



**INDIANA UNIVERSITY**  

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**UNIVERSITY HUMAN RESOURCE SERVICES**

**2013**  
**Early Retirement Incentive Plan**  
**(ERIP-2013)**

**A Voluntary Separation Plan**

**July 8, 2013**

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**2013  
INDIANA UNIVERSITY  
EARLY RETIREMENT INCENTIVE PLAN  
(ERIP-2013)**

**A. INTRODUCTION**

Indiana University is confronted with serious fiscal constraints. One response to this challenge is the adoption of the 2013 Early Retirement Incentive Plan (ERIP-2013) for eligible Academic and Staff employees. Voluntary separations under ERIP-2013 are intended to achieve specific enterprise outcomes: 1) reduction in salary/wage and associated benefit costs and 2) redirecting positions to focus on higher institutional priorities. Voluntary separations under the ERIP-2013 may also assist in avoiding or minimizing future involuntary terminations due to reductions in personnel.

**The ERIP-2013 is not intended to be an entitlement. A fundamental requirement of the ERIP-2013 is that approved applications must achieve one of the institutional objectives described above. Not every application to participate in the ERIP-2013 will be approved.**

This document shall serve as the official plan document governing the terms of the ERIP-2013.

**B. GENERAL DESCRIPTION**

The ERIP-2013 is a limited-time opportunity for eligible employees to apply for separation and enter retirement at an earlier date than might otherwise have been planned. ERIP-2013 Participants will be required to sign a Separation Agreement that contains a release of all employment rights and claims, described later in this document. Following voluntary separation from Indiana University, ERIP-2013 Participants will receive the benefits provided by this plan, including an income replacement payment and contributions to a Health Reimbursement Account, as described in this document.

Participation in the ERIP-2013 is completely voluntary. Applicants may revoke their application at any time up to seven days after signing the Separation Agreement. Eligible employees who decline to participate or who revoke an application to participate after initiating the application, will not be treated any differently than any other employee.

**Applications for the ERIP-2013 will be accepted for a limited period of time, starting July 22, 2013, and ending midnight August 19, 2013.**

Separations under the ERIP-2013 are to be effective December 31, 2013, or May 31, 2014, at the University's discretion.

Additional information, including the ERIP-2013 application form, the Separation Agreement, and Frequently Asked Questions can be obtained at the following website: [hr.iu.edu/early\\_retire2013](http://hr.iu.edu/early_retire2013).

## C. ELIGIBILITY

Full-time Academic and Staff employees of Indiana University are eligible to apply for the ERIP-2013 if, as of **June 30, 2013**, the employee:

1. **Is at least 60 years old, and**
2. **Has at least 15 years of full-time service with the University.** “Full-time service” means the years of full-time appointed service at Indiana University as a Staff or Academic employee; excludes any service as a part-time, Hourly/Temporary, or Adjunct Faculty employee.

Service at another entity, whether or not it is affiliated with Indiana University (such as IU Foundation or IURTC) does not count in satisfying the above eligibility criteria.

An employee who satisfies the above eligibility requirements may apply for the ERIP-2013 even if he or she has already given notice of his or her intention to retire or otherwise terminate employment, except as noted in section D for ineligible employees.

Employees who satisfy the above eligibility requirements and who are potentially eligible for 18/20 Plan or IU Replacement Retirement Plan benefits may apply for the ERIP-2013 with the explicit understanding that if they participate in the ERIP-2013 they would be forfeiting the benefits of those retirement plans. A potential participant in the IU Replacement Retirement Plan is not eligible to participate in the ERIP-2013 after reaching age 64 if they are vested in the benefits provided by that plan.

Under no circumstances will Indiana University provide ERIP-2013 benefits in addition to benefits provided by an early retirement plan, such as the 18/20 Plan or the IU Replacement Retirement Plan.

## D. INELIGIBILITY

The following employees and individuals are **not** eligible to apply for or to participate in the ERIP-2013:

- Employees who are eligible to begin receiving their benefits under the IU 18/20 Retirement Plan and/or the IU Replacement Retirement Plan, on June 30, 2013. (For the 18/20 Plan, benefits may start as early as age 64 until age 70; and for the IU Replacement Retirement Plan, benefits may start after reaching age 64.)
- Employees who are potential participants in the IU Replacement Retirement Plan, are at least age 64 as of June 30, 2013, and would be vested in the benefits provided by that plan on June 30, 2013
- Employees who have signed an agreement with Indiana University to participate in the IU Phased Retirement Program

- Employees who are using PTO or Vacation accruals to bridge to an already-specified separation date arranged prior to July 1, 2013
- Employees who have already signed a formal separation agreement with Indiana University
- Employees who have been given notice prior to July 1, 2013, of their involuntary termination from Indiana University
- Employees who have participated in any other early retirement incentive at any time in the past
- Part-time Academic and Staff employees (“part-time” means an appointment of less than 100% FTE)
- Other individuals who are not eligible include, but are not limited to: Hourly/Temporary employees, Graduate Assistants, Medical Residents, Visiting Scholars, and postdoctoral fellows

## E. SEPARATION DATES

To participate in the ERIP-2013, an eligible employee whose application has received final approval to participate in the ERIP-2013 must sign a Separation Agreement that releases Indiana University from all employment rights and claims, with a specific date of separation from Indiana University of December 31, 2013, or May 31, 2014.

Eligible employees must indicate a preferred separation date (December 31, 2013, or May 31, 2014) at the time of the submission of the application for ERIP-2013. However, the applicable unit head will determine the actual separation date, based on the date that is in the University’s best interest.

Final approval of an ERIP-2013 application is pursuant to Section J.

## F. SEPARATION INCENTIVE BENEFITS

ERIP-2013 Participants will receive the following benefits:

1. **Income Replacement Payment** – ERIP-2013 Participants will be paid the following amount in a single lump-sum, less all deductions for local, state and federal taxes legally required to be withheld, in the month following separation from the University:
  - Academic and Staff employees who are potential recipients of 18/20 Retirement Plan or IU Replacement Plan benefits will receive an amount equal to two times annual base salary (10-month appointments will receive two times their 10-month base salary)
  - All other Staff employees will receive an amount equal to 6-months base salary/wages
  - All other Academic employees will receive an amount equal to annual base salary, with 10-month appointments receiving 10-months base salary

Income Replacement Payments are calculated based on the employee's base salary/wages on September 1, 2013, for December 31, 2013, separations or on February 1, 2014, for May 31, 2014, separations.

For salaried employees (e.g. Academic and Professional Exempt Staff), this amount will be calculated based on monthly base salary. For non-exempt employees (e.g. Professional Overtime Eligible Staff and Support and Service Staff), this amount will be 26 times weekly base wages.

Base salary/wages do not include overtime, supplemental pay, summer pay, call-back pay, shift differentials, administrative supplements, professorships, or any other non-base salary or wages.

In accordance with regulations from the IRS and the Indiana Public Employees Retirement Fund (PERF), no portion of this lump-sum payment is eligible for salary deferral under the IU TDA Plan or the IU Retirement Savings Plan, nor is it considered to be "compensation" for purposes of calculating the University's contribution to the IU Retirement Plan or to PERF.

For employees who are members in PERF, an amount not to exceed \$2,000 will be included in the average annual compensation used for PERF benefit calculations, based on provisions of that retirement plan.

Employees who are not already maximizing their tax-deferred contributions to the IU TDA Plan and/or the IU Retirement Savings Plan may be able to allocate tax-deferred contributions to these plans from base compensation received during the months prior to separation. More information about the IU TDA Plan and the IU Retirement Savings Plan is located at [hr.iu.edu/benefits/supp\\_retire/index.htm](http://hr.iu.edu/benefits/supp_retire/index.htm).

2. **Health Reimbursement Account** – ERIP-2013 Participants who are enrolled as the employee (not as a dependent) in an IU-sponsored medical plan on September 1, 2013, for December 31, 2013, separations or on February 1, 2014, for May 31, 2014, separations will be provided a health reimbursement account (HRA). On an annual basis, for a period of five years, except as provided in paragraphs below, the University will credit an amount to an HRA on behalf of the ERIP-2013 Participant, based on the employee's medical plan membership level on the above dates (September 1, 2013, or February 1, 2014). This amount shall be equal to:

• Employee Only	\$7,400
• Employee with Child	\$14,600
• Employee with Spouse	\$17,900
• Family	\$20,300

- a) At the beginning of the annual benefit period after the ERIP-2013 Participant turns age 65 (eligibility for Medicare), the University will instead credit an amount to an HRA on behalf of an ERIP-2013 participant equal to \$7,400 each year. If the ERIP-2013 participant is eligible for Medicare at the time of separation, then the first contribution to the HRA will equal \$7,400.

- b) University contributions to the ERIP-2013 participant's HRA will begin during the month following separation, and then annually thereafter.
- c) University's HRA contribution amounts will not change during the five year benefit period even if the ERIP-2013 Participant has a family status change, (e.g. a marriage) during that period.
- d) University contributions to the HRA will cease if before the end of the five year period the ERIP-2013 Participant becomes eligible for medical care coverage through another employer, a spouse/domestic partner employed by Indiana University, or dies.
- e) The ERIP-2013 Participant may use the HRA account to reimburse medical expenses within the guidelines of Section 213(d) of the Internal Revenue Code on behalf of the participant, his or her spouse, and his or her eligible dependents. Examples of medical expenses that qualify for HRA reimbursement:
  - After-tax medical insurance premiums (COBRA and Medicare premiums)
  - Deductibles and copayments not covered by another medical plan
  - Dental and vision care expenses not cover by another plan
  - Eyeglasses
  - Prescription drugs
  - Preventive care
  - Medicare Part B premiums

Additional details about this HRA feature are available at [hr.iu.edu/early\\_retire2013](http://hr.iu.edu/early_retire2013) and for a complete list of qualified medical expenses that qualify for reimbursement refer to IRS Publication 502, "Medical and Dental Expenses."

- f) The Internal Revenue Service (IRS) does not allow the use of HRA funds for expenses associated with a domestic partner unless the partner qualifies as a dependent under IRS regulations.
- g) Any amount remaining in the HRA account at the end of a year will carry forward and can be used in subsequent years to pay for eligible medical expenses; provided, however, that unused contributions **will be forfeited** at the end of the associated five year period (December 31, 2018, or May 31, 2019) or, if earlier, the date that the participant becomes eligible for medical care coverage through another employer, a spouse/domestic partner employed at Indiana University, or the date the Participant dies.
- h) The IRS does not allow HRA accounts to be transferred to any other individual, except in the event of the Participant's death. If the Participant dies after separating from the University, but before the date that funds would otherwise be forfeited, the HRA account can be used by the Participant's spouse to reimburse medical expenses within the meaning of Section 213(d) of the Internal Revenue Code. If there is no spouse at the time of the participant's death, the HRA account can be used by an IRS qualified dependent.
 

**Important Note: After the death of an ERIP-2013 Participant, a change of name on the HRA account to a spouse or dependent is not automatic. The surviving spouse or dependent will need to contact University Human Resources within 60 days following the Participant's death to initiate the process.** If there is no spouse or dependent at the time of the Participant's death, any balance in the HRA account will be forfeited.

i) HRA accounts will be administered by Nyhart Inc. (Nyhart also administers IU's TSB accounts under IRC Section 125 provisions.)

3. **Medical and Dental Plan Continuation** – ERIP-2013 Participants who are enrolled as the employee in an IU-sponsored medical or dental plan on the date of separation may elect to continue in plan coverage for themselves and any covered spouse and dependents:

- All ERIP-2013 Participants may elect COBRA continuation coverage in any IU-sponsored medical plan for up to 18 months or Medicare eligibility, by paying the then-current COBRA premium.
- After COBRA coverage expires, ERIP-2013 Participants may elect to participate in the PPO \$900 Deductible plan until Medicare age (65), by paying the then-full premium.
- Participants with IU Retiree Status may enroll in the Blue Retiree Medicare Supplement plan at age 65, and continue in the plan as long as it is offered by Indiana University, by paying the plan's then-full premium.
- Participants enrolled in the HDHP & Health Savings Account plan at time of separation may want to consider switching enrollment to another medical plan to take full advantage of the above HRA account. ERIP-2013 Participants may contact University Human Resources for additional information.
- All ERIP-2013 Participants may elect COBRA continuation coverage in the IU Dental plan for up to 18 months by paying the then-current COBRA premium.

## **G. IU RETIREE STATUS BENEFITS**

An ERIP-2013 Participant who satisfies the age and service requirements for IU Retiree Status on the separation date will be provided the following additional benefits as long as each plan continues to be offered by the University:

1. Term life insurance paid by the University equal to \$6,000
2. IU Tuition Benefits paid by the University then-current as provided to full-time employees
3. Continuation of coverage under an IU-sponsored medical plan by paying the then-current full premium:
  - COBRA continuation in any plan
  - PPO \$900 Deductible plan until Medicare age 65
  - Blue Retiree Medicare Supplement plan at age 65 and older
4. IU Voluntary Benefits

More information about IU Retiree Status benefits is located at [hr.iu.edu/benefits/retirees.html](http://hr.iu.edu/benefits/retirees.html).

## **H. PAYMENT TO STAFF EMPLOYEES FOR UNUSED PAID TIME-OFF AND COMPENSATORY TIME**

ERIP-2013 Participants **who are Staff employees** will receive a lump-sum payment for accrued but unused paid time-off benefits and compensatory time as of their separation date, in accordance with normal University policies and the same as any other separating employee. The brief summary below

identifies the types of paid time-off benefits and compensatory time applicable to different categories of staff employees:

- Professional Staff
  - Holidays
  - Bonus Holidays, if applicable with PB plan status
  - PTO hours
  - Vacation for PB plan status, up to 200 hours plus number of hours earned in a year
  - Honorary Vacation up to 480 hours, if applicable
  - Sick Bank hours at 25% pay from 152 hours through 312 hours and 50% pay for all hours above 312, if covered by the IU Retirement Plan with 11.25% contributions and if qualified for IU Retiree Status (no pay from 1 hour through 151 hours)
  - Compensatory time for PAO and PAU Staff
- Support and Service Staff
  - Holidays
  - Vacation hours balance up to a maximum of 872 hours for 30 or more years of IU service. Based on years of service and University policy
  - Income Protection hours at 25% pay from 152 hours through 312 hours and 50% pay for all hours above 312, if qualified for IU Retiree Status (no pay from 1 hour through 151 hours)
  - Compensatory time

All calculations for payment of any unused paid time-off are to be based on normal University policies.

This payment will be made to all Staff ERIP-2013 Participants in a single lump-sum, less all deductions for local, state and federal taxes legally required to be withheld, will be paid during the month following separation.

More information about the payment of unused paid time-off and compensatory time is located at [hr.iu.edu/policies/index.htm](http://hr.iu.edu/policies/index.htm).

## **I. ERIP-2013 APPLICATION PROCEDURE**

On or before July 15, 2013, each eligible employee shall be provided a copy of this Plan, which includes a sample Separation Agreement. (After final approval, an official separation agreement will be sent to the Participant for her/his signature.)

The application period for the ERIP-2013 begins on July 22, 2013, and ends on August 19, 2013.

To apply for the ERIP-2013, an eligible employee must complete and submit an on-line application located at [hr.iu.edu/early\\_retire2013](http://hr.iu.edu/early_retire2013). When the application form is submitted, the applicant is indicating a desire to voluntarily separate from Indiana University in exchange for ERIP-2013 separation incentive benefits and other considerations described herein.

Applicants may revoke their application at any time from the date the application is submitted. Applicants who are approved, and who are provided an official Separation Agreement for signature may revoke their agreement up to seven days after signing the Separation Agreement. To withdraw an ERIP-2013 application or revoke a signed Separation Agreement, the applicant may complete the on-line withdrawal at [hr.iu.edu/early\\_retire2013](http://hr.iu.edu/early_retire2013) or send a notice of revocation by certified mail to University Human Resources, Attention ERIP-2013, 400 E. Seventh Street, Bloomington, Indiana 47405.

**On the eighth day after signing the Separation Agreement, the ERIP-2013 separation is irrevocable.**

Eligible employees must indicate a preferred separation date (December 31, 2013, or May 31, 2014) at the time of submitting an application for ERIP-2013. The applicable unit head will determine the actual separation date, based on the date that is in the University's best interest.

The ERIP-2013 is designed to achieve specific enterprise outcomes: 1) reduction in salary/wage and associated benefit costs or 2) redirecting positions to focus on higher priorities. Voluntary separations under the ERIP-2013 may also avoid or minimize future involuntary terminations due to reductions in personnel.

While Indiana University would like to allow as many eligible employees to participate in the ERIP-2013 as possible, the University reserves the right to deny participation to eligible employees if it is determined that an application does not meet the institutional objectives identified above. Approval of ERIP-2013 applications will be based on the following criteria:

- The unit's demonstration that one or more of the above institutional objectives will be accomplished
- The unit's ability to fund ERIP-2013 Separation Incentive Benefits

Applications and unit plans will be reviewed during September 2013, and applicants will be notified whether or not their ERIP-2013 application has been approved. If approved, applicants will be provided a Separation Agreement to sign:

- For separations effective December 31, 2013, signed Separation Agreements are due by October 18, 2013
- For separation effective May 31, 2014, signed Separation Agreements are due by March 21, 2014

**Indiana University does not guarantee that every application to participate in the ERIP-2013 will be approved.**

## **J. REQUIRED APPROVALS**

University Human Resources will first review the ERIP-2013 application to confirm the employee's eligibility to participate.

ERIP-2013 applications and unit plans require the following approvals:

	<b>Initial Reviewer</b>	<b>2<sup>nd</sup> Level Reviewer</b>	<b>Final Reviewer</b>
<b>Regional Campus</b>	Chancellor	VP for Academic Affairs	President's Office
<b>IUB or IUPUI Campus</b>	RC Head (e.g. Dean)	Provost/Chancellor	President's Office
<b>UA units and IU School of Medicine</b>	Vice President	n/a	President's Office

If the Initial Reviewer approves the application, then he or she is responsible for providing a statement demonstrating how the ERIP-2013 separation will meet the above enterprise outcomes, including a statement explaining how any planned replacement will also meet those objectives. Any reviewer may deny the ERIP-2013 application.

If the Initial Reviewer disapproves the ERIP-2013 application, the employee may request reconsideration by that reviewer, who may approve the ERIP-2013 application or uphold the initial decision. There is no further consideration if the Initial Reviewer upholds the initial decision.

Final approval of the ERIP-2013 application is required by the President's Office.

**No ERIP-2013 is final until approved by the President's office. Again, Indiana University does not guarantee that every application to participate in the ERIP-2013 will be approved.**

#### **K. SUBSEQUENT EMPLOYMENT**

An ERIP-2013 Participant cannot be reemployed by the University in any position (Hourly/Temporary, Staff or Academic) for 30 days following her or his separation date.

An ERIP-2013 Participant cannot be reemployed by the University in any Academic or Staff position with an appointment of 75% or more FTE for five years following his or her separation date.

If the ERIP-2013 Participant initiates income benefits from PERF or any IU-sponsored retirement plan, there must not be a written or oral agreement or understanding at the time of separation that the Participant will be rehired by the University in any position.

#### **L. RECOVERY OF ERIP PAYMENTS MADE BY MISTAKE**

ERIP-2013 Participants shall return to the University any ERIP-2013 payments, HRA contributions, and other considerations, or any portion thereof, made by mistake of fact or paid contrary to the terms of the ERIP-2013 plan.

#### **M. REPRESENTATIONS CONTRARY TO THE ERIP-2013**

No employee, director, executive, or agent of the University has the authority to alter, vary or modify the terms of the ERIP-2013, except by means of a fully executed written amendment to the ERIP-2013 on file with the Associate Vice President for Human Resources. No verbal or written representations

contrary to the terms of the ERIP-2013, including any amendments, shall be binding upon Indiana University unless such amendment is made in accordance with this Section.

#### **N. AMENDMENT AND TERMINATION**

The University reserves the right to amend or terminate the ERIP-2013 at any time. Notwithstanding the foregoing, no amendment of ERIP-2013 may reduce ERIP-2013 payments or other considerations once an ERIP-2013 Separation Agreement is fully executed.

Nothing in the ERIP-2013 is intended to limit the University's right to amend or terminate its group health plans at any time.

#### **O. NONDISCRIMINATION STATEMENT**

Indiana University's implementation of ERIP-2013 will not discriminate against any person because of age, color, disability, ethnicity, gender, gender identity, genetic information, marital status, national origin, race, religion, sexual orientation, or veteran status, and will comply with all federal and state nondiscrimination, equal employment, and affirmative action laws and regulations.

**APPENDIX I.**

**SEPARATION AGREEMENT CONCERNING RESIGNATION AND RELEASE OF  
EMPLOYMENT AND OTHER RIGHTS**

Upon final University approval, the ERIP-2013 applicant will be asked to sign a Separation Agreement as set forth below. Only after the Separation Agreement is fully executed will the ERIP-2013 separation become official, unless the applicant revokes the agreement within seven days after signing it as provided in the Agreement.

A copy of the Separation Agreement is provided below so that eligible employees will have advance knowledge of the agreement to be signed in the event they apply for and are approved for the ERIP-2013.

Employees who are approved for the ERIP-2013 are advised to consult an attorney, at their own expense, to discuss the ERIP-2013 plan and to review this Separation Agreement.

**SEPARATION AGREEMENT**

Concerning

**RESIGNATION AND RELEASE  
OF EMPLOYMENT AND OTHER RIGHTS**

Bloomington, Indiana

<DATE>

THIS SEPARATION AGREEMENT CONCERNING RESIGNATION AND RELEASE OF EMPLOYMENT AND OTHER RIGHTS ("Agreement") is between NAME ("Employee") and The Trustees of Indiana University, a body politic of the State of Indiana created by statute, with its principal office at Room 200, Franklin Hall, Indiana University, Bloomington, Indiana 47405 ("University").

**1. Recitations**

- 1.01 Employee is employed by University.
- 1.02 Employee is eligible to participate in the Indiana University Early Retirement Incentive Plan-2013 ("Plan"), a one-time separation window the terms of which are fully set forth in the Plan Document, and Employee desires to participate in the Plan.
- 1.03 University is the legal entity which has the legal responsibility to own, manage, and control Indiana University, the state university of Indiana.
- 1.04 University and Employee have evaluated their respective needs, and the Employee has elected to voluntarily separate under the Plan upon condition that Employee be compensated for the release of the right to continued employment and in exchange for Employee's promises set forth in this Agreement, **in accordance with the terms and conditions of the ERIP-2013 Plan.**

## **2. Intentions of the Parties**

- 2.01 Employee intends and understands that this Agreement will accomplish a complete and permanent severance of all rights that stem from Employee's employment with University except with respect to the payment and benefits expressly provided for by this Agreement.
- 2.02 University and Employee intend and expect that Employee shall surrender and renounce all privileges and rights that derive from employment by University, except with respect to the payment and benefits expressly provided for by this Agreement as set forth in Section 4.01.

## **3. Agreements of Employee**

- 3.01 Employee hereby agrees to and does resign her/his employment with University and to retire from University, effective <December 31, 2013, or May 31, 2014>.
- 3.02 Employee agrees that the payment and benefits specified in Section 4.01 shall be the only payment or benefits stemming from employment with University to which Employee shall be entitled following retirement, except that Employee shall receive any regular paycheck to which Employee might be entitled for employment up to and including the separation date specified in section 3.01. The fulfillment of this Agreement shall be in lieu of, and shall replace, any and all other payment(s) or benefit(s) that might otherwise be due from University stemming from employment.
- 3.03 Employee agrees that in consideration of University's agreements contained in this Agreement, Employee does hereby irrevocably and unconditionally release, acquit and forever discharge University, its successors, divisions, affiliates, current and former trustees, officers, employees, agents, representatives, attorneys, insurers, its employee benefit plans (and any fiduciary of such plans), from any and all complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of actions, suits, grievances, rights, demands, costs, losses, debts and expenses (including, but not limited to, attorneys' fees and costs actually incurred) of any nature whatsoever, known or unknown, suspected or unsuspected, which Employee has against University to the date of resignation specified in this Agreement arising directly or indirectly out of Employee's employment with University, including, but not limited to, rights arising out of alleged violations of any contract, express or implied, or any covenant of good faith and fair dealing, express or implied, or any tort, or any federal, state, or other government constitution, statute, regulation, or ordinance, including, without limitation, Title VII of the Civil Rights Act of 1964, as amended, The Civil Rights Act of 1991, The Civil Rights Act of 1866, The Equal Pay Act, The Family Medical Leave Act, the Age Discrimination in Employment Act of 1967 (ADEA), the Older Workers Benefit Protection Act (OWBPA), The Indiana Civil Rights Law, all as amended, and any and all claims of whatever nature relating to Employee's employment that Employee now has or heretofore had or claimed to have against University. This release does not include any claims that cannot by law be released through this Agreement, but the parties intend that it be construed as broadly as lawfully possible. In addition, the parties acknowledge that this Agreement is not intended to (a) prevent Employee from filing a charge or complaint including a challenge to the validity of this Agreement, with the Equal Employment Opportunity Commission (EEOC); (b) prevent Employee from participating in any investigation or proceeding conducted by the EEOC; or (c) establish a condition precedent or other barrier to exercising these rights. While Employee has

the right to participate in an investigation, he/she understands that he/she is waiving his/her right to any monetary recovery arising from any investigation or pursuit of claim on his/her behalf. Furthermore, Employee acknowledges that he/she has the right to file a charge alleging a violation of the ADEA with any administrative agency and/or to challenge the validity of the waiver and release of any claim that he/she might have under the ADEA without either: (a) repaying the amounts paid by the University to him/her or on his/her behalf under this Agreement; or (b) paying to any entity any other monetary amounts (such as attorney's fees and/or damages).

3.04 Exclusively as this Agreement pertains to Employee's release of claims under the Age Discrimination in Employment Act (ADEA), Employee, pursuant to and in compliance with rights afforded him/her under the Older Workers Benefit Protection Act (OWBPA): (i) is advised to consult with his/her attorney prior to executing this Agreement; (ii) is afforded a period of forty five (45) days within which to consider this Agreement; and (iii) is afforded, for a period of seven (7) days following execution of the Agreement, the right to revoke the waiver of claims under the ADEA, provided that if he/she exercises that right, University shall have seven (7) days to revoke the remainder of this Agreement. To the extent Employee executes this Agreement prior to the expiration of the forty five (45) calendar day period in (ii) above, Employee acknowledges and agrees that he/she was afforded the opportunity to have a period of at least forty five (45) calendar days to consider it before executing it and that his/her execution of this Agreement prior to the expiration was a free and voluntary act.

3.05 Employee's knowing and voluntary execution of this Agreement is an express acknowledgement and agreement that he/she had the opportunity to review this Agreement with his/her attorney and that he/she agrees this Agreement is written in a manner that enables him/her to fully understand its content and meaning.

3.06 This Agreement, as it pertains to a release of claims under the ADEA, shall become effective and enforceable seven (7) days after its execution. All other provisions of this Agreement or parts thereof shall become effective and enforceable upon execution. ANY REVOCATION MUST BE SENT VIA CERTIFIED U.S. MAIL, ADDRESSED TO:

MaryFrances McCourt  
Treasurer and Interim VP & CFO  
Indiana University  
Bryan Hall 212  
Bloomington, Indiana 47405

WITH COPY TO: Daniel Rives  
Associate Vice President, University Human Resources  
Indiana University  
Poplars 165  
Bloomington, Indiana 47405

AND POST-MARKED NO LATER THAN ON THE 8TH DAY FOLLOWING THE DATE OF EMPLOYEE'S EXECUTION OF THIS AGREEMENT.

- 3.07 Employee agrees that University may deduct and withhold from payment(s) to be made to Employee under this Agreement amounts required to be withheld by state and federal law for income taxes, social security, and other payroll taxes, as determined in good faith by University.
- 3.08 Employee may bring a complaint or legal action against University for the sole purpose of enforcing rights under this Agreement.
- 3.09 Employee acknowledges that, as required by the ADEA and the OWBPA, University has provided him/her with adequate notice of (accessible through the website [hr.iu.edu/early\\_retire2013](http://hr.iu.edu/early_retire2013) or copy upon request from the University Human Resources office):
- (i) the eligibility criteria for participation in the Plan, the categories of employees covered by the Plan, and the time limits applicable for electing to participate in the Plan;
  - (ii) the job title and age of all employees eligible for the Plan; and
  - (iii) the job title and age of all full-time employees who are not eligible for the Plan, who are in the same job title as eligible employees.

#### **4. Agreements of University**

- 4.01 In consideration of Employee's resignation and surrender of all rights and in consideration of Employee's other promises set forth in this Agreement, University will pay Employee a lump sum payment and other benefits in accordance with the terms of the Plan.
- 4.02 Accompanying the check for the lump sum payment and any other taxable payments remitted under Section 4.01 will be an appropriate notation showing all amounts withheld for taxes and other deductions as required by law.

#### **5. Agreements of Both Parties**

- 5.01 If either party experiences any unforeseen difficulties or questions concerning this Agreement, such party shall seek to resolve such issues expeditiously and informally, if reasonably possible. If notice to University is required, it shall be given to:

Daniel Rives  
Associate Vice President, University Human Resources  
Indiana University  
Poplars 165  
Bloomington, Indiana 47405

with copy to: MaryFrances McCourt  
Treasurer and Interim VP & CFO  
Indiana University  
Bryan Hall 212  
Bloomington, Indiana 47405

If notice to Employee is required, it shall be given to Employee at the address set forth below.

- 5.02 This Agreement is the entire and only agreement on this subject between Employee and University and all prior letters, oral statements, and other communications are merged into and replaced by this Agreement.
- 5.03 This Agreement is between University and Employee only and not for the benefit of any other party, except the executor or other legal representative of Employee may enforce this Agreement in the event of death or legal disability of Employee.
- 5.04 This Agreement may be executed in several counterparts, including fax and pdf counterparts, each of which and all together shall be but one Agreement.
- 5.05 If any legal action or other proceeding is brought to enforce this Agreement, the non-breaching party will be entitled to recover from the breaching party its reasonable attorney's fees, costs and necessary disbursements incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled. In addition, in the event Employee violates this Agreement by suing any person or entity released herein for any claim released herein (other than one under the ADEA or the OWBPA), Employee will promptly reimburse University all amounts paid by it to him/her and on his/her behalf under this Agreement (less One Dollar (\$1.00)), plus legal interest, and University shall be entitled to collect same through legal process or otherwise from Employee and it shall be relieved of any obligation to Employee under this Agreement. As to any actions, claims, or charges that would not be released because of the revocation, invalidity, or unenforceability of this Agreement (other than one under the ADEA or the OWBPA), Employee understands that the return of the amounts paid to him/her and on his/her behalf under this Agreement (less One Dollar (\$1.00)), with legal interest, is a prerequisite to asserting or bringing any such claims, charges, or actions.
- 5.06 The provisions of this Agreement are severable and, if any part is found to be unenforceable, the other paragraphs shall remain fully valid and enforceable.
- 5.07 This Agreement shall be governed by, and constructed pursuant to, the laws of the State of Indiana, and any litigation arising out of this Agreement shall be venued in Monroe County, Indiana.

IN WITNESS WHEREOF, the parties have entered this Agreement and executed their signatures intending each to be bound thereby,

THE TRUSTEES OF  
INDIANA UNIVERSITY

EMPLOYEE

By: \_\_\_\_\_  
MaryFrances McCourt, Treasurer and  
Interim VP & CFO

Date: \_\_\_\_\_

\_\_\_\_\_  
NAME

Date: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_