

VRIP AGREEMENT INSTRUCTIONS

- **The VOLUNTARY SEPARATION AGREEMENT AND GENERAL WAIVER AND RELEASE OF CLAIMS is attached. Please read the Agreement carefully. You should consult an attorney of your choice before signing the Agreement. No changes may be made to the Agreement unless first approved in writing by the VP for Human Resources and Office of General Counsel.**
- **Please return an executed copy of this Agreement to the Human Resources Service Center. It is recommended you make and keep a copy for yourself.**
- **If you have questions, please contact either your Dean, Human Resources, or the Office of General Counsel.**

STAFF VOLUNTARY SEPARATION AGREEMENT AND GENERAL WAIVER AND RELEASE OF CLAIMS

This Voluntary Separation Agreement and General Waiver and Release of Claims (hereinafter "Agreement"), is made by and between Case Western Reserve University (hereinafter "the University") and INSERT NAME (hereinafter "Employee"), a staff member of the University, pursuant to the Voluntary Retirement Incentive Program offered by the University (hereinafter "VRIP" or "Program").

WHEREAS, the University has offered a voluntary Program, pursuant to which staff members may apply to participate in a retirement incentive consistent with the VRIP eligibility criteria, process, and procedures; and

WHEREAS, Employee has made application for retirement pursuant to the Program, and the University has determined that the Employee is eligible to participate as requested; and

WHEREAS, the parties desire to enter into a written document confirming the specific details pertinent to Employee's retirement.

NOW, THEREFORE, in consideration of the mutual promises and agreements as set forth below and for other good and valuable consideration, which consideration is hereby acknowledged, the University and Employee agree as follows:

1. Voluntary Participation

Employee understands that the benefits described in the Case Western Reserve University Voluntary Retirement Incentive Program are not automatically payable to every employee. By executing this Agreement, Employee represents and agrees that:

a) Employee has had a reasonable opportunity to carefully review and consider the benefits available under the Program and is voluntarily electing to retire and terminate his or her employment with the University;

b) Employee understands the consequences of agreeing to the Waiver and Release included in this Agreement and accepting benefits under the Program;

c) No person has pressured Employee or used duress to affect his or her decision; and

d) Employee is signing and delivering this Agreement of his or her own free will in exchange for the sums and benefits under the Program, which Employee acknowledges and agrees are adequate and satisfactory.

2. Retirement Date

Prior to the execution of this Agreement, Employee has submitted the required application indicating Employee's desire to retire from the University's employ, effective August 1, 2020 (the "Retirement Date").

3. Eligibility

By executing this Agreement, the Employee acknowledges and certifies that Employee is eligible for participation in VRIP. To be eligible for participation in VRIP, a staff member must be employed in a position within the university's salary grade structure, be at least 55 years of age and have at least fifteen (15) years of service with the University as of July 1, 2020. Employees whose position is funded externally by grants or other external sources are not eligible.

4. Termination of Rights

As of the Retirement Date, the Employee will no longer be eligible to participate in the University retirement plans, and the University will cease contributing to the Employee's University retirement plan account. Employee shall be eligible to receive retirement benefits as provided in the applicable University retirement plan. Employee acknowledges that other than those benefits specified in this Agreement, Employee, as of the Retirement Date, may not participate in any other fringe benefit program that requires the recipient to be an employee.

5. Retirement Incentive Payment

Subject to Employee's compliance with each and every obligation under this Agreement and material compliance with University policies and procedures, and further provided that Employee does not revoke this Agreement as outlined in Paragraph 9 ("Revocation Period"), the University will provide Employee with a lump sum payment of [AMOUNT TO BE INSERTED], which is equal to six (6) months' salary, and is payable thirty (30) days following expiration of the Revocation Period. This payment is subject to and reduced by applicable income tax withholding and applicable employment taxes. These payments do not entitle Employee to additional employee benefits that are based on salary.

The University and Employee intend that any amounts or benefits payable or provided under this Agreement comply with the provisions of Section 409A and Section 457(f) of the Internal Revenue Code and the Treasury regulations relating thereto, including but not limited to any applicable exceptions for short-term deferrals, so as not to subject Employee to the payment of the tax, interest and any tax penalty which may be imposed under Code Section 409A or 457(f). The provisions of this Agreement shall be interpreted in a manner consistent with such intent.

If Employee dies after the Retirement Date, but before the payments due under this Agreement are made, the remaining payments due under this Agreement shall be due to Employee's beneficiary named by Employee in a writing submitted to Human Resources, or in the absence of such a writing, to the Employee's estate.

6. Part-time, Non-Benefits Eligible Employment

Participation in VRIP will not preclude the Employee from engaging in other employment with the University on a part-time basis that is not in a benefits-eligible position (i.e., no more than eighteen (18) hours each week subject to the needs and approval of the appropriate unit of the University), provided the Employee shall have a bona fide break in service of twelve (12) months following the Retirement Date. Therefore, the Employee represents and warrants that Employee has not entered into any oral or written contracts, understandings, or pre-determined employment agreements with the University prior to Employee's execution of this Agreement inconsistent with this Agreement. Upon any such part-time employment following the Retirement Date, the Employee may not be employed in any position or capacity that requires participation in a University retirement plan.

7. Eligibility for Certain Other Retiree Benefits

Employee will be entitled to the following additional benefits as of the Retirement Date:

a) Employee shall continue to have access to the University gymnasium facilities and libraries, and the availability of discount tickets for University activities, as those privileges from time to time are made available to retirees.

b) Employee shall be entitled to participate in any tuition waiver program that the University may offer for retired staff and their spouses and dependent children, in accordance with the requirements and limitations as may from time to time be a part of the tuition waiver program; provided, however, that the University shall not be obligated to maintain such a program.

c) Employee will be eligible as of the Retirement Date to enroll in the University Retiree Health Plan, in accordance with the requirements and limitations as may from time to time be a part of the Plan. Employee will be responsible for all costs/premiums for enrollment in the Retiree Health Plan.

All benefits provided hereunder shall be subject to any applicable income tax.

8. Release and Waiver of Claims

a) Employee hereby releases and forever discharges the University and its trustees, officers, faculty, employees, agents and parties in interest with University

and its related and affiliated entities (all of the foregoing being referred to collectively in this Release as the "Released Parties"), from any and all claims, damages, demands and causes of action through the date of this Release; this includes, among other things, claims based on the legal theories of wrongful or unjust termination, breach of contract (express or implied), promissory estoppel, negligent or intentional (tortious) conduct, negligent or intentional infliction of emotional distress, defamation, breach of any implied covenant of good faith and fair dealing, and any and all forms of employment discrimination or retaliation, and including claims for attorneys' fees, expenses and costs related to any of the foregoing.

b) Employee hereby releases and forever discharges the Released Parties from any and all claims, damages, demands and causes of action, and waives any rights he or she may have, under Title VII of the Civil Rights Act of 1964, under 42 U.S.C. §1981, under the Age Discrimination in Employment Act ("ADEA"), under the Americans With Disabilities Act, under the Family and Medical Leave Act of 1993, under the Civil Rights Attorney's Fees Awards Act of 1976, under the Consolidated Omnibus Budget Reconciliation Act ("COBRA"), under the Employee Retirement Income Security Act ("ERISA"), under the Fair Labor Standards Act, to the extent permitted by law, under the Occupational Safety and Health Act of 1970 ("OSHA"), under Chapter 4112 of the Ohio Revised Code, or under any other federal, state or local statute prohibiting discrimination in employment, or to request that a lawsuit be instituted pursuant to 29 U.S.C. §206(d).

c) It is Employee's intent to release all claims that he or she can legally release but no more than that. Specifically, this Release does not include, and Employee does not waive, any rights or claims (i) that may arise after Employee signs this Agreement; (ii) for alleged workplace injuries or occupational disease that arise under any state's workers' compensation laws; (iii) for benefits in which Employee has a vested right under any ERISA plans; (iv) that cannot be released by law; or (v) to enforce this Agreement.

d) Nothing in this Release shall be interpreted or applied in a manner that affects or limits Employee's otherwise lawful ability to bring an administrative charge with the Equal Employment Opportunity Commission ("EEOC") or other appropriate federal, state, or local administrative agency. However, Employee agrees that Employee has released the Released Parties from any and all liability arising from the laws, statutes, and common law listed in Paragraphs a) and b) above. As such, Employee agrees that Employee has not and will not be entitled to any monetary or other comparable relief resulting from any proceeding brought by Employee, the EEOC, or any other person or entity, including but not limited to any federal, state, or local agency.

Further, nothing in this Release shall be interpreted or applied in a manner that affects or limits Employee's otherwise lawful ability to challenge, under the Older Workers Benefit Protection Act, 29 U.S.C. § 626(f), the knowing and voluntary

nature of or validity of Employee's release of any age claims in this Agreement before a court, the EEOC, or any other federal, state, or local agency.

e) Nothing in the Agreement (including confidentiality and non-disparagement provisions, if any) or in this Release shall be construed to limit Employee's right to (1) respond accurately and fully to any question, inquiry or request for information when required by legal process or from initiating communications directly with, or responding to any inquiry from, or providing testimony before, any self-regulatory organization or state or federal regulatory authority, regarding the University, Employee's employment, or this Agreement; Employee is not required to contact the University regarding the subject matter of any such communications before engaging in such communications; (2) disclose information to an administrative agency responsible for enforcing labor and/or employment laws; or (3) to provide information to an agency responsible for enforcing unemployment compensation laws.

Except as set forth in this Agreement, Employee understands, acknowledges, and voluntarily agrees that this Agreement is a total and complete release by Employee of any and all claims which Employee has against the Released Parties as of the effective date of this Agreement, both known or unknown, even though there may be facts or consequences of facts which are unknown to Employee.

9. ADEA and OWBPA Disclosures

a) Employee acknowledges that this Agreement and General Waiver and Release of Claims includes a knowing and voluntary waiver of any and all claims which Employee has or may have through the date of the execution of this Agreement, including claims under the Age Discrimination in Employment Act.

b) The University advises Employee to consult an attorney of Employee's choice prior to signing this Agreement. By signing this Agreement, Employee acknowledges that Employee has been advised by the University in writing to consult counsel and that Employee has had adequate time and opportunity to do so, and that the decision to execute this Agreement was not influenced in any manner by any representation of the University, its attorneys or agents.

c) The University has provided Employee with adequate written notice in Exhibit A to this Agreement of: (i) the eligibility criteria for participation in the Program, the category of employees covered by the Program, and the time limits applicable for electing to participate in the Program; and (ii) the job titles and ages of all employees eligible or selected for the Program; and (iii) the ages of all employees in the same job classification who are not eligible or selected for the Program.

d) Employee acknowledges that Employee has been given a period of at least forty-five (45) days to consider this Agreement before signing it and further acknowledges that he or she waives that period by signing the Agreement prior to expiration of the 45-day period.

e) Employee may revoke this Agreement within seven (7) days of execution by providing the University a written notice of the decision to revoke, which should be addressed to: Michelle R. Arendt, Senior Counsel, Case Western Reserve University, 10900 Euclid Avenue, Cleveland, OH 44106-7020; michelle.arendt@case.edu. Employee understands and agrees that should Employee revoke this Agreement and waiver as to claims under the Age Discrimination in Employment Act of 1967, as amended, the University's obligations under the Agreement will become null and void.

10. No Knowledge of Illegal Activity

Employee represents that he or she has no knowledge of any actions or inactions by any of the Released Parties or by Employee that might constitute a basis for a claimed violation of any federal, state, or local law, any common law, or any rule promulgated by an administrative body.

11. No Other Representations

Employee represents and acknowledges that in executing this Agreement, Employee does not rely, and has not relied, upon any representation or statement not set forth in the Agreement made by any of the Released Parties regarding the subject matter, basis, or effect of this Agreement or otherwise. There are no other promises, representations, or agreements relating to this Agreement and the Program except as specifically set forth in this Agreement.

12. Confidentiality

Employee agrees to keep the terms of this Agreement, including any and all negotiations and discussions about the Agreement and circumstances surrounding the Agreement, strictly confidential and will not disclose or discuss its terms, negotiations or circumstances with anyone except Employee's attorneys, financial advisors, any federal or state authorities, any immediate family member, or anyone specifically authorized by the University in writing. Employee may disclose the decision to retire and the date of retirement, but such discussion shall not include disclosure of the terms, negotiations or circumstances of this Agreement. Employee further agrees to direct any individual to whom the terms of this Agreement are disclosed or described that such individual(s) shall not discuss this Agreement with anyone. Any disclosure concerning this Agreement not specifically authorized by this provision shall constitute a breach of this Agreement.

Employee agrees to keep any and all confidential, proprietary, or non-public information concerning the University and Employee's department strictly confidential and will not disclose, publicize or discuss such information with any person, except to the University when requested or except as required by law.

13. Non-Disparagement

Employee agrees to not make any disparaging remarks about the University to third persons outside the University, including remarks or comments about its programs, trustees, officers, agents, or employees, except:

a) when requested by the University to cooperate in University processes or proceedings or external proceedings involving the University and such remarks are necessary to cooperate with the University's request, or

b) as required under applicable law.

14. Medicare Claims

Employee affirms, covenants, and warrants that Employee is not a Medicare beneficiary and is not receiving, has not received in the past, will not have received at the time of payment under the Program, is not entitled to, is not eligible for, and has not applied for or sought Social Security Disability or Medicare benefits. If any statement in the preceding sentence is incorrect (for example, but not limited to, if Employee is a Medicare beneficiary) the following sentences (i.e., the remaining sentences of this paragraph) apply. Employee affirms, covenants, and warrants Employee has made no claim for illness or injury against, nor is Employee aware of any facts supporting any claim against, the Released Parties under which the Released Parties could be liable for medical expenses incurred by Employee before or after the execution of this Agreement. Employee knows of no medical expenses that Medicare has paid and for which the Released Parties are or could be liable now or in the future. Employee agrees and affirms that, to the best of Employee's knowledge, no liens of any governmental entities, including those for Medicare conditional payments, exist. Employee will indemnify, defend, and hold the Released Parties harmless from Medicare claims, liens, damages, conditional payments, and rights to payment, if any, including attorneys' fees, and Employee further agrees to waive any and all future private causes of action for damages under 42 U.S.C. § 1395y(b)(3)(A), *et seq.* The University and Employee acknowledge and understand that any present or future action or decision by the Centers for Medicare & Medicaid Services or Medicare on this Agreement, or my eligibility or entitlement to Medicare or Medicare payments, will not render this release void or ineffective, or in any way affect the finality of this Agreement.

15. No Admission of Liability

Employee acknowledges that neither this Agreement nor the furnishing of any consideration hereunder shall be deemed for any purpose to be an admission by

the University or any person or entity of liability or responsibility for any wrongdoing.

16. Compliance with Agreement

Employee acknowledges that the promises and payments made by the University to Employee under this Agreement are expressly conditioned upon Employee's compliance with the Agreement, and that Employee's failure to comply discharges the University from any further obligation under this Agreement (and gives the University legal and equitable remedies under applicable law).

17. Miscellaneous Provisions

a) This Agreement shall constitute the entire Agreement between the parties, and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement. Any modification of this Agreement shall be binding only if evidenced in writing signed by both parties.

b) Employee understands that this Agreement contains and constitutes the entire understanding and agreement of the parties regarding the subject matter of this Agreement; provided, however, that to the extent the University and Employee are parties to previously-executed confidentiality, noncompetition, nonsolicitation, or nondisclosure agreements, and to the extent the terms of those agreements are not inconsistent with the terms of this Agreement, those terms of the previously-executed agreements shall continue in full force and effect.

c) Neither this Agreement nor the benefits to be provided under this Agreement may be assigned by Employee.

d) This Agreement shall be governed by and interpreted under the laws of the State of Ohio. Any and all legal proceedings between the parties hereto arising from this Agreement shall commence only in Cuyahoga County, Ohio.

e) If any of the terms, covenants, conditions, and agreements of this Agreement for any reason shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any of the other terms, covenants, conditions, and agreements of this Agreement, and any terms, covenants, conditions, and agreements of this Agreement thereafter shall be construed as if such invalid, illegal, or unenforceable terms, covenants, conditions, and agreements never were contained in this Agreement.

f) This Agreement may be executed in any number of counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year written below.

Employee – Printed Name

Signature

Date

CASE WESTERN RESERVE UNIVERSITY

By: _____

Its: _____

Date: _____

By: _____

Its: _____

Date: _____

Human Resources Approval:

By: _____

Its: _____

Date: _____