UNIVERSITY OF PITTSBURGH

403(b) PLAN

AMENDED AND RESTATED
EFFECTIVE AS OF JANUARY 1, 2012
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Article</th>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ARTICLE ONE</strong></td>
<td>Effective Date</td>
<td>1</td>
</tr>
<tr>
<td><strong>ARTICLE TWO</strong></td>
<td>Designation of Plan</td>
<td>2</td>
</tr>
<tr>
<td><strong>ARTICLE THREE</strong></td>
<td>Definitions</td>
<td>3</td>
</tr>
<tr>
<td><strong>ARTICLE FOUR</strong></td>
<td>Eligibility and Participation</td>
<td>13</td>
</tr>
<tr>
<td><strong>ARTICLE FIVE</strong></td>
<td>Contributions</td>
<td>15</td>
</tr>
<tr>
<td><strong>ARTICLE SIX</strong></td>
<td>Allocations</td>
<td>18</td>
</tr>
<tr>
<td><strong>ARTICLE SEVEN</strong></td>
<td>Limitations on Annual Additions</td>
<td>21</td>
</tr>
<tr>
<td><strong>ARTICLE EIGHT</strong></td>
<td>Vested Interest</td>
<td>25</td>
</tr>
<tr>
<td><strong>ARTICLE NINE</strong></td>
<td>Retirement Benefits</td>
<td>26</td>
</tr>
<tr>
<td><strong>ARTICLE TEN</strong></td>
<td>Death Benefit</td>
<td>27</td>
</tr>
<tr>
<td><strong>ARTICLE ELEVEN</strong></td>
<td>Payment of Benefits</td>
<td>28</td>
</tr>
<tr>
<td><strong>ARTICLE TWELVE</strong></td>
<td>Administration of Plan</td>
<td>39</td>
</tr>
<tr>
<td><strong>ARTICLE THIRTEEN</strong></td>
<td>Amendment and Termination</td>
<td>42</td>
</tr>
<tr>
<td><strong>ARTICLE FOURTEEN</strong></td>
<td>Miscellaneous Provisions</td>
<td>44</td>
</tr>
</tbody>
</table>
ARTICLE ONE

Effective Date

1.01 History: The provisions of this Plan were originally effective as of July 1, 1919. Until this restatement the Plan document consisted of a number of Board resolutions, contracts, and documents implementing administrative procedures. This document consolidates all of the Plan provisions but does not contain a complete history of the Plan. In addition, the custodial provisions are contained in separate documents. This Plan used to be referred to as the University of Pittsburgh Contributory Tax-Deferred Annuity Plan.

1.02 Effective Date: Except as otherwise provided, this document is effective as of January 1, 2012.

(a) Changes required under the IRC §415 regulations that were issued on April 5, 2007 became effective as of January 1, 2008. For Limitation Years beginning prior to January 1, 2008, corrective action (if needed) was taken in accordance with the 1981 §415 regulations.

(b) The reference to IRC §403(b) in Subsection 11.05(a) became effective as of January 1, 2007.


(d) Provisions related to Qualified Optional Survivor Annuities became effective as of January 1, 2008.

(e) Provisions relating to differential wage payments became effective as of January 1, 2009.

1.03 Roth 403(b) Provisions: Plan provisions related to Roth 403(b) Contributions became effective as of October 1, 2008.
ARTICLE TWO

Designation of Plan

2.01 403(b) Plan: The Plan and associated Annuity Contracts and Custodial Agreements established hereunder shall be known as the University of Pittsburgh 403(b) Plan (hereinafter called the "Plan") and shall be for the exclusive benefit of the Employees. The terms of the Plan are intended to comply with the Internal Revenue Code of 1986, as amended, and Treasury regulations issued in connection therewith. All Plan assets are held in annuity contracts with the Teachers Insurance & Annuity Association ("TIAA") or the College Retirement Equities Fund ("CREF", collectively "TIAA-CREF") or in custodial accounts with TIAA-CREF or the Vanguard Group of Companies. All assets in the custodial accounts must be invested in regulated investment company stock (mutual funds) in accordance with IRC §403(b)(7).

2.02 RA Contracts belonging to Former Employees: TIAA-CREF RA and SRA Annuity Contracts belonging to a former employee of the University who terminated employment with the University prior to July 1, 1985 (and who is not a current employee as of January 1, 2009) are not assets of this Plan. Such contracts are owned by the former employee.
ARTICLE THREE

Definitions

When used herein, the following words shall have the following meanings unless the context clearly indicates otherwise:

3.01 "Account Balance" shall mean the bookkeeping account maintained for the benefit of a Participant or a Beneficiary under the Plan. A Participant's "Account Balance" is the sum of all of his Custodial Accounts and Annuity Contracts under the Plan.

3.02 "Alternate Payee" shall mean any spouse, former spouse, child, or other dependent of a Participant who is recognized by a Domestic Relations Order as having a right to receive all, or a portion of, the benefits payable under a plan with respect to such Participant.

3.03 "Annuity Contract" shall mean a nontransferable contract purchased with Plan assets from an insurance company authorized to do business in Pennsylvania that includes payment in the form of an annuity. Annuity Contracts shall comply with the requirements of IRC §403(b)(1). As of the date of adoption of this Plan document all Annuity Contracts purchased under the Plan had been purchased from the Teachers Insurance & Annuity Association ("TIAA") or the College Retirement Equities Fund ("CREF", collectively "TIAA-CREF").

3.04 "Benefits Eligible Employee" shall mean any University employee who, in accordance with the University's PRISM Oracle HR Glossary, is classified as:

(a) Full-time faculty,
(b) Full-time librarian,
(c) Full-time research associate,
(d) Regular full-time staff who is not covered by separate collective bargaining agreements,
(e) Part-time faculty in the tenure stream or tenured for no less than half-time, or
(f) Regular part-time staff who is not covered by separate collective bargaining agreements.

3.05 "Compensation" shall mean:

(a) Basic Definition: Except as otherwise provided, the total amount of base compensation (including third-term compensation) which is subject to federal income tax withholding (determined without regard to IRC §911, §931, or §933) which is paid (or otherwise becomes taxable) to an Employee (or former Employee) by the University for services rendered while an Employee and shall:
include the amount of any salary reductions made pursuant to any plan or arrangement which meets the requirements of IRC §125, §132(f)(4), §401(k), §403(b) or §457(b), provided that any cash payment made to any participant who waives insurance coverage under an IRC §125 plan shall be excluded, and

except as provided in paragraph (i), exclude any reimbursements or other expense allowances, fringe benefits (cash and noncash), moving expenses, deferred compensation, amounts taxable under IRC §117, lump-sum cash-outs of vacation or sick pay paid to terminating employees, and welfare benefits; provided that long-term disability benefits paid to Employees (but not former employees) are included in Compensation regardless of whether they are subject to federal income tax withholding, and

exclude any compensation which is paid (or otherwise becomes taxable) to an Employee for services rendered while he was not a Participant in the Plan;

exclude any non-base compensation, including bonuses, commissions, overtime, supplemental compensation, overloads, honoraria, payments under any severance, early retirement, or tenure buy-back program, any compensation to the extent that the Participant’s employment contract provides that fringe benefits will not be based on it, and similar forms of remuneration; provided that payments under the retention incentive plan for officers are included; and

include payments identified in clause (b)(vii)(1),

include differential wage payments within the meaning of IRC §414(u)(12), and

exclude any scholarships, grants, stipends, or fellowship payments that are not payments for services.

(b) **IRC §415 Limit:** For purposes of Article Seven, the Participant’s “includible compensation” within the meaning of IRC §403(b)(3), which is the compensation received from the University that is includible in the Participant’s gross compensation for federal income tax purposes for the most recent year that is a Year of Service; provided that:

Effective for Limitation Years beginning after 2007, Compensation shall not include items listed in reg. §1.415(c)-2(c), such as deferred compensation, stock options, and other remunerations which receive special tax benefit. [Prior to January 1, 2008 items listed in reg. §1.415-2(d)(3) were excluded from Compensation.]
(ii) Salary reduction contributions under a §401(k), §403(b), §457(b), §132(f)(4) or cafeteria (§125) plan or arrangement shall be included as Compensation.

(iii) Effective for Limitation Years beginning after 2007, Compensation includes amounts includible in income because of the making of an election under IRC §83(b), under IRC §409A, or under IRC §457(f)(1)(A), or because the amounts are constructively received.

(iv) Compensation includes any amounts not available to a Participant in cash in lieu of group health coverage (in accordance with Revenue Ruling 2002-27) if the University does not request or collect information regarding the Participant’s other health coverage as part of the enrollment process for the health plan.

(v) Nonqualified deferred compensation which is paid (or otherwise becomes taxable) to a Participant while he or she is still employed by the University (or Related Organization) shall be Compensation when it is paid (or otherwise becomes taxable).

(vi) Effective for Limitation Years beginning after 2007, Compensation for purposes of this section is subject to the limitation of IRC §401(a)(17).

(vii) Effective for Limitation Years beginning after 2007, if a Participant terminates employment with the University during a Plan Year, his Compensation for that Plan Year shall include payments made after his termination of employment during the remainder of the Plan Year. In addition, payments that are made during the next Plan Year that are also made within 2½ months of his termination of employment shall be compensation for the next Plan Year. Notwithstanding the above, compensation under this paragraph is limited to: (1) amounts that would have been paid to the Participant prior to termination of employment had he remained an employee of the University (or Related Organization), and (2) cash outs of unused leave that the Participant would have been able to use had he remained employed. This paragraph does not apply to severance, separation, termination, or similar pay, the right to which arises upon termination of employment.

(viii) Effective for Plan Years and Limitation Years beginning after 2008 differential wage payments within the meaning of IRC §414(u)(12) are included in Compensation.

(ix) Compensation shall be determined without regard to exclusions from gross income under IRC §872, §893, §894, §911, §931, and §933.
(x) Back pay, within the meaning of reg. §1.415(c)-2(g)(8), shall be treated as Compensation for the Limitation Year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(xi) Compensation shall, in accordance with IRC §415(c)(3)(C), include the Compensation that a Participant would have received during the Limitation Year if the Participant were paid at the rate of Compensation that he would have been paid had he not become disabled. This subsection applies only to Participants who suffer a permanent and total disability within the meaning of IRC §22(e)(3).

(c) **IRC §401(a)(17) Limit:** Notwithstanding the other subsections of this section, the Compensation of a Participant for a Plan Year or Limitation Year shall not include compensation in excess of two hundred fifty thousand ($250,000) dollars. This two hundred fifty thousand ($250,000) dollar limit applies for Plan Years and Limitation Years beginning in 2012 and is adjusted periodically in accordance with IRC §401(a)(17). See Section 14.10. If a Plan Year or Limitation Year contains fewer than twelve (12) calendar months, then the dollar limit on Compensation for that Plan Year or Limitation Year shall be the limit under IRC §401(a)(17) multiplied by the number of full months in the Plan Year or Limitation Year and divided by twelve (12) months. This subsection does not apply to a Participant who became a Participant prior to January 1, 1996.

(d) **Disabled Participants:** [RESERVED]

(e) **Common Paymaster:** Notwithstanding the above, any amount disbursed by a common paymaster (other than the University) for services by a common law employee of the University to the University shall not fail to be Compensation because the common paymaster, rather than the University, was responsible for withholding.

3.06 **"Custodial Account"** shall mean the individual or group custodial accounts established in accordance with IRC §403(b)(7) to hold Plan assets invested in regulated investment company stock (a.k.a. mutual funds).

3.07 **"Custodian"** shall mean the party or parties holding the assets of the Custodial Accounts or Annuity Contracts pursuant to the terms of this Plan.

3.08 **"Defined Contribution Plan"** shall mean a plan which meets the requirements of IRC §401 and which provides for an individual account for each participant and for benefits based solely on:

(a) The amount contributed to the participant's account; and
(b) Any income, expenses, gains and losses, and forfeitures of accounts of other participants which may be allocated to the participant’s account.

This Plan is a not a Defined Contribution Plan.

3.09 "Distribution Starting Date" shall mean:

(a) in the case of a benefit to be paid in the form of an annuity, the first day of the first period for which an amount is payable as an annuity, or

(b) in the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitle the Participant to such benefit.

3.10 "Domestic Relations Order" shall mean any judgment, decree, or order (including approval of a property settlement agreement) which:

(a) Relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a Participant, and

(b) Is made pursuant to a state domestic relations law (including a community property law).

3.11 "Employee" shall mean any person employed by the University and not covered by a collective bargaining agreement (unless a collective bargaining agreement provides that the covered individuals shall be eligible to participate). In addition, nonresident aliens who receive no earned income (within the meaning of IRC §911(d)(2)) from the University (or any Related Organization) which constitutes income from sources within the United States, shall not be "Employees."

Effective for Plan Years beginning after December 31, 2008 any former Employee receiving from the University differential wage payments within the meaning of IRC §414(u)(12) shall be treated as an Employee.

Whether a person is an "Employee" shall be determined without regard to the disregarded entity rules under the Internal Revenue Code.

3.12 "Fiduciary" shall mean any person who exercises any discretionary management of the Plan or exercises any authority or control respecting management or disposition of its assets, renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of the Plan, or has authority or responsibility in the administration of the Plan.

3.13 "Foundation" shall mean the University of Pittsburgh and University of Pittsburgh Medical Center Medical and Health Sciences Foundation.
3.14 "Highly Compensated Employee" shall mean, in accordance with the principles of IRC §414(q):

(a) **General Rule:** With respect to any Plan Year, any Employee who:

(i) during the Plan Year or the twelve month period preceding the Plan Year (the "lookback year") was at any time a 5-percent owner (within the meaning of IRC §416(i)(1)), or

(ii) received Compensation in excess of $100,000 during the "lookback year".

The salary level needed to become a Highly Compensated Employee is periodically adjusted in accordance with IRC §414(q)(1). See Section 14.10. Any Employee who is not a "Highly Compensated Employee" is a "non-Highly Compensated Employee".

(b) **Former Employees:** Any former Employee who was a Highly Compensated Employee at any time after attaining age 55 or at the time he separated from service shall be a Highly Compensated former employee. The Corporation shall be deemed to have made whatever elections regarding former employees are necessary so that the definition of Highly Compensated Employee is consistent with such definition in any other benefit plan of the Corporation or a Related Organization to which IRC §414(q) is applicable. For purposes of this subsection, any individual who performed no services for the Corporation or any Related Organization during the relevant period is not a Highly Compensated Employee. For purposes of Article Seven, any individual who performed no services for the Corporation during the relevant Plan Year is not a Highly Compensated Employee.

3.15 "Hour of Service" shall mean:

(a) Each hour for which an employee is paid, or entitled to payment, for the performance of duties for the University. These hours shall be credited to the employee for the computation period in which the duties are performed;

(b) Each hour for which an employee is paid, or entitled to payment, by the University on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military or leave of absence). No more than 501 Hours of Service shall be credited under this subsection. All such hours shall be calculated and credited pursuant to section 2530.200b-2 of the Department of Labor regulations, which are incorporated herein by this reference;

(c) Each hour for which back pay, irrespective of mitigation of damages, is awarded or agreed to by the University. The same Hours of Service shall not be credited
both under subsection (a) or subsection (b), as the case may be, and under this subsection (c). These hours shall be credited to the employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made; and

(d) Each hour for which an individual would have received credit as an employee but for the fact that the individual is absent from work for one of the following reasons:

(i) The pregnancy of the individual,

(ii) The birth of a child of the individual,

(iii) The placement of a child in connection with the adoption of a child by the individual, or,

(iv) The caring for the child during the period immediately following the birth or placement for adoption.

(v) A leave of absence pursuant to the Family and Medical Leave Act but only if the employee returns to provide service after such leave.

If the Plan Administrator is unable to determine the hours for which the individual shall receive credit, the individual shall receive credit for eight (8) Hours of Service for each normal workday during the absence. The number of Hours of Service credited under this subsection shall not exceed the number necessary for the individual to be credited with a total of 501 Hours of Service under this section. Service credited under this subsection shall be credited in the Plan Year in which the absence begins to the extent necessary to prevent the individual from being credited with less than 501 Hours of Service. The Plan Administrator may refuse to credit service under this subsection unless the individual furnishes information necessary to establish that the absence occurred for one of the reason listed above and the number of days for which there was such an absence.

3.16 "IRC" shall mean the Internal Revenue Code of 1986, as amended.

3.17 "Joint and Survivor Annuity" shall mean an immediate annuity:

(a) For the life of the Participant with a survivor annuity for the life of his spouse which is fifty (50%) percent of the amount of the annuity which is payable during the joint lives of the Participant and the spouse, and

(b) Which is the actuarial equivalent of a single straight life annuity for the life of the Participant.
A Joint and 50% Survivor Annuity has a survivor percentage of fifty (50%) percent of the amount payable during the joint lives of the Participant and the spouse. A Joint and 75% Survivor Annuity has a survivor percentage of seventy-five (75%) percent of the amount payable during the joint lives of the Participant and the spouse. Both a Joint and 50% Survivor Annuity and a Joint and 75% Survivor Annuity are types of Joint and Survivor Annuities.

A Joint and 75% Survivor Annuity is the "Qualified Optional Survivor Annuity" for purposes of this Plan.

3.18  "Limitation Year" shall mean the calendar year, except to the extent provided in reg. §1.415(j)-1(e).

3.19  "Normal Retirement Age" shall mean age sixty-five (65).

3.20  "Normal Retirement Date" shall mean the first day of the month next following the date the Participant attains Normal Retirement Age.

3.21  "Officer" shall mean an employee who is an officer within the meaning of IRC § 416(i)(1)(A)(i).

3.22  "Participant" shall mean an employee or former employee of the University who is participating in the Plan in accordance with Article Four or who is or will be receiving benefits pursuant to Article Eleven. A former Employee who receives Compensation under Clause 3.05(b)(vii)(1) shall be treated as an Employee and shall be eligible for allocations under Article Six.

3.23  "Plan" shall mean this Plan as it shall be amended from time to time.

3.24  "Plan Administrator" shall mean the "party or parties" named or appointed as such pursuant to Article Twelve.

3.25  "Plan Year" shall mean the twelve (12) consecutive-month period ending on December 31.

3.26  "Qualified Domestic Relations Order" shall mean any Domestic Relations Order:

(a) Which clearly specifies:

(i) The name and the last known mailing address (if any) of the Participant and the name and mailing address of each Alternate Payee covered by the Order,

(ii) The amount or percentage of the Participant’s benefits to be paid by the Plan to each such Alternate Payee, or the manner in which such amount or percentage is to be determined,
(iii) The number of payments or period to which such Order applies, and
(iv) Each plan to which such Order applies, and

(b) Which:

(i) Does not require the Plan to provide any type or form of benefits or any option, not otherwise provided under the Plan,

(ii) Does not require the Plan to provide increased benefits (determined on the basis of actuarial value), and

(iii) Does not require the payment of benefits to an Alternate Payee which are required to be paid to another Alternate Payee under another Order previously determined to be a Qualified Domestic Relations Order.

3.27 **“Preretirement Survivor Annuity”** shall mean a single straight life annuity for the life of the surviving spouse.

3.28 **“Related Organization”** shall mean, to the extent required by law, any not-for-profit organization, corporation, partnership, or trade or business which is required to be aggregated under IRC §414(b), (c), (m) or (o) with the University.

3.29 **“Rollover Amount”** shall mean any rollover amount, rollover contribution, or eligible rollover distribution as defined in IRC §402(c)(4), §402A(c)(3), §403(a)(4), §403(b)(8), §408(d)(3), or §457(e)(16) that is rolled or transferred into the Plan in accordance with Section 14.04.

3.30 **“Roth 403(b) Contribution”** shall mean a contribution made in lieu of a 403(b) Contribution in accordance with reg. §1.402A-1 and §1.403(b)-3(c). A “Roth Unmatched Contribution” is a Roth 403(b) Contribution that was not matched under either the 401(a) Plan or this Plan. Roth 403(b) Contributions must be accounted for separately from 403(b) Contributions.

3.31 **“Total Disability”** shall mean a “Permanent and Total Disability” within the meaning of IRC §72(m)(7), which at the time that this document was adopted was a condition of a Participant which renders him 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 which has lasted or can be expected to be of long-continued and indefinite duration.

3.32 **“University”** shall mean the University of Pittsburgh of the Commonwealth System of Higher Education, a Pennsylvania not for profit organization, and any Related Organization, successor organization or other organization which adopts this Plan. Each plan sponsor shall be considered separately for purposes of determining who is an Officer. The
University is an instrumentality of the Commonwealth of Pennsylvania and is exempt from taxation under IRC §501(c)(3).

3.33 "UPMC" shall mean the University of Pittsburgh Medical Center.

3.34 "UPP" shall mean University of Pittsburgh Physicians.

3.35 "Valuation Dates" shall mean the last day of the Plan Year and any other date selected by the Plan Administrator. However, to the extent any assets are invested with an insurance or other investment company (including TIAA-CREF or the Vanguard Group of Investment Companies), Valuation Dates shall be determined in accordance with the investment contracts.

3.36 "Vested Interest" shall mean that portion of a Participant’s Account Balance which has become vested (and therefore is nonforfeitable) in accordance with Article Eight.

3.37 "Vesting Computation Period" shall mean the Plan Year.

3.38 "Year of Service" shall mean a year of service as defined in IRC §403(b)(4).

3.39 "401(a) Plan" shall mean the University of Pittsburgh 401(a) Retirement Plan, which is a Defined Contribution Plan.

3.40 "403(b) Contribution" shall mean a salary reduction or elective deferral contribution which an employee elects for the University to make on his or her behalf to this Plan. Contributions that are matched are referred to as "Matched Contributions" (formerly "Tax-Deferred Annuity Contributions"), and 403(b) Contributions that are not matched are referred to as "Unmatched Contributions" (formerly "Supplemental Retirement Annuity (or "SRA") Contributions"). A Participant election to have 403(b) Contributions made on his or her behalf may be made only with respect to "includible compensation". See Subsection 3.05(b).
ARTICLE FOUR

Eligibility and Participation

4.01 403(b) Contributions:

(a) **In General:** Except as otherwise provided, all common law employees of the University are eligible to participate.

(b) **Ineligible to Participate:** Notwithstanding any other provision of the Plan, the following individuals are not eligible to participate in the Plan:

(i) **Nonresident Aliens:** Nonresident aliens with no U.S. source income.

(ii) **Not Employees:** Anyone, such as a volunteer or trainee, who is not considered to be an employee of the University. No individual will be considered to be an employee of the University by virtue of receiving a payment, such as a scholarship, grant, stipend or fellowship payment, that is not for the performance of services for the University.

(iii) **Related Organizations:** Employees of Related Organizations unless the Related Organization specifically adopts this Plan with the consent of the University, and the Related Organization is permitted to sponsor a 403(b) plan under the IRC.

(iv) **Students and Fellows:** Students, including graduate students, to the extent that any services that they perform is not “employment” under IRC §3121(b)(10).

(v) **Long-Term Disability:** RESERVED

4.02 Entry Dates

(a) **Current Employees:** Notwithstanding any other provision of this Article, any Employee who was eligible to participate in the Plan as of the Effective Date of this amended and restated Plan (as described in Article One) shall continue to be eligible to participate as of such Effective Date.

(b) **Other Employees:** Each other employee shall become a Participant as of the first day that he is eligible to participate under Section 4.01 (but not before January 1, 2009).
4.03 **After-Tax Contributions:** Only Benefits Eligible Employees are eligible to make After-Tax Contributions.

Notwithstanding any other provision of this Plan, if a Participant elects to participate in the “Accelerated Option” under the 401(a) Plan, 120 months after the effective date of such election, he is no longer eligible to make After-Tax Contributions.

4.04 **Roth 403(b) Contributions:** Any University employee eligible to have 403(b) Contributions allocated to his account shall be eligible to make Roth 403(b) Contributions.

4.05 **Former Participants:** If a Participant terminates employment with the University or becomes ineligible to participate in accordance with Subsection 4.01(b), he shall again become a participant as of the first day that he is eligible to participate under Section 4.01.

4.06 **Leased Employees:** Leased employees (as defined in IRC §414(n)) shall not be eligible to participate. As of January 1, 1997, a Leased Employee is any person who is not an employee of the University (or any Related Organization) and who provides services to the University if:

(a) the services are provided pursuant to an agreement between the University (or a Related Organization) and any other person (the “leasing organization”),

(b) the person has performed services for the University (or a Related Organization) on a substantially full time basis for a period of at least one year, and

(c) such services are performed under the primary direction or control by the University (or a Related Organization).
ARTICLE FIVE

Contributions

5.01 403(b) Contributions: The University shall contribute 403(b) Contributions in accordance with the following provisions:

(a) 403(b) Contributions: 403(b) Contributions are those Contributions made as the result of elections by Participants that money which would otherwise be paid to them as Compensation be instead contributed for their benefit. Such an election shall not apply to compensation that has already been paid or made available to the Participant or is not "includible compensation" as defined in Subsection 3.05(b). The Plan Administrator may require a Participant to elect how his Account will be invested in order to make an election under this subsection.

The Plan Administrator shall establish procedures for Participants to have 403(b) Contributions made by payroll deduction on a prospective basis. The total of 403(b) Contributions credited to a Participant's Account for a Plan Year may not exceed the lesser of ninety-nine (99%) percent of a Participant's Compensation for the Plan Year or the amount of cash available after salary reductions, deductions, or withholdings for taxes, welfare benefits, fringe benefits, parking, After-Tax Contributions, other amounts that the Participant has elected to have deducted or withheld from his pay, or the $1.00 minimum paycheck. In addition, 403(b) Contributions shall be subject to the provisions of Article Seven and such other administrative policies as established by the Plan Administrator from time to time. Such policies shall include the right of a Participant to change or terminate his election (prospectively) at least once each calendar year.

(b) Time for Making Contributions: The 403(b) Contributions for any Plan Year shall be paid to the appropriate Custodian as soon as it is practicable to do so after such Contributions have been determined.

(c) Matching Contributions:

(i) Matching Contributions that may not be allocated under the 401(a) Plan because of the limitations of IRC §415 are contributed to this Plan and allocated in accordance with Section 6.03.

(ii) Historical Information: For Plan Years beginning before January 1, 1994 Matching Contributions were made to this Plan. For the 1994-2002 Plan Years, Matching Contributions were allocated to the account of each Participant who was 100% vested and who elected to have a three (3%), four (4%), or five (5%) percent (of Compensation) 403(b) or After-Tax Contribution (that was eligible for a match) made to his or her account.
5.02 After-Tax Contributions:

(a) **In general:** For each pay period a Benefits Eligible Employee who is a Participant in the 401(a) Plan may voluntarily contribute to the Plan an amount that does not exceed eight (8%) percent of his Compensation for the pay period. The Plan Administrator shall establish procedures for Benefits Eligible Employees to make After-Tax Contributions by payroll deduction. Such Contributions shall be transmitted to the Custodian as soon as it is practical to do so after the Contributions are made by the Participants. In addition, After-Tax Contributions shall be subject to the limitations of Article Seven and such other administrative policies as the Plan Administrator may establish. The Plan Administrator may require a Participant to elect how his Account will be invested in order to make an election under this subsection.

(b) Notwithstanding the above:

(i) A Participant who elects either to have 403(b) Contributions made on his behalf or to make Roth 403(b) Contributions for a pay period may not also elect to make After-Tax Contributions for the same pay period. However, if during a pay period a Participant's 403(b) Contributions or Roth 403(b) Contributions are limited by IRC §402(g) (Section 7.06), his election under Subsection 5.01(a) or Section 5.03 will be converted to an election to make After-Tax Contributions; provided that the amount of After-Tax contributions when added to 403(b) Contributions and Roth 403(b) Contributions does not exceed 8% of Compensation for the pay period.

(ii) Any Participant who has completed the “accelerated option” under the 401(a) Plan shall not be eligible to make After-Tax Contributions.

(iii) A Participant may elect to make After-Tax Contributions only to the extent that such contributions are matched under the 401(a) Plan.

5.03 Roth 403(b) Contributions: Any Participant who is eligible to have 403(b) Contributions made on his behalf shall be eligible to make Roth 403(b) Contributions to the Plan. Such an election shall not apply to compensation that has already been paid or made available to the Participant or is not "includible compensation" as defined in Subsection 3.05(b). The Plan Administrator may require a Participant to elect how his Account will be invested in order to make an election under this subsection.

The Plan Administrator shall establish procedures for Participants to make Roth 403(b) Contributions. The total of 403(b) Contributions and Roth 403(b) Contributions credited to a Participant's Account for a Plan Year may not exceed the lesser of ninety-nine (99%) percent of a Participant's Compensation for the Plan Year or the amount of cash available after salary reductions, deductions, or withholdings for taxes, welfare benefits, fringe benefits, parking, After-Tax Contributions, other amounts that the Participant has elected to have deducted or withheld from his pay, or the $1.00 minimum paycheck. In addition, Roth 403(b) Contributions
shall be subject to the provisions of Article Seven and such other administrative policies as established by the Plan Administrator from time to time. Such policies shall include the right of a Participant to change or terminate his election (prospectively) at least once each calendar year.

The Plan Administrator may prohibit a Participant from making an election under both Section 5.01 and 5.03 for the same pay period.

The Roth 403(b) Contributions for any Plan Year shall be paid to the appropriate Custodian as soon as it is practicable to do so after such Contributions have been determined.

5.04 *Long-Term Disability Contributions*: Prior to 2002, if a Participant received benefits under a long-term disability plan of the University and the long-term disability plan provided for the insurer to make payments (on account of the disability) that replace contributions that would otherwise have been made to this Plan, those payments were treated as a University Contribution to this Plan.

LTD Contributions have been made to the 401(a) Plan since 2002.

5.05 *Suspension of Contributions*: Effective as of January 1, 2009, if an Employee is performing service in the uniformed services described in IRC §3401(b)(2)(A), and if that Employee takes a distribution of 403(b) Contributions or Roth 403(b) Contributions (in accordance with Subsection 11.06(e)), to the extent required by IRC §414(u)(12)(B)(ii) all contributions for that Participant shall automatically be suspended for a period of six (6) months beginning on the date that such distribution was made.
ARTICLE SIX

Allocations

6.01 Separate Accounts: The Plan Administrator shall maintain a separate Participant Account for each Participant setting forth the Participant’s Account Balance. The Plan Administrator shall separately account for those portions of such Participant Account attributable to 403(b) Contributions, After-Tax Contributions, Roth 403(b) Contributions, Matching Contributions, LTD Contributions, rollovers, and transfers. Furthermore, the Plan Administrator and the Custodians shall separately account for Unmatched Contributions and Roth Unmatched Contributions. The Plan Administrator shall make the allocations among such Participant accounts as set forth in this Article. The Plan Administrator may, in accordance with Section 12.06, delegate its duties under this section to a Custodian.

6.02 Allocation of 403(b), After-Tax, Roth 403(b), and LTD Contributions:

(a) 403(b) Contributions: 403(b) Contributions shall be allocated among the accounts of Participants on whose behalf the Contributions are made.

(b) After-Tax Contributions: After-Tax Contributions shall be allocated to the accounts of the Participants who made the Contributions.

(c) Roth 403(b) Contributions: Roth 403(b) Contributions shall be allocated to the accounts of the Participants who made the Contributions.

(d) LTD Contributions: Any payment under a long-term disability plan of the University that is treated as a University Contribution to this Plan shall be allocated to the account of the Participant entitled to receive the benefits under the long-term disability plan. [Note: There should not be any allocations under this subsection as of 2009.]

6.03 Allocation of Matching Contributions: If a Participant would otherwise be eligible for an allocation of a Matching Contribution under the 401(a) Plan, but the allocation may not be made because of the limitation of IRC §415, the amount that would otherwise be allocated under the 401(a) Plan shall instead be allocated under this Plan to the account of the Participant whose account did not receive the allocation under the 401(a) Plan.

If the Plan Administrator of the 401(a) Plan reasonably anticipates that an allocation of Matching Contributions under the 401(a) Plan would cause the 401(a) Plan to violate IRC §415, that Plan Administrator may prospectively direct that the amount be contributed to or allocated under this Plan (subject to the limits of IRC §403(b) and §415).
6.04 **Allocation of Gain or Loss:** Accounts shall be valued by the Custodians, and gains, losses, costs, and expenses shall be allocated (but not less frequently than annually) in accordance with the terms of the applicable group annuity or custodial account contract.

6.05 **Directed Investments:** Each Participant, beneficiary (with an Account Balance), and Alternate Payee shall direct the investment of his or her accounts among the investment options available under the Annuity Contracts and Custodial Accounts that hold Plan Assets and is permitted to change the investment of his or her Account Balance among all Custodians that are currently permitted to receive future contributions under the Plan. All expenses, income or losses attributable to such directed investments shall be separately allocated to the respective accounts of the Participants. To the extent permitted by law, the Custodian and Plan Administrator shall be relieved of any fiduciary responsibility for investment decisions made pursuant to this section, provided, however, that the Plan Administrator or Custodian has followed the instructions of the Participant and that said instructions are in accordance with applicable law. Upon the death or incapacity of the Participant, the powers granted to the Participant under this section shall inure to the benefit of the Participant’s beneficiary, trustee or legal representative.

6.06 **Veterans:** If an Employee enlists or is inducted into military service in the Armed Forces of the United States under such circumstances as would entitle him to reemployment rights under governing provisions of law, he shall be deemed to be on an “authorized leave of absence” unless a resignation is given by him and accepted by the University. Effective as of December 12, 1994, contributions, benefits and service credit with respect to qualified military service (as defined in IRC §414(u)(5)) will be provided in accordance with IRC §414(u). A Participant who is reemployed by the University in accordance with Chapter 43 of Title 38 of the United States Code:

(a) shall be treated with respect to this Plan as not having incurred a break in service by reason of such Participant’s period of qualified military service;

(b) shall have each period of qualified military service credited as service with the University for purposes of determining the vesting and accrual of the Participant’s Account under the Plan;

(c) shall be permitted to make additional 403(b), After-Tax, or Roth 403(b) Contributions in the maximum amount that the Participant would have been permitted to make under the annual Plan limitations if the Participant had continued to be employed by the University and received Compensation during his or her period of qualified military service, provided such contributions are made during a period beginning on the first day of reemployment and continuing for the lesser of five (5) years or three (3) times the Participant’s period of qualified military service; and
(d) to the extent that 403(b), After-Tax, or Roth 403(b) Contributions are made in accordance with subsection (c), shall be entitled to the Matching Contributions that would have been allocated had the contributions in subsection (c) been made while the Participant was on military leave.

Nothing in this section shall require any allocation of (i) any Plan forfeitures with respect to a period of qualified military service or (ii) any investment performance with respect to any Plan contributions before they are made.
ARTICLE SEVEN

Limitations on Annual Additions

7.01  "Annual Addition": For purposes of this Article, “Annual Addition” shall mean (unless the context clearly indicates otherwise) the sum of:

(a)  403(b), Roth 403(b), and Matching Contributions made directly or indirectly,
(b)  After-Tax Contributions,
(c)  Forfeitures,
(d)  Contributions to an “individual medical benefit account” as defined in IRC §415(1), and
(e)  In the case of a key employee (as defined in IRC § 416(i)(1)), contributions for postretirement medical benefits to a welfare benefit fund, as required by IRC §419A(d).

For purposes of this section, a Participant’s “Annual Addition” shall include contributions made to an account of the Participant under this or any other 403(b) plan, including contributions made to 403(b) plans of other employers. The “Annual Addition” does not include any transfers or Rollover Amounts, any Catch-up Contributions under Subsection 7.06(c), restorative payments (within the meaning of reg. §1.415(c)-1(b)(2)(ii)(C)), or 403(b) or Roth 403(b) Contributions distributed in accordance with Section 7.06.

Annual additions under Defined Contribution (401(a)) Plans sponsored by the University are not “Annual Additions” under this Plan. Annual additions to Defined Contribution Plans of employers controlled by the Participant (in accordance with IRC §414(b) or (c) as modified by IRC §415(h)) are aggregated. See IRC §415(k)(4).

Historical Note: If, prior to 2002, a Participant made the election under IRC §415(c)(4)(C) with respect to this Plan for a Limitation Year, then for that Limitation Year, this Plan was for purposes of this Article (and Article Seven of the 401(a) Plan) treated as a Defined Contribution Plan sponsored by the University with respect to that Participant.

7.02  Limitation on Annual Additions: Notwithstanding any other provision of this Plan or any other 403(b) plan covering the Participant, the Annual Addition with respect to a Participant Account in any Limitation Year may not exceed the lesser of:

(a)  Fifty thousand ($50,000) dollars, or
(b) One Hundred (100%) percent of the Participant’s Compensation in the Limitation Year.

Catch-up Contributions described in Subsection 7.06(c) shall not count against the limitation of subsection (a). Contributions specified in Subsection 7.01(d) or (c) shall not count against the limitation of subsection (b). The dollar amount in subsection (a) is for the Limitation Year beginning in 2012 and is adjusted periodically in accordance with IRC §415(c) and §415(d). See Section 14.10. The dollar amount in subsection (a) shall be reduced in accordance with reg. §1.415(j)-1(d) if there is a change in the Limitation Year (including a Plan termination that is effective on a date other than the last day of the Limitation Year).

7.03 Multiple Plan Reduction: RESERVED

7.04 Time Annual Additions Deemed Credited: An Annual Addition with respect to a Participant account shall be deemed credited to such Participant account with respect to a Limitation Year if it is allocated to such Participant account under the terms of the Plan as of any date within such Limitation Year. A 403(b), Roth 403(b), or Matching Contribution may be allocated for a Limitation Year only if it was contributed to the Plan not later than the 15th day of the tenth calendar month following the end of the fiscal year of the University with which or within which the Limitation Year ends. A contribution made pursuant to Section 6.06 is an Annual Addition for the Limitation Year to which the contribution relates, regardless of when the contribution is made.

7.05 Allocation of Excess Amounts: If the Annual Addition for a Participant would otherwise exceed the limitations specified herein, the Plan Administrator has discretion to prospectively reduce the amount of After-Tax, 403(b) Contributions, or Roth 403(b) Contributions that would otherwise be allocated to the Participant’s account. Effective as of January 1, 2008, if the Annual Addition for any Participant exceeds the limitations specified herein, such Annual Addition shall be reduced in accordance with methods permitted under Rev. Proc. 2008-50 (or its successor).
If a Participant participates in a Defined Contribution Plan that is aggregated with the Participant’s 403(b) contract in accordance with IRC §415(k)(4), the Annual Addition shall be reduced in accordance with the priority required by the regulations (which, as of the date of adoption of this document required that reductions take place first under this Plan). If the regulations do not require that reductions take place first under this Plan, the reduction shall take place first under the Defined Contribution Plan.

7.06 Dollar Limit on 403(b) Contributions and Roth 403(b) Contributions:

(a) General Limit: Except as provided in subsections (b) and (c), no more than seventeen thousand ($17,000) dollars of 403(b) Contributions and Roth 403(b) Contributions may be contributed (under this Plan or any other 403(b) Plan of the University or any Related Organization) for any Participant in any calendar year beginning after 2007. (The $17,000 limit applies for 2012 and is periodically adjusted in accordance with the limit under IRC §402(g) for other years. See Section 14.10.)

If the sum of 403(b) Contributions and Roth 403(b) Contributions (and other types of contributions listed in IRC §402(g)(3)) for a Participant for a calendar year under all 403(b) plans and qualified plans of the University and any Related Organization exceeds the limit under IRC §402(g), then:

(i) The Plan Administrator or a Custodian may distribute the excess 403(b) Contributions and Roth 403(b) Contributions (and any attributable gain) before the end of the calendar year if it is administratively feasible to do so; and

(ii) The Plan Administrator or a Custodian shall distribute the excess 403(b) Contributions and Roth 403(b) Contributions (and any attributable gain) by the following April 15.

If a Participant also participates in another plan which is limited by IRC §402(g) and which is sponsored by an employer which is not the University or a Related Organization, he shall have until March 1st to notify the plan administrators in writing regarding how much he wants distributed from each plan, and the Plan Administrator shall make the appropriate distribution. However, in the case of employees employed by both the University and the University of Pittsburgh Physicians (“UPP”), excess contributions shall be distributed in accordance with the joint policy established by the Plan Administrator and the administrator of any 401(k) or 403(b) plan sponsored by UPP.

Prior to distributing any 403(b) Contributions or Roth 403(b) Contributions under this section, the Plan Administrator or a Custodian shall reclassify 403(b) Contributions or Roth 403(b) Contributions (that would otherwise be distributed) as Catch-up Contributions to the extent permitted under Subsection 7.06(c).
For Plan Years beginning before 2008 Gain shall include “gap-period income” to the extent required by regulations. See reg. §1.402(g)-1(e)(5). [See §109(b)(3) of the Worker, Retiree, and Employer Recovery Act of 2008 for a repeal of the gap-period income requirement.]

(b) **15 Years of Service:** If an employee has at least 15 Years of Service with the University (not counting service with the Foundation), the dollar limit in subsection (a) shall be increased by the least of the following:

(i) $3,000;

(ii) $15,000 reduced by amounts not included in gross income for prior years by reason of IRC §402(g)(7)(ii)(I) and (II);

(iii) the excess of $5,000 multiplied by the number of Years of Service of the Participant over the Participant’s 403(b) Contributions for prior years, not including Catch-up Contributions under subsection (c), to this plan or any other 403(b) plan of the University.

The dollar amounts in this subsection will be automatically adjusted in accordance with changes in the dollar amounts under IRC §402(g)(7). See Section 14.10.

(c) **Catch-up Contributions:** Notwithstanding subsections (a) and (b), if a Participant has attained (or will attain) age 50 by the end of a Plan Year, the limitation under Subsection 7.06(a), after adjustment under subsection (b), if applicable, for that Participant shall be increased by an additional five thousand five hundred ($5,500) dollars. Contributions made in accordance with this subsection are referred to as “Catch-up Contributions”. The adjustment under subsection (b) must be made before the adjustment under this subsection.

The limitation under this subsection is adjusted periodically in accordance with IRC §414(v). See Section 14.10. Furthermore, the sum of all 403(b) Contributions and Roth 403(b) Contributions (including Catch-up Contributions) allocated to a Participant’s account for a Plan Year may not exceed his Compensation (determined under Subsection 3.05(b)) for the Plan Year. The Plan Administrator may account for Catch-up Contributions separately.
ARTICLE EIGHT

Vested Interest

8.01 100% Vesting: A Participant shall at all times have a vested interest in one hundred (100%) percent of his Account Balance.
ARTICLE NINE

Retirement Benefits

9.01 Normal Retirement Benefit: A Participant may retire at his or her Normal Retirement Date after which his or her Vested Interest shall be paid to him or her in the manner and at the time provided in Article Eleven. A Participant may continue to work (and participate in the Plan) as long as he or she and the University agree as to the terms and conditions of the employment. The University shall act in a uniform and nondiscriminatory manner in applying the terms and conditions of employment after the Normal Retirement Date and in accordance with any and all federal and state laws regarding retirement.

9.02 Disability Retirement Benefit: If the Plan Administrator shall find that the employment of a Participant has been terminated due to his Total Disability, his Vested Interest shall be paid to him or her in the manner and at the time provided in Article Eleven.

9.03 Benefit Upon Termination: If a Participant's employment is terminated for a reason other than death, Total Disability or retirement, he or she shall be paid a benefit equal to the amount of his Vested Interest. Such benefit shall be paid to such terminated Participant in the manner and at the time provided in Article Eleven.
ARTICLE TEN

Death Benefit

10.01 **Death Benefit:** If a Participant dies, a benefit equal to his Vested Interest shall be paid to his or her designated beneficiary in the manner and at the time provided in Article Eleven.

10.02 **Beneficiary Designation:** Each Participant may from time to time file with the Plan Administrator a designation of one or more primary or secondary beneficiaries to whom the death benefit shall be paid. The most recent of such designations shall control. Notwithstanding this designation, if the Participant has a surviving spouse, that spouse shall automatically be designated sole beneficiary unless the spouse has consented in a writing witnessed by a Plan representative or notary public to waive his or her right to be sole beneficiary. The spouse’s consent shall be irrevocable, but a new spousal consent is needed if the Participant changes his or her beneficiary designation to someone other than the spouse. The spouse may condition his or her consent upon a particular party or parties being named as beneficiary.

Except as otherwise provided in a Qualified Domestic Relations Order, if a Participant divorces his spouse, any beneficiary designation naming his former spouse as beneficiary that became effective prior to the date of the divorce shall become void as of the effective date of the divorce.

Marital status for purposes of this Plan is determined in accordance with Pennsylvania law and the Defense of Marriage Act.

10.03 **Lack of Beneficiary Designation:** Upon notification of the death of a Participant, the Plan Administrator shall direct the Custodian to pay the death benefit to the beneficiary or beneficiaries currently designated by the Participant subject to Section 10.02. If no such designation has been made, or if all beneficiaries so designated have predeceased the Participant, then the Plan Administrator shall direct the Custodian to pay the death benefit to the Participant’s estate.

10.04 **Alternate Payees Under Qualified Domestic Relations Orders:** An Alternate Payee under a Qualified Domestic Relations Order will be considered to be a designated beneficiary to the extent needed to comply with the order as provided in Section 11.08.
ARTICLE ELEVEN

Payment of Benefits

11.01 Valuation of Account Balance: Upon determining that a distribution shall be made to a Participant pursuant to Section 11.04, the Plan Administrator shall determine the fair market value of the Participant’s Account Balance as of the last Valuation Date preceding or coincident with the date on which such distribution shall begin. That portion of such Account Balance to which such Participant is entitled according to the provisions of this Plan shall be paid to him as set forth in this Article. The Plan Administrator may, in accordance with Section 12.06, delegate its duties under this section to the Custodian. Benefits under this Plan will be paid only if the Plan Administrator decides in its discretion that the applicant is entitled to them.

11.02 Method of Payment:

(a) Optional Forms of Benefits: Except as otherwise provided, any benefit payment to a Participant (or his beneficiary) shall be made in one of the following methods as elected by the Participant:

(i) In a lump sum;

(ii) By the purchase of an annuity for the life of the Participant; or

(iii) By the purchase of a Joint and Survivor Annuity (if the Participant is married).

For purposes of this section a lump sum may include a distribution of an annuity, a rollover, a direct rollover, or a transfer or some combination thereof as long as the Participant’s entire Account Balance is distributed.

(b) Limits on Optional Forms of Benefits: Notwithstanding subsection (a):

(i) Mandatory Lump-Sums: If the Plan Administrator determines that a Participant’s, beneficiary’s, or alternate payee’s Vested Interest is five thousand ($5,000) dollars or less (before the distribution of any annuity payments), his or her distribution shall be made in a lump-sum. However, if the Plan Administrator determines that such a Participant (as opposed to a beneficiary or alternate payee) is entitled to a distribution in excess of one thousand ($1,000) dollars (including any Rollover Amount) prior to attaining Normal Retirement Age (but not less than age 62), his or her Vested Interest shall be transferred to an individual retirement account or individual retirement annuity (IRA) unless the Participant elects to receive a cash distribution.
(ii) **Married Participant:** A married Participant may not elect to receive any annuity other than a Joint and Survivor Annuity without the consent of his spouse in a writing which is witnessed by a notary public or a plan representative. A spouse's consent does not limit a Participant's right to revoke or change his or her election to a non-annuity form of distribution. The spouse must consent each time a Participant elects to receive any form of annuity other than a Joint and Survivor Annuity. A spouse must receive a notification of her rights at least thirty (30) and not more than one hundred eighty (180) days before the date of the first distribution. The spouse must be given at least thirty (30) days to decide whether to consent to the election. The spouse may waive the thirty (30) day period as long as he or she has at least seven (7) days to revoke his or her consent.

Marital status for purposes of this Plan is determined in accordance with Pennsylvania law and the Defense of Marriage Act.

(iii) **Annuities:** Any annuity distributed under the Plan shall be non-transferable and shall comply with the terms of this Plan and the requirements of IRC §401(a)(9).

If an investment organization offers any annuity form of distribution, it must offer married Participants the opportunity to receive a Joint and 50% Survivor Annuity or a Qualified Optional Survivor Annuity, and a married Participant must, in accordance with Section 11.09, waive his right to receive a Joint and 50% Survivor Annuity in order to receive any other form of annuity.

(iv) **Beneficiaries:** If a Participant dies before electing a method of distribution, the Participant's beneficiary may elect the method of distribution if the election is made by the earlier of thirty (30) days prior to the date that a distribution is payable under the Plan or December 31 of the calendar year which contains the fifth anniversary of the death of the Participant.

(c) **Directed Investment Options:** Notwithstanding subsection (a), if the Plan Administrator permits Participants to direct the investment of their Account Balances, a Participant may elect to have his or her Account Balance (or portion thereof) distributed in any method available from the investment organization which holds the assets of his account (or portion thereof), provided:

(i) A Participant may not elect any option that violates IRC §401(a)(9) or is not consistent with the requirements of reg. §1.401(a)(9)-1 through §1.401(a)(9)-9;
(ii) A Participant may not elect any option which either the Plan Administrator or the investment organization has decided not to make available to all similarly situated Participants in the Plan;

(iii) To the extent that a Participant divides his Account Balance among different investment options (whether or not with the same investment organization), the Participant shall be subject to whatever limitations on transfers or distributions which the investment organization has chosen to apply to the investment options which the Participant has elected;

(iv) If a Participant transfers assets from one investment organization to another, and if the Participant wants a distribution option available only from the organization from which assets were transferred, the Participant must move assets back to the first investment organization in order to elect that distribution option.

(d) **Tax Withholding:** The Plan Administrator or a Custodian may withhold taxes from any distribution in accordance with applicable law.

11.03 **Segregated Accounts:** RESERVED

11.04 **Time of Payment:** Except as provided by Sections 11.06 and 11.08, no distribution shall be made before a Participant dies, or terminates employment with the University. For purposes of this Article, a Participant does not “terminate employment” if he transfers to a Related Organization or becomes a leased employee (as defined in IRC §414(n)(2)) of the University or any Related Organization. Such a transferring Participant will be treated as terminating employment when he terminates employment with the Related Organization. The determination of the time of distribution shall be made by the Plan Administrator subject to the other sections of this Article and to the following restrictions:

(a) **General Rule:** Distribution of a Participant’s Vested Interest shall begin within sixty (60) days after the end of the Plan Year during which the Participant attains age 70½ or, if later, terminates employment.

(b) **Participant Elections:** A Participant may elect to receive a distribution at any time after the Valuation Date coincident with or next following his termination of employment. The Plan Administrator (or a Custodian) may impose reasonable administrative limits on the ability of Participants to elect to receive distributions. All elections are subject to the restrictions of Section 11.02.

(c) **Death:** If a Participant dies, regardless of whether he or she is employed by the University at death, the Plan Administrator shall distribute his or her Vested Interest in accordance with the method elected by the Participant or the beneficiary, provided that the method complies with IRC §401(a)(9), and the regulations thereunder, which provide that:
(i) if a Participant is receiving distributions on or after his or her Required Beginning Date and prior to his or her death, his or her Vested Interest will be paid out at least as rapidly as under the method of distribution in effect at his or her death, and

(ii) if a Participant dies either before his or her Required Beginning Date or before he has begun to receive distributions, his or her Vested Interest will be distributed either within five (5) years after the Participant’s death or over the life (or a period not extending beyond the life expectancy of) a designated beneficiary (determined under reg. §1.401(a)(9)-4). However, if the designated beneficiary is the surviving spouse of the Participant, distributions need not begin until the date on which the Participant would have attained age 70½, and if the surviving spouse dies before distributions begin, rules shall be applied as if the surviving spouse were the Participant.

(d) **Required Minimum Distributions:** Notwithstanding the above subsections, distribution of a Participant’s Vested Interest must begin by his or her Required Beginning Date, which is the April 1 of the calendar year following the later of calendar year in which the Participant attains age 70½ or the calendar year in which the Participant terminates employment. For purposes of this subsection, a Participant who has transferred to the Foundation is treated as having terminated employment with the University.

Notwithstanding Section 11.02, effective as of November 1, 2012 each Custodian shall make required minimum distributions for a Participant or beneficiary regardless of whether the Participant or beneficiary consents to such distributions. The amount that a Custodian is required under this subsection to distribute shall be calculated in accordance with reg. §1.401(a)(9)-1 through §1.401(a)(9)-9 and be based solely on the Participant's accounts under this Plan with the Custodian.

Nothing in the prior paragraph of this subsection prohibits a Participant or beneficiary from taking a distribution from the Plan that is greater than the amount calculated under the prior paragraph.

To the extent that the Plan Administrator has records to establish what portion of a Participant's Account Balance was accrued prior to January 1, 1987, that portion of the Account Balance is not subject to the minimum required distribution rules of IRC §401(a)(9) but is subject to the incidental death benefit requirements of reg. §1.401-1(b)(1)(i).

If the Internal Revenue Code is amended to permit a Participant or beneficiary to not take a required minimum distribution for a specified period of time, the requirement under this subsection for a Custodian to make a distribution will (to the extent permitted by law) be suspended during that period. In accordance with IRC §401(a)(9)(H) required minimum distributions were optional for 2009.
(e) **Foundation:** For purposes of this Article other than Subsection 11.04(d) and Section 11.06, if a Participant terminates employment with the University and begins employment with the Foundation within 10 days of his last day of employment with the University, he shall not be treated as having terminated employment with the University, and he shall be treated as having terminated employment with the University when he terminates employment with the Foundation. However, if he obtains a distribution under subsection (b) prior to beginning employment at the Foundation (or prior to the University’s becoming aware that he began employment with the Foundation), he shall be treated as having terminated employment with the University.

11.05 **Transfer of Accounts:** Notwithstanding anything to the contrary herein, whenever a Participant, a spousal beneficiary, or an Alternate Payee (who is a spouse or former spouse of the Participant) is eligible (in accordance with Section 11.04, 11.06, or 11.08 and reg. §1.402(c)-2) to receive within a year “eligible rollover distributions” of at least two hundred ($200) dollars, he or she may elect that the Plan Administrator transfer all or part of the amount of the Participant’s Vested Interest (provided that the part is at least five hundred ($500) dollars) to any “eligible retirement plan” capable of accepting such amounts. In order to make an election under this section, an individual must be given notice of his rights and options not more than one hundred eighty (180) days before the date of the transfer. The Plan Administrator may require of the trustee or custodian of the recipient trust or account such assurances and representations as it may deem necessary.

(a) An “eligible rollover distribution” is any distribution under the Plan except any: (i) annuity distribution, (ii) any minimum required distribution under IRC §401(a)(9), (iii) any hardship distribution, (iv) any distribution of after-tax contributions, (v) any loan offset, (vi) any corrective distribution under Article Seven, or (vii) any distribution that is one of a series of substantially equal periodic distributions over a period of ten (10) years or more. Clause (iv) does not apply to any amounts that are paid to an individual retirement account, individual retirement annuity, Defined Contribution Plan, annuity described in IRC §403(a), or IRC §403(b) plan that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includible in gross income.

(b) An “eligible retirement plan” is a qualified trust, custodial account (under IRC §401(f) or §408), individual retirement account (IRA), or individual retirement annuity capable of accepting such amounts. Effective as of January 1, 2002, an “eligible retirement plan” includes any annuity contract described in IRC §403(b) and an eligible plan under IRC §457(b) that is maintained by a state, political subdivision of a state, or agency or instrumentality of a state and that agrees to separately account for amounts transferred into such plan from this Plan. Prior to January 1, 2002, in the case of an eligible rollover distribution to a surviving spouse, an “eligible retirement plan” was an individual retirement account or individual retirement annuity. Effective as of January 1, 2008 a Roth IRA is an "eligible retirement plan".
(c) **Roth 403(b) Contributions**: To the extent that an eligible rollover distribution would otherwise include amounts attributable to a Roth account (as defined in IRC §402A), those amounts may be transferred only to another Roth account or to a Roth IRA (as defined in IRC §408A(b)) and must be accounted for separately from amounts attributable to after-tax contributions.

(d) **Non-Spouse Beneficiaries**: If a distribution to a non-spouse beneficiary would otherwise be an “eligible rollover distribution”, the distribution may be transferred to an individual retirement account or individual retirement plan to the extent permitted by IRC §402(c)(11).

(e) **UPMC/UPP/Foundation**: A Participant may not transfer his Account Balance under this Plan to a 403(b) plan or Defined Contribution Plan of UPMC, UPP, or the Foundation.

11.06 **In-Service Withdrawals and Distributions**:

(a) **Age 62**: A Participant who has attained age sixty-two (62), is still employed by the University, and is no longer a Benefits Eligible Employee may elect to receive distributions of his Vested Interest as if he or she had terminated employment. For purposes of this section, any employee who is not eligible to make After-Tax Contributions is not a Benefits Eligible Employee.

A Participant who has attained age sixty-two (62) and who has entered into a phased retirement agreement with the Executive Vice Chancellor, Provost, or Senior Vice Chancellor, Health Sciences of the University may, if permitted under the agreement, elect to receive distributions of his Vested Interest as if he or she had terminated employment.

(b) **Loan Defaults**: If a Participant is in default on a loan from this Plan, the Plan Administrator or Custodian may offset the Participant’s Vested Interest by the amount in default to the extent that the collateral backing the loan is attributable to After-Tax Contributions or Rollover Amounts (not transfer accounts). If the Participant has attained age 59½, the Plan Administrator or Custodian may offset the Participant’s Vested Interest by the amount in default without regard to the type of contributions being used as collateral.

(c) **Age 59½**: A Participant who has attained age 59½ may elect to withdraw all or part of his Vested Interest attributable to Unmatched Contributions or Roth Unmatched Contributions; provided that: (i) distributions are not permitted under this subsection from the portion of an account invested in Retirement Annuities or Group Retirement Annuities, and (ii) distributions from Supplemental Retirement Annuities and Group Supplemental Retirement Annuities are subject to the terms of those annuities.
(d) **QDROs:** The Plan Administrator may make a distribution in order to comply with a Qualified Domestic Relations Order.

(e) **Military Service:** Effective as of January 1, 2009, a Participant who is performing service in the uniformed services while on active duty for a period of more than 30 days (as described in IRC §3401(h)(2)(A)) may take a distribution from any of his accounts that hold 403(b) Contributions, After-Tax Contributions, or Roth 403(b) Contributions.

11.07 **Participant Loans:** A Custodian shall have the power to grant loans to Participants upon the following conditions:

(a) The loan shall be in writing, be commercially acceptable and bear a reasonable rate of interest taking into account prevailing interest rates available from commercial lenders under similar circumstances and the Plan's investment experience, but in no event shall the rate be higher than a generally accepted rate of interest;

(b) The loan shall be secured by up to one-half (½) of a Participant's Vested Interest.

(c) A repayment schedule shall be established which will assure that the entire principal and the interest thereon is repaid not later than the last day of the five (5) year period immediately following the date of the loan.

Furthermore, the loan must provide for a repayment schedule not slower than substantially level payments (of interest and principal) to be made at least quarterly over the term of the loan. However, loan repayments may be suspended in accordance with IRC §414(u). If a Participant is on an approved leave of absence, the Custodian has discretion to reduce or suspend loan payments for not more than one year (but not beyond the deadline of subsection (c)).

Subsection (c) shall not apply to any loan used to acquire or construct any dwelling unit which is to be used within a reasonable time (determined at the time the loan is made) as the principal residence of the Participant.

(d) The loan (when added to the outstanding balance of all previous loans to the Participant) does not exceed the lesser of the following:

(i) $50,000 reduced by the excess (if any) of the highest outstanding balance of loans from the Plan during the one year period ending on the date before the date on which the loan was made over the outstanding balance of loans from the Plan on the date on which the loan was made; or

(ii) One-half (½) of the Vested Interest of the Participant.
For purposes of this subsection, a loan or loans from other plans of the University or Related Organizations shall be deemed to have been granted from the Plan.

(e) The loan must be for a minimum amount of one thousand ($1,000) dollars.

(f) A Participant may borrow only if the University does not need to become involved with the administration of the loan. Therefore, a Participant must arrange to borrow directly from a Custodian and must abide by the terms and conditions imposed by the Custodian. [Note: As of the date of this restatement, only Participants who have assets invested through CREF are able to borrow.] Multiple loans and refinanced loans must comply with the requirements of reg. §1.72(p)-1 Q & A-20.

The Plan Administrator shall establish procedures in order to administer this section in a feasible manner. The Plan Administrator shall exercise its discretion on a uniform and nondiscriminatory basis taking into account the investment objectives of the Plan, the Plan's liquidity needs and other relevant factors. Further, the Plan Administrator in exercising its discretion shall assure that loans are made available to Participants on a reasonably equivalent basis and are not made available to Highly Compensated Employees in an amount or percentage greater than the amount or percentage made available to other employees.

A default shall occur when a Participant fails to make a required loan payment, and the Custodian shall make a distribution of the amount in default unless it finds extenuating circumstances which are sufficient to protect Plan assets. The distribution shall be a deemed distribution unless an actual distribution may be made under Section 11.04 or 11.06. The Custodian shall not make an actual or a deemed distribution until the end of the calendar quarter following the calendar quarter in which the Participant failed to make a level amortization payment as required by subsection (e). Under a deemed distribution the Custodian reports the amount in default as taxable income to the Participant.

If the Plan Administrator permits Participants to direct investments, a loan shall be treated as a directed investment.

11.08 Qualified Domestic Relations Orders: Benefits shall be paid in accordance with the applicable requirements of any Qualified Domestic Relations Order.

(a) The Plan Administrator shall not treat any Domestic Relations Order as failing to qualify because:

(i) It specifies the time or method of payments, which would otherwise be subject to the Plan Administrator’s sole discretion, within the options permitted by this Article, or

(ii) It requires payment as if the Participant has terminated his employment on the earlier of his fiftieth (50th) birthday or the earliest date to which he is entitled to a distribution under this Article.
(b) In the case of any Domestic Relations Order received by the Plan:

(i) The Plan Administrator shall promptly notify the Participant and each Alternate Payee of the receipt of such Order and the Plan’s procedures for determining the qualified status of Domestic Relations Orders, and

(ii) Within a reasonable period after receipt of such Order, the Plan Administrator shall determine whether such Order is a Qualified Domestic Relations Order and notify the Participant and each Alternate Payee of such determination.

(c) The Plan Administrator shall establish reasonable procedures to determine the qualified status of Domestic Relations Orders and to administer distributions under such qualified Orders. Such procedures:

(i) Shall be in writing,

(ii) Shall provide for the notification of each person specified in a Domestic Relations Order as entitled to payment of benefits under the Plan (at the address included in the Domestic Relations Order) of such procedures promptly upon receipt by the Plan of the Domestic Relations Order, and

(iii) Shall permit an Alternate Payee to designate a representative for receipt of copies of notices that are sent to the Alternate Payee with respect to a Domestic Relations Order.

(d) During any period in which the issue of whether a Domestic Relations Order is a Qualified Domestic Relations Order is being determined (by the Plan Administrator, by a court of competent jurisdiction, or otherwise), the Plan Administrator shall separately account for the amounts which would have been payable to the Alternate Payee during such period if the Order had been determined to be a Qualified Domestic Relations Order.

(i) If within eighteen (18) months the Order (or modification thereof) is determined to be a Qualified Domestic Relations Order, the Plan Administrator shall pay the segregated amounts (plus any interest thereon) to the person or persons entitled thereto.

(ii) If within eighteen (18) months:

   (A) It is determined that the Order is not a Qualified Domestic Relations Order, or

   (B) The issue as to whether such Order is a Qualified Domestic Relations Order is not resolved, then the Plan Administrator shall pay or credit the segregated amount (plus any interest thereon) to
the person or persons who would have been entitled to such amounts if there had been no Order.

(C) Any determination that an Order is a Qualified Domestic Relations Order which is made after the close of the eighteen (18) month period shall be applied prospectively only.

(D) The eighteen (18) month period referred to in this subsection begins on the date that the first payment would be required to be made under the Domestic Relations Order.

11.09 Waiver of Qualified Joint and Survivor Annuity Form of Benefit: A married Participant who has received the notice which must be provided to him under subsection (a) may elect to waive the Joint and 50% Survivor Annuity form of benefit, provided the requirements of subsections (b) through (g) are met.

(a) Notice: The Plan Administrator shall provide to each Participant who is to receive a Joint and 50% Survivor Annuity no less than thirty (30) days (except as provided under reg. §1.417(e)-1(b)(3)(iii)) and no more than one hundred eighty (180) days before the Distribution Starting Date (and consistent with such regulations as the Secretary of the Treasury or his delegate may prescribe) a written explanation of:

(i) The terms and conditions of the Joint and 50% Survivor Annuity and the Qualified Optional Survivor Annuity,

(ii) The Participant's right to make, and the effect of, an election to waive the Joint and Survivor Annuity form of benefit,

(iii) The rights of the Participant's spouse under subsections (b) through (g), and

(iv) The right to make, and the effect of, a revocation of a previous election to waive the Joint and Survivor Annuity form of benefit.

The explanation will include a general explanation of the material features and relative values of the optional forms of benefit available under the Plan.

(b) The Joint and 50% Survivor Annuity may be waived only during the one hundred eighty (180) day period ending on the Distribution Starting Date.

(c) Any waiver may be revoked during the same period in which a waiver could be made.
(d) No waiver shall be effective unless:

(i) The spouse of the Participant consents in writing to such election, and the spouse's consent acknowledges the effect of such election and is witnessed by a Plan representative or notary public, or

(ii) It is established to the satisfaction of a Plan representative that the consent can not be obtained because there is no spouse, because the spouse cannot be located, or because of such other circumstances as the Secretary of the Treasury or his delegate may by regulations prescribe; provided that

(iii) Spousal consent is not needed if the Participant elects to receive a Joint and Survivor Annuity.

(e) Any consent shall be effective only with respect to the spouse making the consent.

(f) The spouse may condition his or her consent upon certain individual(s) being named as beneficiary(ies) or upon the benefit being paid in a certain form, and the spouse must be advised of these rights.

(g) Unless the consent form indicates otherwise, a spouse's consent to a waiver shall be limited to the form of benefit or to the beneficiary(ies) specified on the waiver form.
ARTICLE TWELVE

Administration of Plan

12.01 **Plan Administrator:** The University shall be the Plan Administrator of this Plan and shall be considered the "named fiduciary" of the Plan and its agent for service of legal process. The University may appoint an individual to act as Plan Administrator.

12.02 **Investment Policy:** The University shall determine which Annuity Contracts and Custodial Accounts shall be made available to the Participants as investment options under the Plan.

12.03 **General Powers and Duties:** The Plan Administrator shall administer the Plan in accordance with its terms and shall have all the powers necessary to carry out the terms of the plan. The Plan Administrator shall interpret and administer the Plan and respond to questions concerning its application and administration. Such determinations shall be binding on all persons except as otherwise provided by law. The Plan Administrator shall give all instructions and directions to the Custodian as shall be necessary to conduct the administration of the Plan.

12.04 **Agents and Expenses:** The Plan Administrator may employ agents to assist it in its duties and may rely upon the written certificates of any agent, counsel, accountant, investment manager, actuary or physician. The Plan Administrator shall be entitled to reimbursement from the Annuity Contracts and Custodial Accounts (unless the University at its discretion makes reimbursement) for all other proper charges and expenses incurred in carrying out its duties under this Plan, including compensation of agents.

12.05 **Investment Manager:** RESERVED

12.06 **Delegation to Custodian:** The University or Plan Administrator may, with the written consent of the Custodian, delegate in writing to the Custodian all or any part of the responsibilities of the Plan Administrator under this Plan. Actions of the Custodian in the exercise of such delegated responsibilities shall have the same force and effect as if such action had been taken by the Plan Administrator. The University may at any time revoke such delegation by delivery of a written instrument to that effect.

As of January 1, 2009 the Custodians were responsible for general Plan recordkeeping, including maintenance of Participants' Account Balances, processing investment elections, and allocation of investment gain or loss, loan processing, and processing of distributions (and direct rollovers), including tax withholding and preparation of Forms 1099-R. The University is responsible for compliance with IRC §402(g) and §415.

12.07 **Investment Discretion:** Each Participant shall make the investment decisions for his Accounts.
12.08 **Uniformity of Discretion:** Wherever, under the provisions of this Plan, the Plan Administrator is granted discretionary powers which shall affect the rights and benefits of Participants, such discretion shall be exercised uniformly so that all Participants similarly situated shall be similarly treated.

12.09 **Records and Reports:** The Plan Administrator shall keep records of all proceedings and actions, shall maintain all such books of account, records, and other data as shall be necessary for the proper administration of the Plan and shall meet the disclosure and reporting requirements of all applicable law.

12.10 **Indemnification:** The University shall indemnify the Plan Administrator and any individual (other than a Custodian) who may be appointed pursuant to this Article (or is considered to be a fiduciary as a result of duties performed in the ordinary course of his employment by the University) against any and all claims, losses, damages, expenses and liabilities arising from their duties and responsibilities pursuant to the provisions of this Plan, unless the same is determined to be due to gross negligence or willful misconduct.

12.11 **Claims Procedure:** If any person believes he is being denied any rights or benefits under the Plan, such person may file a claim in writing with the Plan Administrator. If any such claim is wholly or partially denied, the Plan Administrator will notify such person of its decision in writing. Such notification will be written in a manner calculated to be understood by such person and will contain:

(a) specific reasons for the denial,

(b) specific reference to pertinent Plan provisions on which the denial is based,

(c) a description of any additional material or information necessary for such person to perfect such claim and an explanation of why such material or information is necessary, and

(d) a description of the Plan’s review procedures and the time limits applicable to such procedures.

Such notification will be given within ninety (90) days after the claim is received by the Plan Administrator (or within one hundred eighty (180) days, if special circumstances require an extension of time for processing the claim, and if written notice of such extension and circumstances is given to such person within the initial ninety (90) day period). In no event shall such extension exceed a period of ninety (90) days from the end of such initial period. The extension notice shall indicate the special circumstances requiring an extension of time and the date by which the plan expects to render the benefit determination.
12.12 **Review Procedure:** Within sixty (60) days after the date on which the claimant receives a written notice of a denied claim such claimant (or his duly authorized representative) may:

(a) file a written request with the Plan Administrator for a review of his denied claim and of pertinent documents, and

(b) submit written comments, pertinent documents, records, and other information to the Plan Administrator.

The claimant shall be provided with a review that takes into account all comments, documents, records, and other information submitted by the claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.

The Plan Administrator shall provide the claimant with written or electronic notification of its decision. In the case of an adverse benefit determination, the notification shall be set forth in a manner calculated to be understood by the claimant and shall contain:

(a) specific reasons for the adverse benefit determination,

(b) specific reference to pertinent Plan provisions on which the adverse benefit determination is based,

(c) 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 for benefits, and

(d) a statement describing any voluntary appeal procedures offered by the Plan and the claimant’s right to obtain the information about such procedures.

The decision on review will be made within sixty (60) days after the request for review is received by the Plan Administrator, unless the Plan Administrator determines that special circumstances (such as the need to hold a hearing) require an extension of time for processing the claim. If the Plan Administrator determines that an extension of time for processing is required, written notice of the extension shall be furnished to the claimant prior to the termination of the initial sixty (60) day period. In no event shall such extension exceed a period of sixty (60) days from the end of the initial period. The extension notice shall indicate the special circumstances requiring an extension of time and the date by which the Plan expects to render the determination on review.
ARTICLE THIRTEEN

Amendment and Termination

13.01 Amendment: The University may amend the Plan at any time, provided, however, that:

(a) No amendment shall affect the rights, responsibilities or duties of a Custodian without the Custodian’s written consent;

(b) No amendment shall diminish a Participant’s existing rights under the Plan, including his or her Vested Interest, on the later of the date such amendment is adopted or the date such amendment become effective;

(c) No amendment shall revise the vesting schedule unless each Participant with three (3) or more Years of Service is permitted to elect within a reasonable period after the adoption of such amendment to have his Vested Interest calculated without regard to such amendment; such reasonable period shall end sixty (60) days after the latest of the date such amendment is adopted, the effective date of such amendment or the date upon which such Participant receives written notice of such amendment;

(d) No amendment shall provide for the use of funds or assets held under the Plan other than for the benefit of Participants or their beneficiaries; and

(e) No amendment shall cause the reversion of any assets of the Plan to the University.

13.02 Retroactive Amendment: The University may amend this Plan under the provisions of IRC §403(b), and any such amendment, by its terms, may be effective retroactively.

13.03 Merger, Consolidation or Transfer of Assets: No merger or consolidation of this Plan with, or transfer of assets or liabilities of this Plan to, any other plan shall occur unless each Participant in the Plan would (if the Plan then terminated) receive a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation or transfer (if this Plan had then terminated).

13.04 Suspension of Contributions: The University reserves the right to suspend temporarily contributions to this Plan at any time. Such suspension shall not operate as a termination of the Plan and shall be subject to such terms and conditions as required under the IRC and the regulations promulgated thereunder.
13.05 **Termination:** The University reserves the right to terminate this Plan (in accordance with reg. §1.403(b)-10) at any time by an instrument in writing executed by the University and delivered to the Custodians. This Plan shall become terminated if the University shall be dissolved, become insolvent, or be merged with another organization; provided, however, that in the event of a dissolution, merger or consolidation of the University, provisions may be made by a successor for the continuance of the Plan, or the merger or consolidation of the Plan or the transfer of Plan assets in accordance with Section 13.03, and no termination shall result therefrom.

13.06 **Vesting Upon Termination:** RESERVED

13.07 **Distribution of Assets:** If this Plan is terminated, the Account Balance of each Participant shall be distributed to him in accordance with the provisions of Article Eleven.

13.08 **Partial Termination or Discontinuance:** RESERVED

13.09 **Allocation of Suspense Account Upon Termination or Discontinuance:** RESERVED

13.10 **Reversion of Plan Assets to the University:** Except as provided in Section 14.03, Plan assets shall never revert to the University, its successors, assigns or other representing the interests of the University or its creditors.
ARTICLE FOURTEEN

Miscellaneous Provisions

14.01 Employment Rights: This Plan shall not be construed to confer upon any Participant or other employee any right of employment or right to alter any contract of employment between the University and its employees. The University reserves and retains the right to deal with its employees, whether or not Participants, and to terminate their employment at any time, to the same extent as though this Plan had not been created.

14.02 Spendthrift: The interests and benefits under this Plan of any Participant or beneficiary shall not be subject to assignment, alienation, pledge, attachment, garnishment, sequestration or other legal process, or to the claims of creditors, except as provided in Section 11.07, Section 11.08 or applicable law.

14.03 Return of Certain Contributions: If a contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the deposit of the contribution, the Plan Administrator may direct that the amount of the mistaken contribution (adjusted for gain or loss) be returned to the Participant or the University as appropriate.

14.04 Rollovers and Transfers:

(a) Acceptance by Custodian: A Custodian may, subject to the provisions of the Annuity Contract or Custodial Agreement(s), accept a Rollover Amount (including direct rollovers) or a transfer from a qualified plan or another 403(b) annuity contract or custodial account as permitted under the Internal Revenue Code. A rollover must take place within the sixty (60) day period immediately following the date on which the Participant received the Rollover Amount.

Notwithstanding the prior paragraph, a Custodian may not accept a rollover or transfer:

(i) of any amount that must be distributable in a method not available under Article Eleven,

(ii) of any amount unless the Custodian agrees to maintain records of such rollover or transfer, and if the amount will be subject to distribution restrictions, unless the Custodian agrees to apply such restrictions and be responsible for the administration of such restrictions;

(iii) that includes after-tax contributions;
(iv) of Roth 403(b) contributions, Roth 401(k) contributions, or contributions made to a Roth IRA;

(v) of annuity contracts;

(vi) that is not permitted under the Internal Revenue Code. [As of the date of adoption of this document, transfers from qualified plans were not permitted, but rollovers from qualified plans were permitted.]

A Custodian may accept a rollover or transfer of an account held by a Participant in his capacity as a surviving spouse or as a spouse or former spouse who is an alternate payee under a Qualified Domestic Relations Order.

A Custodian may require of the Participant such assurances and representations as it may deem necessary.

(b) **Rollover and Transfer Accounts:** Any Rollover Amount or transfer accepted under subsection (a) shall be held in a separate Rollover or Transfer Account, and such account shall at all times be one hundred (100%) percent vested.

14.05 **Multiple Fiduciary Capacities:** Any person or person may at any time and from time to time serve in more than one fiduciary capacity with respect to the Plan.

14.06 **Severability:** If any provision of this Plan shall be held by judicial decision to be invalid and unenforceable, the valid and enforceable provisions which remain shall continue to be given effect and to bind the parties hereto.

14.07 **Rule Against Perpetuities:** If the indefinite continuance of this Plan would be in violation of the law, then this Plan shall continue for the maximum period permitted by law and shall then terminate, whereupon distribution of its assets shall be made as provided by Article Eleven and Article Thirteen.

14.08 **Law Governing:** This Agreement shall be construed according to the laws of the Commonwealth of Pennsylvania to the extent not preempted by the Internal Revenue Code of 1986, as amended, or the Employee Retirement Income Security Act of 1974, as amended.

14.09 **Word Usage:** Words used in the masculine shall apply to the feminine where applicable, and wherever the context dictates, the plural shall be read as the singular and the singular as the plural.

14.10 **Dollar Limits:** Unless otherwise noted, any dollar amount in this Plan shall be deemed to be adjusted periodically, without formal amendment, in accordance with changes in the law or with regulations issued by the Secretary of the Treasury or his delegate.
14.11 **Paperless Technology:** Except as otherwise provided by law or regulation, the Plan Administrator or a Custodian may use electronic media rather than paper in order to administer the Plan.
IN WITNESS WHEREOF, we have set our hands and seal on this ___ day of ____.  

ATTEST:  

UNIVERSITY OF PITTSBURGH OF THE  
COMMONWEALTH SYSTEM OF HIGHER  
EDUCATION  

PLAN SPONSOR  

By ____________