

# **Western Washington University Voluntary Investment Program (VIP)**

**BUSINESS AND FINANCIAL AFFAIRS  
Human Resources Department**

*Approved by:*  
**WWU Board of Trustees  
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# Voluntary Investment Program (VIP)

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## **1. Establishment of Voluntary Investment Program**

1.1. **Establishment of Program.** The Western Washington University Tax-Deferred Annuity Program is allowed under the State of Washington RCW 28.B.10.480.

This plan document sets forth the provisions of this Program, as in effect on January 1, 2009 and is called the Voluntary Investment Program (VIP). Contributions under this Program are made under section 403(b) of the Internal Revenue Code and are invested, at the direction of the Participant, in one or more of the Funding Vehicles available under the Program.

## **2. Definitions**

The words and phrases defined in this Article have the following meanings throughout this plan document:

2.1. **Accumulation Account** means the separate account established for each Participant with each Fund Sponsor to which VIP Contributions have been made by the Participant. The current value of a Participant's Accumulation Account with a Fund Sponsor includes all VIP Contributions to the Fund Sponsor, less expense charges, transfers, and benefit distributions, and reflecting credited investment experience.

2.2. **Annuity Contract** means a non-transferable contract described in section 403(b)(1) of the Code, that is issued by an insurance company qualified to issue annuities in the State of Washington and that includes payment in the form of an annuity.

2.3. **Beneficiary** means either (a) the surviving spouse of the Participant; or (b) with the written consent of the Participant's spouse, if any, in accordance with Section 6.5, such other person or persons as shall have an insurable interest in the Participant's life and who shall have been designated by the Participant in writing duly executed and filed with WWU. A new designation may be made at any time before the Participant or Beneficiary has started to receive annuity payments under the Program; any such new designation shall be subject to the conditions of this Section 2.3.

2.4. **Board** means the Board of Trustees of WWU.

2.5. **Code** means the Internal Revenue Code of 1986, as amended.

2.6. **Custodial Account** means the group or individual custodial account or accounts, described in section 403(b)(7) of the Code, established for a Participant to hold assets of the Program.

2.7. **Eligible Employee** means any employee of WWU, except nonresident aliens who receive no U.S.-source earned income and student employees whose wages are exempt from FICA taxation under section 3121(b)(10) of the Code.

2.8. **Fund Sponsor** means an insurance, variable annuity, or investment company that provides Funding Vehicles to Participants under the Program.

2.9. **Funding Vehicles** means the Annuity Contracts and Custodial Accounts available for the purpose of investing contributions under this Program and specifically approved by WWU under Section 5.1.

2.10. **Participant** means any employee of WWU who participates in the Program in accordance with Section 3.1.

2.11. **Program** means the Western Washington University Voluntary Investment Program as set forth in this document.

2.12. **Program Administrator** is defined in Section 8.1.

2.13. **Program Year** means January 1 through December 31.

2.14. **Related Employer** means any entity which is under common control with WWU under section 414(b) or (c) of the Code.

2.15. **Salary Reduction Agreement (SRA)** is an agreement described in Section 3.1.

2.16. **VIP Contributions** means contributions by the Participant as described in Section 4.

2.17. **WWU** means Western Washington University.

### **3. Eligibility and Participation**

3.1. **Eligibility and Participation.** All Eligible Employees may begin participation on the first of the month following employment as an Eligible Employee or the first day of any pay period thereafter.

To participate in this Program, an Eligible Employee must complete the necessary enrollment form(s) for the Fund Sponsor(s) and for the Funding Vehicle(s) selected, as well as a Salary Reduction Agreement (SRA), and return them to the WWU Human Resources Department.

An SRA is a written agreement between the employee and WWU under which the employee's salary is reduced by an amount equal to the contributions that the employee wishes to have made to the Program. An SRA shall be subject to such rules and restrictions as may be imposed by the Program Administrator which must be not inconsistent with section 403(b) of the Code and the regulations thereunder.

3.2. **Termination of Participation.** A Participant will continue to participate in the Program until (a) he or she ceases to be an Eligible Employee, (b) the Program is terminated, or (c) his or her contributions under the Program are terminated, whichever occurs first.

### **4. VIP Contributions**

4.1. **VIP Contributions.** Contributions to this Program (referred to hereafter as "VIP Contributions") are in addition to any contributions which may be made to the Western Washington University Retirement Plan (WWURP), or any State of Washington retirement plan.

To make VIP Contributions, an Eligible Employee must enter into a Salary Reduction Agreement with WWU as described in Section 3.1. Under the Agreement, the employee's salary is reduced and the amount of the reduction is forwarded to the Funding Vehicles available under this Program.

4.2. **Salary Reduction Minimum.** A Participant shall be permitted to make contributions under this Program only if the Salary Reduction Agreement provides for a minimum contribution of \$10.00 a pay period.

4.3. **Leave of Absence.** During a leave of absence with pay, VIP Contributions will continue to be made in accordance with the Salary Reduction Agreement. No VIP Contributions will be made during a leave of absence without pay.

4.4. **Limitations on VIP Contributions.** The total contributions transmitted by WWU on behalf of the Participant for any year under this Program and all other plans, contracts or arrangements of WWU will not exceed the limits imposed by Code sections 402(g) (without regard to section 402(g)(7)) and 415, except as permitted by Code section 414(v). The limits imposed by Code sections 402(g), 414(v) and 415 are herein incorporated by reference. If the limitations are exceeded because the Participant is also participating in another plan required to be aggregated with this Program for the purposes of section 402(g), 414(v) or 415, and such other plan is maintained by WWU or a Related Employer, or WWU receives from the Participant sufficient information concerning his or her participation in such other plan, then the extent to which annual contributions under this Program will be reduced, as compared with the extent to which annual benefits or contributions under any other plans will be reduced, will be determined by WWU. If the reduction is under this Program, WWU will advise the affected Participants of any limitations on their annual contributions required by this Section 4.4.

4.5. **Return of Excess VIP Contributions.** If a Participant has VIP Contributions that exceed the limits in effect under Code section 402(g) or 415 for the year, he or she may designate the contributions made during a taxable year to this Program as excess VIP Contributions by notifying the Program Administrator of the amount of the excess on or before March 15 of the year following the year in which the excess Contributions occurred. Notwithstanding any other provision of this Program, such excess VIP Contributions, adjusted for income, gains, losses or expenses attributable to such excess Contributions, will be distributed no later than April 15 of the year following the year in which the excess contributions occurred. In addition, WWU may, in its sole discretion, cause any VIP Contribution in excess of the foregoing limitations, adjusted for income, gains, losses or expenses attributable to such excess Contribution, to be distributed to the Participant to the extent permitted by applicable law.

4.6. **Rollover Contributions and Transfers**

(a) **Eligible Rollover Contributions.** To the extent provided in the Annuity Contracts and Custodial Account agreements, a Participant who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Program. Such rollover contributions shall be made in the form of cash only. The Fund Sponsor may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with section 402 of the Code

and to confirm that such other plan is an eligible retirement plan within the meaning of section 402(c)(8)(B) of the Code. However, in no event does the Program accept a rollover contribution from a Roth elective deferral account under an applicable retirement plan described in section 402A(e)(1) of the Code or a Roth IRA described in section 408A of the Code.

(1) **Eligible Rollover Distribution.** For purposes of Section 6.1(a), an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include (a) any installment payment for a period of 10 years or more, (b) any distribution made as a result of an unforeseeable emergency or other distribution which is made upon hardship of the employee, or (c) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9) of the Code. In addition, an eligible retirement plan means an individual retirement annuity described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code, that accepts the eligible rollover distribution.

(2) **Separate Accounts.** The Fund Sponsor shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Program. No such rollover shall be taken into account in applying the limits of Section 4.4.

**(b) Plan-to-Plan Transfers to the Program.**

(1) At the direction of WWU, for a class of employees who are participants or beneficiaries in another plan under section 403(b) of the Code, the Program Administrator may permit a transfer of assets to the Program as provided in this Section 4.6(b). Such a transfer is permitted only if the other plan provides for the direct transfer of each person's entire interest therein to the Program and the participant is an employee or former employee of WWU. The Program Administrator and any Fund Sponsor accepting such transferred amounts may require that the transfer be in cash or other property acceptable to it. The Program Administrator or any Fund Sponsor accepting such transferred amounts may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with section 1.403(b)-10(b)(3) of the Income Tax Regulations and to confirm that the other plan is a plan that satisfies section 403(b) of the Code.

(2) The amount so transferred shall be credited to the Participant's Accumulation Account, so that the Participant or Beneficiary whose assets are being transferred has an accumulated benefit immediately after the transfer at least equal to the accumulated benefit with respect to the Participant or Beneficiary immediately before the transfer.

(3) To the extent provided in the Annuity Contract and Custodial Account agreements holding such transferred amounts, the amount transferred shall be held, accounted for, administered and otherwise treated in the same manner as a VIP Contribution, except that (1) the Annuity Contract or Custodial Account which holds any amount transferred to the Program must provide that, to the extent any amount transferred is subject to any distribution restrictions required under section 403(b) of the Code, the Annuity Contract or Custodial Account agreement must impose restrictions on distributions to the Participant or Beneficiary

whose assets are being transferred that are not less stringent than those imposed by the transferor plan and (2) the transferred amount shall not be considered a VIP Contribution in determining the maximum deferral under Section 4.4.

4.7. **Vesting of Contributions.** Each contract and certificate issued in accordance with the provisions of the Program is the property of the Participant. Amounts attributable to VIP Contributions shall be non-forfeitable. However, VIP Contributions based on a mistake of fact shall be returned to WWU if WWU so requests as provided in Section 10.6.

4.8. **Quarterly Statement.** At least once per calendar quarter a Fund Sponsor will send each Participant a report summarizing the status of his or her Accumulation Account. A Participant may obtain similar reports or illustrations upon termination of employment or at any other time by writing directly to the Fund Sponsor.

4.9. **No Reversion.** Under no circumstances will any Program Contributions revert to, be paid to, or inure to the benefit of, directly or indirectly, WWU, except as provided in the second sentence of Section 4.7 or in Section 10.6.

4.10. **Protection of Persons Who Serve in a Uniformed Service.** An Eligible Employee whose employment is interrupted by qualified military service under section 414(u) of the Code or who is on a leave of absence for qualified military service under section 414(u) of the Code may elect to make additional VIP Contributions upon resumption of employment with WWU or any Related Employer equal to the maximum VIP Contributions that the Eligible Employee could have elected during that period if the Eligible Employee's employment had continued (at the same level of compensation) without the interruption or leave, reduced by the VIP Contributions, if any, actually made for the Eligible Employee during the period of the interruption or leave. Except to the extent provided under section 414(u) of the Code, this right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

## **5. Fund Sponsors/Funding Vehicles**

5.1. **Fund Sponsors/Funding Vehicles.** VIP Contributions are invested in one or more of the Funding Vehicles available to Participants through the Fund Sponsors under this Program. The Fund Sponsors that are available to Participants as of the date of this document are:

A. Teachers Insurance and Annuity Association and College Retirement Equities Fund (TIAA-CREF): 730 Third Avenue, New York, NY 10017

B. Fidelity Retirement Services: P.O. Box 31401, Salt Lake City, UT 84131-9921

C. Vanguard Group of Investment Funds: P.O. Box 1101, Institutional Division Valley Forge, PA 19482

WWU's current selection of Fund Sponsors is not intended to limit future additions or deletions of Fund Sponsors and Funding Vehicles. The Program Administrator shall maintain a list of all Fund Sponsors under the Program. Such list is hereby incorporated as part of the Program. Each Fund Sponsor and WWU shall exchange such information as may be necessary to satisfy section

403(b) of the Code or other requirements of applicable law. In the case of a Fund Sponsor which is not eligible to receive contributions under the Program (including a Fund Sponsor which has ceased to be a Fund Sponsor eligible to receive contributions under the Program), WWU shall keep the Fund Sponsor informed of the name and contact information of the Program Administrator in order to coordinate information necessary to satisfy section 403(b) of the Code or other requirements of applicable law.

5.2. **Allocation of Contributions.** A Participant may allocate VIP Contributions among Funding Vehicles in any whole number percentages that equal 100 percent.

5.3. **Fund Transfers.** Subject to a Funding Vehicle's rules for transfers and in accordance with the provisions of the Code governing the deferral of income tax with respect to Accumulation Accounts, a Participant may specify that a part or all of his or her Accumulation Account in one Funding Vehicle be transferred to another Funding Vehicle. However, an investment transfer that includes an investment with a Fund Sponsor that is not eligible to receive VIP Contributions is not permitted.

5.4. **Fund Review.** Funds will be chosen and reviewed by the Program Administrator.

5.5. **Third Party Trading.** The Participant may assign responsibility for investment elections and other transactions under the Program to another party.

## 6. **Benefits**

6.1. **Benefits in General.** The Participant is entitled to receive benefits under any of the Funding Vehicles at any time and in any form offered by the Fund Sponsors not inconsistent with section 403(b) of the Code and the Regulations thereunder, subject to the written consent of the Participant's spouse, if any, in accordance with Section 6.5. However, distributions attributable to amounts accrued in an annuity contract and amounts accrued in a mutual fund custodial account may be paid only after a Participant attains age 59 1/2, severs from employment with WWU and all Related Employers, dies or becomes disabled, or in the case of hardship. Distributions to a Participant made prior to attaining age 59 1/2 may be subject to early withdrawal penalties under the Internal Revenue Code. Hardship distributions are subject to the rules and restrictions set forth in Section 6.3. Distributions to a Participant made prior to attaining age 59 1/2 may be subject to early withdrawal penalties under the Code.

6.2. **Death Benefits.** On the death of a Participant, the entire value of each Accumulation Account is payable to the Beneficiary or Beneficiaries named by the Participant under one of the options offered by the Fund Sponsor. However, to the extent such Account has been applied to purchase an annuity, payments shall be made only if and to the extent provided by the form of annuity. The designation of a Beneficiary other than the Participant's spouse, if any, requires the written consent of the spouse in accordance with Section 6.5.

6.3. **Hardship Distributions.** Hardship distributions under Section 6.1 shall be approved only if the Program Administrator determines that the Participant has an immediate and heavy financial need and the distribution is necessary to satisfy the need. In such cases, there shall be paid to such Participant out of his or her Accumulation Account only such portion of the amount requested as is necessary to prevent or alleviate the hardship. The Program Administrator's

determination shall be final and binding. No amount attributable to income credited after December 31, 1988 on VIP Contributions shall be available for distribution on account of hardship.

The following are deemed to be immediate and heavy financial needs of the Participant: (a) medical expenses described in Code section 213(d) incurred by the Participant or his or her spouse or dependents; (b) purchase (excluding mortgage payments) of a principal residence for the Participant; (c) payment of tuition, room and board for the next 12 months of post-secondary education for the Participant, his or her spouse, his or her children or his or her dependents; (d) the payment of amounts necessary to prevent the eviction of the Participant from his or her principal residence or the foreclosure on the mortgage of his or her principal residence; (e) burial or funeral expenses for the Participant's deceased parent, spouse, children or dependents; or (f) expenses for the repair of damage to the Participant's principal residence described in section 165 of the Code.

Hardship distributions will be deemed to be necessary to satisfy an immediate and heavy financial need of the Participant if all of the following are satisfied: (a) the distribution does not exceed the amount of the applicable need under the second paragraph of Section 6.3 increased by taxes resulting from the distribution; (b) the Participant has obtained all distributions, other than hardship distributions, and all nontaxable loans currently available under the Program and any other plan maintained by WWU or any Related Employer; and, (c) the Participant's VIP Contributions under the Program and his or her elective and employee contributions under any other deferred compensation plan maintained by WWU or any Related Employer are suspended for six (6) months after receipt of the hardship distribution.

#### **6.4. Minimum Distribution Requirements**

(a) All distributions under this Program will be made in accordance with Code sections 403(b)(10) and 401(a)(9), as each is amended and in effect from time to time, and regulations thereunder. The entire Accumulation Account of each Participant will be distributed over a period not to exceed the life (or life expectancy) of the Participant or over the lives (or life expectancies) of the Participant and a designated Beneficiary. Minimum distributions must begin no later than April 1 of the calendar year following the calendar year in which the Participant attains age 70 1/2, or, if later, April 1 following the calendar year in which the Participant retires from WWU. Notwithstanding the above, the Accumulation Account of each Participant as of December 31, 1986 will be distributed in accordance with IRS Regulation section 1.403(b)-6(e)(6). The Participant (or Beneficiary, after the Participant's death) may elect whether to use the permissive recalculation rule for life expectancies under Code section 401(a)(9)(D). Upon the Participant's death after the time benefits are required to begin hereunder, any remaining benefits will be distributed at least as rapidly as under the method of distribution in effect at the time of the Participant's death.

(b) If the Participant dies before benefit payments are required to begin under the preceding paragraph, any benefits payable to (or for the benefit of) a designated Beneficiary will be paid by the end of the fifth full calendar year after the Participant's death, or will be paid beginning no later than the end of the first full calendar year after the Participant's death over the life of the

designated Beneficiary or over a period not exceeding the life expectancy of the designated Beneficiary.

In applying the foregoing rules, each Annuity Contract or Custodial Account shall be treated as an individual retirement account (IRA) and distribution shall be made in accordance with the provisions of section 1.408-8 of the IRS Regulations, except as provided in section 1.403(b)-6(e) of the IRS Regulations.

**6.5. Application for Benefits; Spousal Consent.** Procedures for receipt of benefits are initiated by writing directly to the Fund Sponsor(s). Benefits will be payable by the Fund Sponsor(s) upon receipt of a satisfactorily completed application for benefits and supporting documents. The necessary forms will be provided to the Participant, the surviving spouse, or the Beneficiary by the Fund Sponsor(s). In any case in which Section 6.1 or 6.2 requires the consent of the Participant's spouse, the consent must be in writing, must acknowledge the effect of the election or action to which the consent applies, and must be witnessed by a notary public or a Program representative. Unless the consent expressly provides that the Participant may make further elections without further consent of the spouse, the consent will be effective only with respect to the specific election or form of benefit, or Beneficiary, or both, to which the consent relates. Spousal consent will be effective only with respect to that spouse. Spousal consent will not be required if it is established to the satisfaction of the Program representative that there is no spouse, or that the spouse cannot be located.

**6.6. Loans.** Subject to the Code and terms of the Funding Vehicles, loans are available to Participants before the commencement of benefit payments from such Funding Vehicle or Vehicles as may be designated by the Program Administrator.

(a) **Information Coordination Concerning Loans.** Each Fund Sponsor is responsible for all information reporting and tax withholding required by applicable federal and state law in connection with distributions and loans. To minimize the instances in which Participants have taxable income as a result of loans from the Program, the Program Administrator shall take such steps as may be appropriate to coordinate the limitations on loans set forth in (b) below, including the collection of information from Fund Sponsors, and transmission of information requested by any Fund Sponsor, concerning the outstanding balance of any loans made to a Participant under the Program or any other plan of WWU or any Related Employer. The Program Administrator shall also take such steps as may be appropriate to collect information from Fund Sponsors, and transmission of information to any Fund Sponsor, concerning any failure by a Participant to repay timely any loans made to a Participant under the Program or any other plan of WWU or any Related Employer.

(b) **Maximum Loan Amount.** No loan to a Participant under the Program may exceed the lesser of:

- (1) \$50,000, reduced by the greater of (i) the outstanding balance on any loan from the Program to the Participant on the date the loan is made or (ii) the highest outstanding balance on loans from the Program to the Participant during the one-year period ending on the day before the date the loan is approved by the Program Administrator (not taking into account any payments made during such one-year period); or

(2) one half of the value of the Participant's Accumulation Accounts (as of the valuation date immediately preceding the date on which such loan is approved by the Program Administrator).

For purposes of this Section 6.6(b), any loan from any other plan maintained by WWU and any Related Employer shall be treated as if it were a loan made from the Program, and the Participant's vested interest under any such other plan shall be considered a vested interest under this Program; provided, however, that the provisions of this paragraph shall not be applied so as to allow the amount of a loan to exceed the amount that would otherwise be permitted in the absence of this paragraph.

#### **6.7. Direct Rollover of Eligible Rollover Distributions**

(a) A Participant or the Beneficiary of a deceased Participant (or a Participant's spouse or former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Code) who is entitled to an eligible rollover distribution (as defined in section 402(c)(4) of the Code) from the Program may elect to have any portion of that distribution paid directly to an eligible retirement plan (as defined in section 402(c)(8)(B) of the Code) specified by the Participant in a direct rollover. In the case of a distribution to a Beneficiary who at the time of the Participant's death was neither the spouse of the Participant nor the spouse or former spouse of the participant who is an alternate payee under a domestic relations order, a direct rollover is payable only to an individual retirement account or individual retirement annuity (IRA) that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of section 408(d)(3)(C) of the Code).

(b) Each Fund Sponsor shall be separately responsible for providing, within a reasonable time period before making an initial eligible rollover distribution, an explanation to the Participant of his or her right to elect a direct rollover and the income tax withholding consequences of not electing a direct rollover.

### **7. General Provisions and Limitations Regarding Benefits**

7.1. **Non-Alienation of Retirement Rights or Benefits.** To the fullest extent permitted by law, no benefit under the Program may at any time be subject in any manner to alienation, encumbrance, the claims of creditors or legal process. No person will have the power in any manner to transfer, assign, alienate, or in any way encumber his or her benefits under the Program, or any part thereof, and any attempt to do so will be void and of no effect. This Program will, however, comply with any judgment, decree or order which establishes the rights of another person to all or a portion of a Participant's benefit under this Program to the extent that it is treated as a qualified domestic relations order under Code section 414(p). Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Program. WWU shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order.

### **8. Administration**

8.1. **Program Administrator.** WWU is the program administrator, and has designated the WWU Human Resources Department to be responsible for the day to day administration of the Program.

8.2. **Authority of the Program Administrator.** The Program Administrator has all the powers and authority conferred upon it herein and further shall have final authority to determine, in its discretion, all questions concerning eligibility and contributions under the Program, to interpret all terms of the Program, including any uncertain terms, and to decide any disputes arising under and all questions concerning administration of the Program. Any determination made by the Program Administrator shall be given deference, if it is subject to judicial review, and shall be overturned only if it is arbitrary and capricious. In exercising these powers and authority, WWU will at all times exercise good faith, apply standards of uniform application, and refrain from arbitrary action.

8.3. **Delegation of Authority.** The Program Administrator may delegate any power or powers to one or more other employees of WWU, or to any agent or independent contractor of WWU. Any such delegation shall be in writing, and may be obtained from the Program Administrator.

## 9. **Amendment and Termination**

9.1. **Amendment and Termination.** While it is expected that this Program will continue indefinitely, WWU reserves the right at any time to amend or terminate the Program, or to discontinue any further VIP Contributions under the Program, by resolution of its Board of Trustees. If the Program is terminated or if contributions are discontinued, WWU will notify all Participants, all Accumulation Accounts will remain non-forfeitable, and all agreements for salary reduction that have been entered into will become void with respect to salary amounts yet to be earned.

9.2. **Distribution Upon Termination of the Program.** WWU may provide that, in connection with a termination of the Program and subject to any restrictions contained in the Annuity Contracts and Custodial Account agreements, all Accumulation Accounts will be distributed, provided that WWU and any Related Employer on the date of termination do not make contributions to an alternative section 403(b) contract that is not part of the Program during the period beginning on the date of Program termination and ending 12 months after the distribution of all assets from the Program, except as permitted by IRS Regulations.

9.3. **Limitation.** Notwithstanding the provisions of Section 9.1, the Board shall not make any amendment to the Program that operates to recapture for WWU any contributions previously made under this Program except to the extent permitted by Section 4.7.

## 10. **Miscellaneous**

10.1. **Program Does Not Affect Employment.** Nothing contained in this Program may be construed as a commitment or agreement on the part of any person to continue his or her employment with WWU, and nothing contained in this Program may be construed as a commitment on the part of WWU to continue the employment or the rate of compensation of any person for any period. All employees of WWU will remain subject to discharge to the same extent as if the Program had never been put into effect.

10.2. **Claims of Other Persons.** No provisions in this Program will be construed as giving any Participant or any other person, firm, or corporation any legal or equitable right against WWU or its officers, employees, or trustees, except for the rights that are specifically provided for in this Program or created in accordance with the terms and provisions of this Program.

10.3. **Contracts and Certificates.** In the event there is any inconsistency or ambiguity between the terms of the Program and the terms of the contracts between the Fund Sponsors and WWU and/or the Participants and any certificates issued to a Participant under the Program, the terms of the Program control.

10.4. **Requests for Information.** Any request for information concerning eligibility, participation, contributions, or other aspects of the operation of the Program should be in writing and directed to the Program Administrator. Requests for information concerning the Fund Sponsor(s) and their Funding Vehicle(s), their terms, conditions and interpretations thereof, claims thereunder, any requests for review of such claims, may be directed in writing to the Fund Sponsor(s).

10.5. **Payments to Minors and Incompetents.** If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the WWU Human Resources Department, benefits will be paid to such person as the WWU Human Resources Department may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Program.

10.6. **Mistaken Contributions.** If any contribution (or any portion of a contribution) is made to the Program by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the WWU Human Resources Department, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the WWU Human Resources Department, to WWU.

10.7. **Procedure When Distributee Cannot Be Located.** The WWU Human Resources Department shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Program. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on WWU's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guaranty Corporation (under their program to identify payees under retirement plans), and (c) the payee has not responded within 6 months. If the WWU Human Resources Department is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Funding Vehicle shall continue to hold the benefits due such person.

10.8. **Governing Law.** Except as provided under federal law, the provisions of the Program are governed by and construed in accordance with the laws of the State of Washington.

*Western Washington University  
Human Resources Department  
Business and Financial Affairs*

*Approved by:  
WWU Board of Trustees on December 12, 2008*

*Effective Date: January 1, 2009*