbursements from the Trusts shall be paid in accordance with the terms and provisions of the Plan and as directed by the University. The Trustee shall have no responsibility or authority in connection with the determination of the interest of individual Participants or the amounts to be paid to, or on behalf of, the Participants.

Section 10.03. Right of Recovery. If the Trustee makes any payment that according to the terms of the Plan should not have been made, the Trustee may recover that incorrect payment, whether or not it was made due to the Trustee's or the Administrator's error, from the person to whom it was made or from any other appropriate party. The Trustee may deduct the

incorrect payment when making future reimbursements to the Participant or payments to the Health Plan Coverage on the Participant's behalf.

ARTICLE XI.
POWERS OF TRUSTEE

Section 11.01. Powers of Trustee. The Trustee shall follow the written directions of the University with respect to investing and reinvesting the Trust Funds. The University shall be responsible for ensuring that such written directions are made in accordance with the Plan and are not contrary to law. The Trustee shall have no responsibility to monitor investments of the Trust Fund and shall not be liable for any investment losses or other consequences resulting from any action or inaction of the University with respect to the investments of the Trust Funds. Subject to said directions, and except to the extent the same has not been delegated to an investment manager, the Trustee shall have the powers:

(a) To control the management and administration of the Trust Funds and to have all powers necessary or convenient to enable it to exercise such control, including discretion with respect to the exercise of that power and authority;

(b) As directed by the University or investment manager, to invest and reinvest the principal and income of the Trust Funds, without distinction between principal and income, in any preferred and common stocks, including shares of investment companies, bonds, notes, debentures and mortgages, equipment trust certificates, investment trust certificates, or other real or personal property, investments and securities of any kind, class or character;

(c) To hold part or all of the Trust Funds invested as may be appropriate to provide reasonable liquidity for the Trust;

(d) To exercise, or to refrain from exercising, all voting rights with respect to any stocks, bonds, or other securities and to grant general or special proxies or powers of attorney with or without power of substitution whether discretionary or otherwise, and to enter into any voting trust or similar agreement;

(e) To exercise any rights appurtenant to any stocks, bonds, or other securities invested by it for the conversion thereof into other stocks, bonds, or securities, or to exercise any rights or options to subscribe for or purchase additional stocks, bonds, or other securities, and to make any and all necessary payments with respect to any such conversion or exercise;

(f) To register and hold any investment in its own name, in the name of one or more of its nominees, or in the name of one or more nominees of any system for the central handling of securities, with or without indication of the capacity in which the investment is held, and to hold any investment in bearer form, but the books and records of the Trusts shall at all times show that such investments are part of the Trust Fund;

(g) To collect and receive any and all money and other property due to the Trust Funds and to give full discharge therefore;

(h) To employ suitable agents and counsel and to pay their reasonable expenses and compensation, unless the University elects to pay such expenses or compensation;

(i) To settle, compromise, or submit to arbitration any claims, debts or damages due or owing to or from the Trusts; to commence or defend suits or legal proceedings to protect any interest of said Trusts; and to represent said Trusts in all suits or legal proceedings in any court or before any other body or tribunal;

(j) To enforce any right, obligation or claim in its absolute discretion and in general to protect in any way the interest of the Trust, either before or after default with respect to any such right, obligation, or claim, and, in case the Trustee shall consider such action in the best interests of the Trusts in its absolute discretion, to abstain from the enforcement of any right, obligation, or claim and to abandon any property, whether real or personal, which at any time may be held by it;

(k) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(l) In the acquisition, disposition, and management of investments for or under the Trusts, to acquire and hold any securities or other property even though the Trustee in its individual or any other capacity shall have invested or may thereafter invest its own or other funds in the same securities or related property or related securities or other property the interest, principal or other avails of which may be payable at different rates or different times or may have different rank or priority; and to acquire and hold any securities or other property even though in connection therewith the Trustee, in its individual or any other capacity, may receive compensation reasonably and customarily due in the course of its regular activities;

(m) To enter into a contract with an insurer to provide indemnification of the Trust Funds in the event of loss, on account of benefits payable to Participants, which is in excess of a maximum loss as determined, from time to time, by the Trustee;

(n) To construe the Trusts, each and every Article and Paragraph hereof, and to make rules and regulations consistent with such construction, giving notice of its acts to any party to the Trusts or person claiming under it, or insurance company issuing a policy or policies to the said Trustee or with which the Trustee contracts for benefits hereunder, provided, such party, person, or insurance company requests such notice; and

(o) Generally to do all acts, whether or not expressly authorized, which the Trustee may deem necessary or proper for the protection of the Trust Funds.

Section 11.02. Investment Manager. The University may designate an investment manager with authority to manage, acquire, or dispose of any assets of the Trust, subject to the requirements of the Trusts. The appointment of one or more independent investment managers shall be made pursuant to a written investment management agreement with each, describing the authority and duties of the investment manager and the portion of the Trust Funds over which the investment manager has authority. The investment manager shall have the power to direct the management, acquisition, or disposition of any assets held in any investment fund for which it is responsible hereunder. The University shall be responsible for ascertaining that while each investment manager is acting in that capacity hereunder, the following requirements are satisfied:

(a) The investment manager must be either (i) registered as an investment adviser under the Investment Advisers Act of 1940, as amended; (ii) a bank; or (iii) an insurance

company qualified to perform the services described herein under the laws of more than one state.

(b) The investment manager has acknowledged in writing to the University that it is a fiduciary with respect to the Plan and Trusts.

Section 11.03. Prohibited Transactions. Notwithstanding any other Plan provision, the Trustee shall not be required by the University or an investment manager to engage in any action or to make any investment which is contrary to law or to the terms of the Plan.

Section 11.04. Successor Trustee or Trustees. The Trustee may resign at any time upon sixty (60) days' notice in writing to the University. The Trustee may be removed by the University at any time upon thirty (30) days' notice in writing to the Trustee. Upon such resignation or removal of the Trustee or successor Trustee or Trustees, the University shall appoint a successor Trustee or Trustees who shall have the same powers and duties as those conferred upon the Trustee hereunder and upon acceptance of such appointment by the successor Trustee or Trustees, the Trustee shall assign, transfer, and pay over to such successor Trustee or Trustees the funds and properties then constituting the Trust Fund. The Trustee is authorized, however, to reserve such sums of money as it may deem advisable for payment of its fees and expenses in connection with the settlement of its account or otherwise, and the balance of such reserve remaining after the payment of such fees and expenses shall be paid over to the successor Trustee or Trustees.

Section 11.05. Decision of Majority of Trustees to Govern. Except as otherwise expressly provided, when there are three (3) or more Trustees authorized to act in any matter, the agreement of a majority of the Trustees shall be required and when there are two (2) Trustees authorized to act, the agreement of both Trustees shall be required. Each Trustee shall be liable only for his or her own acts in the administration of this Trust. No Trustee shall be in any way, or to any extent, liable to the Participants or others for anything hereunder done by his or her co-Trustee, to which he or she did not actively consent or approve.

Section 11.06. Title to Trust Funds. Title to the Trust Funds shall be vested in the Trustee, and shall remain so vested exclusively in said Trustee. The University, Participants, and the Participants' Dependents shall not have any right, title, or interest in the Trust Funds, nor any right to the contributions made thereto.

Section 11.07. Records of Trustee. The Trustee shall keep, or cause to be kept, accurate and detailed accounts of all investments, receipts, disbursements, and other transactions hereunder, and all accounts, books, and records relating thereto shall be open to inspection and audit at all reasonable times by any person designated by the University. Within sixty (60) days following the close of each Plan Year and within sixty (60) days after the removal or resignation of the Trustee, as provided herein, the Trustee shall file with the University a written account setting forth all investments, receipts, disbursements, and other transactions effected by it during such Plan Year or during the period from the close of the last Plan Year to the date of such removal or resignation, and setting forth the assets and liabilities of the Plan. Except as herein specifically provided, the Trustee shall be relieved to the extent permitted by law from any and all duties of accounting which would otherwise be imposed on it by the laws of the State of Indiana.

Section 11.08. Reliance. Any action by the University pursuant to any of the provisions of these Trusts shall be communicated in writing to the Trustee, except as otherwise agreed between the University and the Trustee. Except as otherwise agreed between the University and the Trustee, all orders, requests, and instructions of the University to the Trustee shall be signed and in writing, and the Trustee shall act, and shall be fully protected in acting, in accordance with such orders, requests, and instructions.

Section 11.09. Holding of Trust Assets. All the assets in the Trust shall be held collectively for all Participants with no physical division thereof until such time as a disbursement is actually made by the Trustee.

ARTICLE XII. **LIMITATION OF TRUSTEE RESPONSIBILITIES**

Section 12.01. Limitation of Liability. The Trustee shall be accountable only for funds actually received by it hereunder and shall have no duty or liability to determine that the amount of the funds received by it comply with the provisions of the Plan. If the University has established a contract with an insurance company to carry out the purposes of the Plan, the Trustee shall not be liable for the acts or omissions of such insurance company, or be under an obligation to invest or otherwise manage the portion of the Trust Funds which is subject to the management of such insurance company.

When the Trustee is required or authorized to take any action hereunder pursuant to any written direction or notice of the University, the Trustee, acting in accordance with such direction or notice, shall not be responsible for the administration of such Plan or Trust, for the correctness of any payments or disbursements from the trust, or for any other action taken by the Trustee in accordance with such written direction or notice. Such direction or notice shall be sufficient protection to the Trustee if contained in writing signed by the University or such other person authorized to execute documents on behalf of the University, in the case of direction or notice required to be given by the University.

Section 12.02. Indemnification. The University shall indemnify and hold harmless the Trustee from and against any losses, costs, damages or expenses, including reasonable attorneys' fees, which the Trustee may incur or pay out by reason of (i) the Trustee's acting in accordance with the directions of the University or failing to act in the absence of such directions; (ii) the Trustee's exercise and performance of its powers and duties hereunder, unless the same are determined to be due to the Trustee's negligence, bad faith or willful misconduct; or (iii) any (alleged or actual) action or inaction on the part of the University, unless such losses, costs, damages, or expenses arise out of the Trustee's gross negligence, bad faith, or willful misconduct. In addition, other than with respect to a proceeding or litigation in which the University is adverse to the Trustee, in the event that the Trustee undertakes or defends any litigation (including but not limited to any audit, proceeding or any other administrative action of any state, local or federal taxing authority) arising in connection with the Trust Fund, the University agrees to indemnify the Trustee against the Trustee's reasonable costs, expenses, and liabilities (including, without limitation, reasonable attorneys' fees and expenses) relating thereto and to be primarily liable for such payments. Subject to the Trustee's entitlement to indemnification as set forth herein, if the University does not pay such costs, expenses, and liabilities described in this paragraph in a reasonably timely manner, the Trustee may obtain payment from the Trust Fund.

The Trustee shall indemnify and hold harmless the University from and against any losses, costs, damages or expenses, including reasonable attorneys' fees, which the University may incur or pay out by reason of (i) the Trustee's failure to act in accordance with the directions of the University or acting in the absence of such directions; and (ii) the Trustee's negligence, bad faith or willful misconduct in the performance (or lack of performance) of its duties hereunder. In addition, in the event that the University undertakes or defends any litigation (including but not limited to any audit, proceeding or any other administrative action of any state, local or federal taxing authority) arising in connection with the Trust Fund due to the negligence, bad faith, or willful misconduct of the Trustee, the Trustee agrees to indemnify the University against the University's reasonable costs, expenses, and liabilities (including, without limitation, reasonable attorneys' fees and expenses) relating thereto and to be primarily liable for such payments.

Section 12.03. Non-Liability of Successor of Trustee. Each successor Trustee may accept as complete and correct and may rely upon any accounting which shall have been made by or on behalf of any Trustee hereunder prior to the date upon which such successor Trustee shall have qualified as a Trustee and may rely upon any statement or representation made by any Trustee then acting under this Trust as to the assets comprising the Trust or as to any other fact bearing upon the prior administration of the Trust. No such successor Trustee shall be subject to any liability by reason of having accepted and relied upon such accounting, statement, or representation in case it is subsequently established that the same was incomplete, inaccurate, or untrue. No successor Trustee hereunder shall be subject to any liability or responsibility with respect to any act or omission of any other Trustee nor shall any successor Trustee have any duty to enforce or to seek to enforce any claims of any kind against any predecessor Trustee on account of or in connection with any act or omission of any Trustee hereunder.

ARTICLE XIII. PLAN ADMINISTRATION

Section 13.01. Administrator. The University shall be the Administrator of the Plan within the meaning of ERISA; provided, however, the Administrator may from time to time designate a person, subcommittee, Claims Supervisor, or organization to perform certain responsibilities of the Administrator. Any such individual, subcommittee, or organization shall perform the delegated functions until removal by the Administrator, which removal may be without cause and without advance notice. Except as otherwise specifically provided in the Plan, the Administrator shall have full, discretionary authority to control and manage the operation and administration of the Plan, and shall be named fiduciary of the Plan. The Administrator shall have all power necessary or convenient to enable the Administrator to exercise such authority. The Administrator or its designee may provide rules and regulations, not inconsistent with the provisions hereof, for the operation and management of the Plan, and may from time to time amend or rescind such rules or regulations. The Administrator shall have the full discretion, power, and the duty to take all action necessary or proper to carry out the duties required under ERISA. The Administrator is authorized to accept service of legal process for the Plan.

Section 13.02. Claims Supervisor. The University may appoint or remove a Claims Supervisor with respect to any or all of the Benefit Features under the Plan.

Section 13.03. Discretionary Authority of Administrator.

(a) The Administrator shall have full, discretionary authority to enable it to carry out its duties under the Plan, including but not limited to, the authority to determine eligibility under the Plan and to construe and interpret the terms of the Plan and to determine all questions of fact or law arising hereunder. All such determinations and interpretations shall be final, conclusive, and binding on all persons affected thereby. The Administrator shall have full, discretionary authority to correct any defect, supply any omission or reconcile any inconsistency and resolve ambiguities in the Plan in such manner and to such extent as they may deem expedient, and the Administrator shall be the sole and final judge of such expediency. Benefits under this Plan will be paid only if the Administrator decides, in its discretion, that the applicant is entitled to them.

(b) The Administrator shall have full, discretionary authority to control and manage the operation and administration of the Plan, and shall be the named fiduciary of the Plan. The Administrator shall have all power necessary or convenient to enable the Administrator to exercise such authority. The Administrator or its designee may provide rules and regulations, not inconsistent with the provisions hereof, for the operation and management of the Plan, and may from time to time amend or rescind such rules or regulations. The Administrator shall have the full discretion, power, and the duty to take all action necessary or proper to carry out the duties required under ERISA. The Administrator is authorized to accept service of legal process for the Plan.

Section 13.04. Provision for Third-Party Administrative Service Providers. The Administrator may employ the services of such persons as it may deem necessary or desirable in connection with the operation of the Plan and may delegate to such persons any duty assigned to the Administrator hereunder.

Section 13.05. Timeliness of Benefit Payments. Payments shall be made as soon as administratively feasible after the required forms and documentation have been received by the Administrator, subject to the Claims Procedure requirements set out in Article XIV.

Section 13.06. Designation of Fiduciaries. The Administrator may designate another person or persons to carry out any fiduciary responsibility of the Administrator under the Plan. The Administrator shall not be liable for any act or omission of such person in carrying out such responsibility, except as may be otherwise provided under ERISA. To the extent permitted under ERISA, no fiduciary of the Plan shall be liable for any act or omission in carrying out the fiduciary's responsibilities under the Plan. To the extent permitted under ERISA, each fiduciary under the Plan shall be responsible only for the specific duties assigned under the Plan and shall not be directly or indirectly responsible for the duties assigned to another fiduciary.

**ARTICLE XIV.
CLAIMS PROCEDURE**

Section 14.01. Reimbursement of Benefits. Upon receipt of proof satisfactory to the Administrator that a Participant is eligible for benefits as set forth in the Plan during a Plan Year, the Plan will reimburse Health Plan Premiums and Qualified Medical Expenses, subject to the claims and review procedures set forth below. All such determinations will be final, conclusive, and binding on all persons affected thereby. All notifications to a Claimant for claim review, Denial, approval and appeal may be done in writing or electronically, unless otherwise designated.

Section 14.02. Initial Claim for Benefits. Any claim for reimbursement under the Plan must be filed with the Claims Supervisor on the designated form within nine (9) months of incurring the Health Plan Premiums and Qualified Medical Expenses, and will be deemed filed upon receipt.

Section 14.03. Initial Review of Benefit Claims. When a claim has been properly filed, the Claimant will be notified of the approval or Denial within thirty (30) days after the claim is received. The thirty (30) day period may be extended one time for up to fifteen (15) days if (i) the Administrator determines an extension is necessary due to matters beyond the Administrator's control, and (ii) the Administrator notifies the Claimant before the end of the initial thirty (30) day time period of the extension and the date the Administrator expects to render a decision. If an extension is needed due to the Claimant's failure to submit information necessary to decide the claim, the notice of the extension will specifically describe the information that is needed. The Claimant will have forty-five (45) days to provide any required information to the Administrator. Notwithstanding this Section, the Administrator may or may not allow an extension due to the Claimant's failure to provide needed information.

If applicable, the Administrator will notify the Claimant of the approval or Denial of the claim no later than fifteen (15) days after the earlier of (i) the Administrator's receipt of additional information from the Claimant, or (ii) the end of the time period given to the Claimant to provide the additional information (forty-five (45) days).

Section 14.04. Initial Denial of Benefit Claims. If any claim is partially or wholly denied, the Claimant will be given notice which will contain (i) the specific reasons for the Denial; (ii) references to Plan provisions on which the Denial is based; (iii) a description of any additional material or information needed and why such material or information is necessary; (iv) a description of the review procedures and time limits; and (v) the specific internal rule, guideline, protocol, or other similar criterion, if any, relied upon in making the Denial, or a statement that such rule, guideline, protocol, or other similar criterion was relied upon, with a copy free of charge upon request.

Section 14.05. Appeal of Benefit Claim Denial. A Claimant may appeal the Denial of a claim by filing a written claim appeal with the Administrator within one hundred eighty (180) days after the Claimant receives notice of the Denial, which will be deemed filed upon receipt. If the request is not timely, the decision of the Administrator will be the final decision of the Plan, and will be final, conclusive, and binding on all persons.

Section 14.06. Denial of Benefit Appeal. The Claimant will receive notice of the Administrator's decision on appeal within sixty (60) days after receipt of the Claimant's appeal request. If the claim is denied on appeal, the Claimant will be given notice containing a statement that the Claimant is entitled to receive, upon request and free of charge, reasonable access to and copies of all documents, records, and other information relevant to the Claimant's claim, as well as items (i)-(v) under Section 14.04 above. A decision on review will be final, conclusive, and binding on all persons.

Section 14.07. Authorized Representative. The Plan will not prevent an authorized representative of a Claimant from acting on behalf of the Claimant in pursuing a benefit claim or appeal, pursuant to reasonable procedures.

Section 14.08. Calculating Time Periods. The period of time within which an initial benefit determination or a determination on an appeal is required to be made will begin when a claim or appeal is filed regardless of whether the information necessary to make a determination accompanies the filing.

If the time period for making the initial benefit determination is extended (in the Administrator's discretion) because the Claimant failed to submit information necessary to decide the claim, the time period for making the determination will be suspended from the date notification of the extension is sent to the Claimant until the earlier of (i) the date on which response from the Claimant is received, or (ii) the end of the time period given to the Claimant to provide the additional information (at least forty-five (45) days).

Section 14.09. Full and Fair Review. Upon request and free of charge, the Claimant or his or her duly authorized representative will be given reasonable access to, and copies of, all documents, records, and other information relevant to the Claimant's claim, or may submit to the appropriate person or entity written comments, documents, records, and other information relating to the claim. If timely requested, review of a denied claim will take into account all comments, documents, records, and other information submitted by the Claimant or his or her duly authorized representative relating to his or her claim without regard to whether such information was submitted or considered in the initial benefit determination.

Appeals will be reviewed by the Administrator who will be the named fiduciary of the Plan and who will be neither the individual nor subordinate of the individual who made the initial determination.

Claimants and this Plan may have other voluntary alternative dispute resolution options, such as mediation. For available options, Claimants could contact their local U.S. Department of Labor Office and their State insurance regulatory agency.

Section 14.10. Exhaustion of Remedies. If a Claimant fails to file a request for review of a Denial, in whole or in part, of benefits in accordance with the procedures herein outlined, such Claimant will have no right to review and no right to bring action, at law or in equity, in any court and the Denial of the claim will become final and binding on all persons for all purposes.

ARTICLE XV. AMENDMENT OR TERMINATION OF PLAN

Section 15.01. Modification and Amendment of Plan and Trust. The University shall have the right, in its sole discretion, to amend or modify the Plan and Trusts and any provisions of any of the above at any time and from time to time and to any extent it may deem advisable; provided, however, that no amendment shall retroactively increase the duties or responsibilities of the Trustee without the written consent of the Trustee. A certified copy of the resolution of the University taking such action shall be delivered to the Trustee, and the Plan and/or Trusts shall be amended or terminated in the manner and effective as of the date set forth in such resolution, and all persons having any interest under the Plan or Trusts shall be bound thereby; provided, however, that no such action by the University shall permit or cause any portion of the Trust Fund to revert to or become the property of the University except as otherwise provided by the Code and the regulations promulgated thereunder. Such modification or amendment shall be duly incorporated in writing. Such amendment or modification may include increases, modifications, reductions, or elimination of benefits. Any amendment or

modification shall be effective in accordance with the time limitations provided under ERISA or such later date as the University may determine in connection therewith. To the extent allowed by ERISA, any such amendment may be effective retroactively.

Section 15.02. Discretionary Plan and Trust Termination. The University shall have the right, in its sole discretion, to terminate the Plan and Trusts at any time. Termination of the Plan and Trusts shall be effective in accordance with the time limitations provided under ERISA, or such later date as the University may determine in connection herewith. To the extent allowed by ERISA any such termination may be effective retroactively.

Section 15.03. Automatic Plan Termination. The Plan shall terminate upon the date of termination of coverage under the Plan for the last remaining Participant.

Section 15.04. Duration of Trust. Notwithstanding Section 15.02, the Trust shall not terminate until the date on which Participants and their Dependents are no longer entitled to benefits pursuant to the terms of the Plan. Upon termination of the Trust, any remaining amounts in the Trust shall be applied by the Trustee, in accordance with directions of the University, to provide one or more benefits permitted under Code Section 501(c)(9).

ARTICLE XVI.

PROTECTED HEALTH INFORMATION

Section 16.01. Adoption. This Article is adopted to reflect certain provisions of HIPAA. It is intended as good faith compliance with the requirements of HIPAA and is to be construed in accordance with HIPAA and guidance issued thereunder.

Section 16.02. Supersession of Inconsistent Provisions. This Article shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Article.

Section 16.03. Use and Disclosure of Protected Health Information. The Plan shall use and disclose Protected Health Information to the extent of and in accordance with the uses and disclosures permitted by HIPAA, as set forth in the Privacy Regulations. Specifically, the Plan shall use and disclose Protected Health Information for purposes related to health care treatment, Payment for health care, and Health Care Operations.

Section 16.04. Plan Documents. In order for the Plan to disclose Protected Health Information to the University or to provide for or permit the disclosure of Protected Health Information to the University by a health insurance issuer or HMO with respect to the Plan, the Plan must ensure that the Plan documents restrict uses and disclosures of such information by the University consistent with the requirements of HIPAA.

Section 16.05. Disclosures by Plan to the University. The Plan may:

(a) Disclose Summary Health Information to the University, if the University requests the Summary Health Information for the purpose of:

(b) Obtaining premium bids from health plans for providing Health Plan Coverage under the Plan; or

- (c) Modifying, amending, or terminating the Plan.
- (d) Disclose to the University information on whether an Individual is participating in the Plan, or is enrolled in or has disenrolled from a health insurance issuer offered by the Plan.
- (e) Disclose Protected Health Information to the University to carry out Plan administration functions that the University performs, consistent with the provisions of Sections 16.06 to 16.08 of this Article.
- (f) With an authorization from the Eligible Employee or Eligible Retiree, disclose Protected Health Information to the University for purposes related to the administration of other employee benefit plans and fringe benefits sponsored by the University.
- (g) Not permit a health insurance issuer with respect to the Plan to disclose Protected Health Information to the University except as permitted by this Section.
- (h) Not disclose (and may not permit a health insurance issuer to disclose) Protected Health Information to the University as otherwise permitted by this Section unless a statement is included in the Plan's notice of privacy practices that the Plan (or a health insurance issuer with respect to the Plan) may disclose Protected Health Information to the University.
- (i) Not disclose Protected Health Information to the University for the purpose of employment-related actions or decisions or in connection with any other benefit or employee benefit plan of the University.

Section 16.06. Uses and Disclosures by University. The University may only use and disclose Protected Health Information as permitted and required by the Plan, as set forth within this Article. Such permitted and required uses and disclosures may not be inconsistent with the provisions of HIPAA. The University may use and disclose Protected Health Information without an authorization from an Eligible Employee or Eligible Retiree for Plan administrative functions including Payment activities and Health Care Operations. In addition, the University may also use and disclose Protected Health Information to accomplish the purpose for which any disclosure is properly made pursuant to Section 16.05.

Section 16.07. Certification. The Plan may disclose Protected Health Information to the University only upon receipt of a certification from the University that the Plan documents have been amended to incorporate the provisions provided for in this Section and that the University so agrees to the provisions set forth therein.

Section 16.08. Conditions Agreed to by the University. The University agrees to:

- (a) Not use or further disclose Protected Health Information other than as permitted or required by the Plan document or as required by law;
- (b) Ensure that any agents, including a subcontractor, to whom the University provides Protected Health Information received from the Plan agree to the same restrictions and conditions that apply to the University with respect to such Protected Health Information, and that any such agents or subcontractors agree to implement reasonable and appropriate security measures to protect any Electronic Protected Health Information belonging to the Plan that is provided by the University;

- (c) Not use or disclose Protected Health Information for employment-related actions and decisions unless authorized by an Individual;
- (d) Not use or disclose Protected Health Information in connection with any other benefit or employee benefit plan of the University unless authorized by an Individual;
- (e) Report to the Plan any Protected Health Information use or disclosure that is inconsistent with the uses or disclosures provided for by this Article, or any Security Incident of which it becomes aware;
- (f) Make Protected Health Information available to an Individual in accordance with HIPAA's access requirements pursuant to 45 CFR § 164.524;
- (g) Make Protected Health Information available for amendment and incorporate any amendments to Protected Health Information in accordance with 45 CFR § 164.526;
- (h) Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
- (i) Make internal practices, books and records relating to the use and disclosure of Protected Health Information received from the Plan available to the Secretary of the Department of Health and Human Services for the purposes of determining the Plan's compliance with HIPAA;
- (j) If feasible, return or destroy all Protected Health Information received from the Plan that the University still maintains in any form, and retain no copies of such Protected Health Information when no longer needed for the purpose for which disclosure was made (or if return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction infeasible);
- (k) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of the Plan; and
- (l) Ensure that the separation and requirements of Sections 16.09, 16.10, and 16.11 of the Plan are supported by reasonable and appropriate security measures.

Section 16.09. Adequate Separation Between the Plan and the University. In accordance with HIPAA, only the designated Privacy Officer and those individuals identified in the HIPAA Policies and Procedures who have a need for Protected Health Information to help administer the Plan may be given access to Protected Health Information.

Section 16.10. Limitations of Access and Disclosure. The persons described in Section 16.09 of this Article may only have access to and use and disclose Protected Health Information for Plan administration functions that the University performs for the Plan.

Section 16.11. Noncompliance. If the persons or classes of persons described in Section 16.09 of this Article do not comply with this Plan document, the Plan and the University shall provide a mechanism for resolving issues of noncompliance, including disciplinary sanctions.

ARTICLE XVII.
MISCELLANEOUS

Section 17.01. Nonalienation.

(a) Except as otherwise required pursuant to a qualified medical child support order under ERISA Section 609, no benefit under the Plan prior to actual receipt thereof by an Eligible Employee shall be subject to any debt, liability, contract, engagement, or tort of any Eligible Employee, Dependent, or beneficiary, nor subject to anticipation, sale, assignment, transfer, encumbrance, pledge, charge, attachment, garnishment, execution, alienation, or any other voluntary or involuntary alienation or other legal or equitable process, nor transferable by operation of law.

(b) Notwithstanding paragraph (a), the Plan shall comply with any judgment, decree or order ("domestic relations order") which establishes the right of an alternate payee within the meaning of Code Section 414(p)(8) to all or a portion of a Participant's Reimbursement Benefit under the Plan to the extent that it is a "qualified domestic relations order" ("QDRO") under Code Section 414(p). The Administrator shall establish reasonable written procedures to determine whether a domestic relations order is a QDRO and to administer the distribution of benefits with respect to such orders, which procedures may be amended from time to time, and which shall be provided to Participants upon request.

Section 17.02. Additional Taxes or Penalties. If there are any taxes or penalties payable by the University on behalf of any Eligible Retiree, such taxes or penalties shall be payable by the Eligible Retiree to the University to the extent such taxes would have been originally payable by the Eligible Retiree had this Plan not been in existence.

Section 17.03. No Guarantee of Tax Consequences. Neither the Administrator nor the University makes any commitment or guarantee that any amounts paid to or for the benefit of an Eligible Retiree under the Plan shall be excludable from the Eligible Retiree's gross income for federal, state, or local income tax purposes or for Social Security tax purposes, or that any other federal or state tax treatment shall apply to or be available to any Eligible Retiree. It shall be the obligation of each Eligible Retiree to determine whether payment under the Plan is excludable from the Eligible Retiree's gross income for federal, state, and local income tax purposes, and Social Security tax purposes, and to notify the University if the Eligible Retiree has reason to believe that any such payment is not excludable.

Section 17.04. Necessary Parties to Disputes. Necessary parties to any accounting, litigation, or other proceedings relating to the Trusts shall include only the Trustee. The settlement or judgment in any such case in which the Trustee is duly served shall be binding upon all Participants in the Plan, their Dependents, estates, and upon all persons claiming by, through, or under them.

Section 17.05. Requirement of Proper Forms. All communications in connection with the Plan made by a Participant shall become effective only when duly executed on forms provided by and filed with the Administrator.

Section 17.06. Source of Payments. The Trust shall be the sole source of benefits under the Plan. No Eligible Retiree shall have any right to, or interest in, any assets of the

University, except as provided from time to time under the Plan, and then only to the extent of the benefits payable under the Plan to such Eligible Retiree.

Section 17.07. Notice. Any notice given under the Plan shall be sufficient if given to the Administrator, when addressed to its office; if given to the Claims Supervisor, when addressed to its office; or if given to a Participant, when addressed to the Participant at his or her address as it appears in the records of the Administrator or the Claims Supervisor.

Section 17.08. Protective Clause. Neither the University, the Administrator, nor the Trustee shall be responsible for the validity of any contract of insurance or other benefit contract or policy by any benefit provider issued under the Plan or for the failure on the part of any insurance company or other benefit provider to make payments thereunder.

Section 17.09. Receipt and Release. Any payments to a Participant shall, to the extent thereof, be in full satisfaction of the claim of such Participant, and the Administrator may condition payment thereof on the delivery by such person of a duly executed receipt and release in such form as may be determined by the Administrator.

Section 17.10. Limitation of Rights and Obligations. Neither the establishment nor maintenance of the Plan or Trusts nor any amendment thereof, nor the purchase of any benefit contract or insurance policy, nor any act or omission under the Plan or Trusts or resulting from the operation of the Plan or Trusts shall be construed:

(a) As conferring upon any person any right or claim against the University, the Administrator, Claims Supervisor, Trusts, or Trustee except to the extent that such rights or claims shall be specifically expressed and provided in the law;

(b) As creating any responsibility or liability of the University, Administrator or the Claims Supervisor for the validity or effect of the Plan or Trusts;

(c) As a contract or agreement between the University or the Administrator and any other person;

(d) As being consideration for, or an inducement or condition of, employment of any Participant or other person, or as affecting or restricting in any manner or to any extent whatsoever the rights or obligations of the University or any Participant or other person to continue or terminate the employment relationship at any time;

(e) As giving any Participant or any other person the right to be retained in the service of the University or to interfere with the right of the University to discharge any Participant or other person at any time; or

(f) As affecting or restricting in any manner or to any extent whatsoever the rights of the University or other person to amend, terminate, suspend, or modify the terms of the Plan or Trusts or any other employee benefit plan maintained by the University.

Section 17.11. Right of Recovery. If the University, Administrator or the Claims Supervisor makes any payment that according to the terms of the Plan should not have been made, The University, the Administrator, or the Claims Supervisor may recover that incorrect payment, whether or not it was made due to the University's, the Administrator's, or the Claims

Supervisor's own error, from the person to whom it was made or from any other appropriate party. If any such incorrect payment is made directly to a Participant, the University, the Administrator, or the Claims Supervisor may deduct it when making future payments directly to that Participant.

Section 17.12. Legal Counsel. The Administrator may from time to time consult with counsel, who may be counsel for the University, and shall be fully protected in acting upon the advice of such counsel.

Section 17.13. Audit. If an audit of the Plan is required under ERISA for any Plan Year, the Administrator shall engage an independent qualified public accountant. Such audit shall be conducted in accordance with the requirements of ERISA Section 103.

Section 17.14. Reliance. The Administrator shall not incur any liability in acting upon any notice, request, signed letter, telegram, or other paper or document believed by the Administrator to be genuine or to be executed or sent by an authorized person.

Section 17.15. Misrepresentation. Any material misrepresentation on the part of the Participant making application for coverage or receipt of benefits, shall render the coverage null and void. Each Participant is required to notify the Administrator or Claims Supervisor of any change in status or other applicable events as required under this Plan. Any failure to notify the Administrator or Claims Supervisor of any change in status or other applicable events will be deemed by the Administrator to be an act that constitutes fraud and an intentional misrepresentation of material fact prohibited by the Plan that may result in a retroactive termination of coverage.

Section 17.16. Facility of Payment. If a person who is entitled to receive payments under the Plan is physically or mentally incapable of personally receiving and giving a valid receipt for any payment due, the payment may be made to the person's personal representative as documented in writing with the University. Any such payment shall be a complete discharge of any liability for the making of such payment under the provisions of the Plan.

Section 17.17. Inactive Accounts. If the University is unable to locate a Participant (or confirm that the Participant is deceased), the University may instruct the Trustee to forfeit the balance of the Participant's Accounts subject to reinstatement (including earnings and losses) paid out of each Trust's forfeiture account in the event that the Participant or other individual with rights to the Accounts contacts the University.

Section 17.18. Entire Plan. This Plan document and the documents incorporated by reference shall constitute the only legally governing documents for the Plan. All statements made by the Administrator shall be deemed representations and not warranties. No oral statement or other communication shall amend or modify any provision of the Plan as set forth herein.

IN WITNESS THEREOF, the Plan and Trust is hereby executed as follows:

DEPAUW UNIVERSITY

By: Brad A. Kelsheimer

Its: VICE PRESIDENT FOR FINANCE + ADMINISTRATION

Date: 1/18/13

TRUSTEE

By: Brad A. Kelsheimer

Brad Kelsheimer
Vice President for Finance and Administration

Date: 1/18/13