

## **CONFIDENTIAL MUTUAL SEPARATION AND RELEASE AGREEMENT**

This Confidential Mutual Separation and Release Agreement (the "Agreement") is made and entered into by and between \_\_\_\_\_ (hereinafter referred to as "Participating Employee" and Wayne State University, its officers, employees and agents (collectively, "WSU").

WHEREAS, WSU has offered a 2015 Academic Voluntary Retirement Incentive Program (the "Plan") (a copy of which has been provided to Participating Employee) with an election period of October 23, 2014 through February 6, 2015.

WHEREAS, Participating Employee has voluntarily elected to retire pursuant to the Plan, and the parties intend a mutual separation of their employment relationship based upon this voluntary Plan;

NOW, THEREFORE, for and in consideration of the mutual promises contained in this Agreement and the Plan, Participating Employee and WSU hereby agree as follows:

1. Participating Employee, after consultation with his/her supervisor, agrees to retire pursuant to the Plan effective \_\_\_\_\_.

2. Participating Employee will receive the benefits provided by the Plan in accordance with his/her age and service points.

3. Participating Employee hereby fully and forever promises not to sue and releases WSU from any and all claims whatsoever, whether known or unknown, suspected or unsuspected, and whether founded in fact, law or equity, that s/he had, has, or may have against WSU, arising on or before the date of this Agreement. This includes, but is not limited to: claims arising under or based upon Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq., 42 U.S.C. § 1981; Executive Order 11246, 30 Fed. Reg. 12319; the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701 et seq.; the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., the Older Workers Benefit Protection Act of 1990, section 7(f) to the Age Discrimination in Employment Act of 1967, 29 U.S.C. 626(f); the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.; Michigan Elliott-Larsen Civil Rights Act, MCL 37.2101, et seq.; the Michigan Persons with Disabilities Civil Rights Act, M.C.L. 37.1101 et seq., the Family and Medical Leave Act, 29 U.S.C. 2604 et seq., the Michigan Whistleblowers' Protection Act, MCL 15.361, et. seq., the Sarbanes-Oxley Act, 18 USC § 1514, et. seq.; the False Claims Act, 31 USC 3730, et. seq.; the Michigan Employment Relations Act, (MERA), MCL 423.231, et. seq.; the Michigan Wage and Fringe Benefits Act, MCL 408.471, et. seq.; the Equal Pay Act, 29 USC 206 et seq; federal anti-kickback laws, and any other federal or state constitutions, federal, state or local statute, or any contract, quasi contract, common law or tort claims.

4. Participating Employee agrees that s/he will keep the terms, conditions, and amounts of this Agreement completely confidential, and will not hereafter voluntarily disclose any information concerning this Agreement to anyone except his/her immediate family, legal counsel, accountants, and financial advisors, provided they agree to keep such information confidential and not disclose it to others.

5. Participating Employee agrees that s/he will not disparage or speak in a negative or critical manner about WSU, its officers, employees or agents, or its policies or activities, to any third party, particularly with regard to the circumstances giving rise to the Plan and this Agreement. WSU agrees that its officers and supervisors will not disparage or speak in a negative or critical manner of or about Participating Employee.

6. Participating Employee must not work in any paid capacity for WSU on any day during the period that begins with the first day of retirement and ends five years later. **If the Participating Employee is rehired and works and is paid by WSU during this period, all future incentive payments and healthcare support payments shall be forfeited.**

7. This Agreement shall be binding upon and inure to the benefit of the successors, heirs, assigns, personal representatives, subsidiaries, divisions and related companies, if any, of each of the parties hereto.

8. Should any portion of this Agreement be declared or determined by any Court of competent jurisdiction to be illegal, invalid, or unenforceable, the legality, validity and enforceability of the remaining parts, terms and provisions shall not be affected thereby, and the illegal, unenforceable or invalid part, term or provision will be deemed not to be part of this Agreement.

9. This Agreement constitutes the entire Agreement between the parties regarding the subject matter hereof, the terms of which are contractual, and it is expressly understood that no amendment, deletion, addition, modification, or waiver of any provisions of this Agreement shall be binding or enforceable unless in writing and signed by both parties hereto. This Agreement supersedes all previous agreements, written or oral, and understandings with respect to the subject matter of this Agreement and any such agreements are now terminated.

10. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

11. Participating Employee hereby affirms and acknowledges that s/he has been given a copy of the Plan and has read the Plan and this Agreement and that s/he has been advised to consult with an attorney prior to signing this Agreement. Participating Employee also affirms that s/he understands the meaning of the terms of this Agreement and their effect and that s/he agrees that the provisions set forth in this Agreement are written in language that s/he understands. Participating Employee represents that s/he enters into this Agreement freely and voluntarily.

12. Participating Employee acknowledges that:

(a) **S/he has at least forty-five (45) days to consider the terms of this Agreement, to discuss all aspects of this Agreement with his/her attorney if s/he wishes to do so, and to decide whether to accept it. Pursuant to the provisions of the Older Worker Benefit Protection Act, s/he is entitled to a period of forty-five (45) days to consider this Agreement after s/he receives it.**

(b) S/he may voluntarily and knowingly sign this Agreement before the end of the forty-five (45) day period. **WSU has not made any promises, inducements, representations or threats to cause or coerce Participating Employee to sign this Agreement before the end of the forty-five (45) period.**

(c) If Participating Employee voluntarily and knowingly signs this Agreement before the end of the forty-five (45) day period, then by his/her signature on the Agreement s/he acknowledges that s/he has freely, voluntarily and knowingly waived his/her right to the full 45-day period under the Older Worker Benefit Protection Act; and that the mandatory seven (7) day revocation period set forth in paragraph 12(g) below, will start on the first day after the date when Participating Employee signs this Agreement.

(d) **Participating Employee has carefully read this Agreement, understands it, and is entering into this Agreement knowingly and voluntarily, which means that neither WSU nor anyone else is forcing Participating Employee to sign it.**

(e) In signing this Agreement, Participating Employee has not relied upon any WSU representation or statement about the subject matter of this Agreement that is not set forth in the Agreement.

(f) Participating Employee is entitled to revoke this Agreement within fourteen (14) calendar days after signing it, whether s/he has taken the full forty-five (45) day period or less to consider this Agreement. This Agreement shall not become effective or enforceable until the revocation period has expired. **WSU will not give Participating Employee the payments set forth in the Plan until (i) the time to revoke has expired and no revocation has occurred; and (ii) the effective date of retirement as set forth in Paragraph 1 above.** If Participating Employee revokes this Agreement during the fourteen (14) day revocation period, this Agreement will not be effective or enforceable, and Participating Employee will not receive the payments/benefits set forth in the Plan.

(g) Participating Employee must revoke this Agreement by notifying WSU of his/her desire to do so in writing, hand-delivered, or by certified mail, return receipt requested, to Brett Green, Senior Director, Total Wellness & Compensation, 3600 Academic Administration Building, 5700 Cass Avenue, Detroit, Michigan 48202, within fourteen (14) calendar days after signing this Agreement. To be effective, such notice of revocation, if mailed, must be postmarked within such fourteen (14) day period.

(h) Participating Employee **understands and acknowledges that by signing this Agreement and by not revoking this Agreement during the revocation period, Participating Employee shall be legally bound by this Agreement.**

(i) **Participating Employee acknowledges that he/she has not been provided legal or tax advice by WSU and that he/she has been advised that he/she should seek tax and/or legal advice before entering into this Agreement.**

13. WSU reserves the right to reject Participating Employee's election to participate in the Plan in the event that such election will have a detrimental effect on the institutional operations of Participating Employee's department/college/school. Said determination shall be in the discretion of the Vice President of the Unit.

14. If a Participating Employee dies during the benefits period and WSU is notified of such death within six months of the date of death, the Participating Employee's estate shall be paid an amount equal to the amount of the incentive that has not yet been contributed to the Participating Employee's retirement plan account. If WSU is not notified of Participating Employee's death within six months of his/her date of death, then the estate shall forfeit the right to any remaining payments.

WSU reserves the right to make this determination at any time prior to the end of the election period of February 6, 2015.

IN WITNESS WHEREOF, the parties have executed this Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Participating Employee

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, personally appeared before me, \_\_\_\_\_, to me known to be the person described in and who executed the foregoing separation and release agreement, and who acknowledged that s/he executed the same as his/her free act and deed.

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_ County, Michigan  
My Commission expires: \_\_\_\_\_

Wayne State University  
By Its Authorized Representative

\_\_\_\_\_  
Title: \_\_\_\_\_

Dated: \_\_\_\_\_