

**UNIVERSITY OF COLORADO
HEALTH AND WELFARE TRUST**

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**UNIVERSITY OF COLORADO
HEALTH AND WELFARE TRUST**

This Declaration of Trust and Agreement (“Trust”) is made and entered into effective as of the last execution date of this Trust but no later than July 1, 2010, by and among The Regents of the University of Colorado, a body corporate and a state institution of higher education of the State of Colorado (hereinafter referred to as the “University”), the University of Colorado Hospital Authority, a body corporate and political subdivision of the State of Colorado (“UCH”), and University Physicians, Incorporated, a Colorado nonprofit corporation (“UPI”), and E. Jill Pollock, Darryl W. Varnado, Kelly Fox, Anthony C. DeFurio and Elizabeth Kissick as the initial named Trustees (hereinafter referred to collectively as the “Trustee”).

WITNESSETH

WHEREAS, one (1) or more employee health and welfare benefit plans which are named in Exhibit A attached hereto (each, a “Plan” or “Benefit Plan”), the purpose of which is to provide health and welfare benefits for the employees and/or former employees of the University, UCH and UPI, and their eligible dependents covered by the Plans shall be funded through the Trust;

WHEREAS, a Plan Administrator will be appointed to administer each Plan and the claims thereunder;

WHEREAS, the funds which will be contributed to the Trust by the University, UCH and UPI, as and when received by the Trustee, will constitute a trust fund (the “Trust Fund”) to be held for the benefit of their employees, former employees and their eligible dependents under and in accordance with the Plans;

WHEREAS, it is intended that the Trust hereby established and the related Benefit Plans shall qualify as a “voluntary employees’ beneficiary association” under Section 501(c)(9) of the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, the University, UCH and UPI desire that the Trustee hold and administer the Trust Fund, and the Trustee is willing to hold and administer such Trust Fund, pursuant to the terms of this Trust.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein, the University, UCH and UPI and the Trustee agree as follows:

ARTICLE I

NAME AND PURPOSE

This Trust is to be known as the University of Colorado Health and Welfare Trust. The Trust and the employee health and welfare benefit plans hereunder are intended to meet all of the requirements of Code Sections 501(a) and 501(c)(9). The Trust is adopted and established to provide a funding vehicle for the health and welfare benefits set forth in each Plan funded through the Trust. The Trust Committee shall have the power to enter contracts, procure insurance policies, or provide such benefits by self-funding as may be necessary to provide and

maintain such health and welfare benefits. To the extent the Colorado Division of Insurance Bulletin No. B-2.8 is applicable, (a) all Trustees and Employers are acting in a fiduciary capacity with respect to funds held by the Trust and (b) the Trust Funds may not be transferred to any other account or fund of a state government entity or political subdivision and may only be used to pay employee health claims.

ARTICLE II

DEFINITIONS

The following capitalized words and phrases, when used in the text of this Trust, have the meanings set forth below. Words in the masculine gender denote the feminine gender and vice versa. Whenever words are used in the singular form, they will be construed as if they were also used in the plural form in all cases where they would so apply.

- 2.1 "Account" means the separate account or accounts which may be established for each separate provider under the Plan. Unless the context specifies, the term "account" shall not refer to the accounts that shall be maintained for each Participant for recordkeeping purposes to record the interest of each Participant if the Plan includes flexible spending accounts.
- 2.2 "Benefit Plan" or "Plan" means a plan or program of benefits, provided under an insurance contract, self-funded arrangement or otherwise, approved by the Employers to be funded through the Trust to provide health, dental, vision, and such welfare benefits as are permissible under Income Tax Regulations Section 1.501(c)(9)-3, and as initially set forth in Exhibit A.
- 2.3 "Claims Administrator" means an entity or entities that may be selected by the Trust Committee to process claims, disburse benefits and provide administrative services for a Benefit Plan.
- 2.4 "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, and if the Trust and/or Benefit Plans are not subject to ERISA, continuation coverage shall be provided pursuant to the Public Health Service Act's continuation provisions.
- 2.5 "Code" means the Internal Revenue Code of 1986, as amended.
- 2.6 "Contribution Rate Structure" means the rate (which shall be the total of both the Employer Contributions and Employee Contributions) charged for each tier of coverage as determined by the Employers for each Benefit Plan established for the Fiscal Year commencing July 1, 2010 and each Fiscal Year thereafter but which may also be expressed on a monthly basis for monthly contribution purposes.
- 2.7 "Dependent" means an Employee's dependent, which may include the Employee's spouse and same gender domestic partner, as defined under the terms of the applicable Benefit Plan, who satisfies the requirements for eligibility under and participation in the Plan.
- 2.8 "Effective Date" means the last execution date of this Trust, but no later than July 1, 2010.
- 2.9 "Employee" means an employee of an Employer who satisfies the requirements for eligibility under and participation in the applicable Benefit Plan.

2.10 "Employee Contribution" means the contributions made by Participants, directly or indirectly, to the Trust, to participate in a Benefit Plan, which may be made with after-tax contributions or with pre-tax contributions through a Code Section 125 Plan sponsored by an Employee's Employer.

2.11 "Employer" means each of the University, UCH and UPI and any other employer that becomes a participating employer under this Trust pursuant to Section 6.1 herein.

2.12 "Employer Contributions" means the contributions made by the Employers to the Trust for the Benefit Plans, to provide a source of funds for the benefits provided under the Trust.

2.13 "ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

2.14 "Fiscal Year" means the accounting year of the Trust, which shall commence on July 1 and end on June 30 of each following year, except that the first year shall commence on the Effective Date and shall end on the immediately following June 30. The Trust's Fiscal Year does not determine the contract year or renewal date of an insurance contract providing benefits under a Benefit Plan, or the plan year of a Self-Funded Benefit Plan.

2.15 "Insurance Company" means any insurance company designated by the Trust Committee to provide benefits pursuant to a Benefit Plan set forth in any Exhibit to the Trust.

2.16 "Participant" means an eligible Employee, Dependent or beneficiary who satisfies the requirements for participation and for whom an election to participate in any Benefit Plan has been made, and includes any former Employee, or former Dependent (such as a COBRA beneficiary or retiree) whose coverage under any Benefit Plan is continued or extended in accordance with the provisions of the Benefit Plan.

2.17 "Plan Administrator" means the persons or parties which shall be designated by the Trust Committee to perform the administrative tasks of the Benefit Plans and Trust pursuant to Article XI. In the event any Benefit Plan set forth in Items 1-4 of Exhibit A fails to designate a Plan Administrator, the Plan Administrator shall be the Trust Committee.

2.18 "Self-Funded Benefit Plan" means a Benefit Plan provided under a self-funded arrangement, as initially set forth in the component benefit plans in Items 1 – 4 of Exhibit A attached hereto, which were determined by the settlors.

2.19 "Trust" or "Trust Agreement" means and refers to this declaration of trust and agreement and any written modifications or amendments thereto.

2.20 "Trust Committee" means the Trust Committee appointed pursuant to Section 3.1 of this Trust Agreement, acting as a group or body.

2.21 "Trust Fund" means the corpus of the Trust created by this Agreement, and shall mean, generally, the monies, property, contracts, or things of value, tangible or intangible, received and held by the Trust Committee, net of liabilities, in Trust for the uses and purposes set forth in and pursuant to this Agreement, any income or accretions thereto, and any and all other things of value which comprise the corpus and additions to the Trust.

2.22 "Trustees" means the Trust Committee members and their successors as provided by this Trust Agreement.

2.23 "UCH" means the University of Colorado Hospital Authority, a body corporate and political subdivision of the State of Colorado.

2.24 "University" means The Regents of the University of Colorado, a body corporate and state institution of higher education of the State of Colorado.

2.25 "UPI" means University Physicians, Incorporated, a Colorado nonprofit corporation.

ARTICLE III

TRUSTEES AND SUCCESSOR TRUSTEES

3.1 **TRUSTEES**: The Trust Committee shall be comprised of five (5) individual trustees, at least three (3) of whom shall be designated by or on behalf of Employees. Each Trustee must be both an Employee and a Participant. The Trust shall be administered by the Trust Committee. The President of the University shall designate two (2) of the University employees to serve as Trustees and as members of the Trust Committee. The President and Chief Executive Officer of UCH shall designate two (2) of the UCH employees to serve as Trustees and as members of the Trust Committee. UPI shall designate one (1) of its employees to serve as a Trustee and a member of the Trust Committee unless Section 13.10 applies, in which case two (2) UPI employees shall serve as Trustees and members of the Trust Committee. A Trustee may resign or be removed at any time by the Employer that appointed the Trustee with or without cause. In the event of the removal, resignation, or death of any Trustee, the Employer that selected such Trustee shall designate a successor who, upon written acceptance of his appointment in a separate document, shall have all the title, rights, powers and privileges and duties conferred or imposed upon the initial or predecessor Trustee.

3.2 **SUCCESSOR TRUSTEES**: No successor Trustee need examine the accounts, records and acts of any previous Trustee of any allocation of the Trust assets, nor shall such successor Trustee be responsible for any act or omission to act on the part of any previous Trustee. All Trustees and their successors from time to time acting under this Agreement shall have all the rights, powers and duties of the initial Trustees named in this Agreement, unless this Agreement is amended to provide otherwise.

3.3 **COMPENSATION**: The Trustees shall receive no compensation for their services rendered under this Agreement other than any compensation as an employee of a particular Employer. The Trust Committee may adopt policies to reimburse Trustees for actual meeting expenses and attendance at the Trust Committee meetings and other properly incurred expenses on Trust matters.

3.4 **CHAIR AND OFFICERS**: The chairperson of the Trust Committee shall be one (1) of the two (2) Trustees who is an Employee of the University who is elected by the Trust Committee for the first short Fiscal Year and first full Fiscal Year of the Trust; then for the next Fiscal Year, the chairperson shall be one (1) of the two (2) Trustees who is an Employee of UCH who is elected by the Trust Committee for the Trust's next Fiscal Year; then for the next Fiscal Year the chairperson shall be the Trustee designated by UPI (or, if Section 13.10 applies, then one (1) of the two (2) Trustees who is an Employee of UPI, and elected by the Trust Committee). Thereafter, such rotation shall continue in the same manner. In the event that the Trust Committee fails to elect the chairperson prior to the start of the Fiscal Year, then the President, President and Chief Executive Officer or the Executive Director for the Employer in that rotation shall be authorized to designate which Trustee shall serve as chairperson until the Trust Committee holds its election. The Trust Committee shall elect such officers as may be necessary for the Trust Committee to carry out its duties and responsibilities. The chairperson of the Trust Committee shall also serve as Secretary of the Trust Committee until another Trustee is elected as Secretary.

3.5 **MEETINGS**: The Trust Committee shall determine the time and place of its regular meetings. Special meetings of the Trust Committee may be called by the chairperson or by three (3) Trustees. The chairperson shall provide the Trustees with at least thirty (30) days prior written notice designating the time, place and agenda of a regular meeting and seven (7) days prior written notice designating the time, place and agenda of any special meeting. Regular and special meetings of the Trust Committee may be held by telephone or electronic (internet-based) conference call. Any meeting at which all Trustees are present in person, or concerning which all Trustees have waived notice in writing, shall be a valid meeting without the requirement to provide any notice.

3.6 **PROXY**: Any Trustee may duly authorize in writing another Trustee to cast a vote on one (1) or more specific matters to be voted on at a meeting, on behalf of such Trustee. Any such written authorization must specify the matter or matters and be given for a specific meeting and may not carry over to subsequent meetings.

3.7 **NO DELEGATES**: A Trustee and/or the Trustee's Employer may not appoint a delegate to serve in his or her place, except as provided in Section 3.9(a) and (f).

3.8 **CONFLICT OF INTEREST**: Trustees should avoid the appearance of impropriety. A Trustee shall exercise care that the Trustee's independent judgment in the discharge of Trust Committee responsibilities is not impaired as a result of conflicts between the interests of the Trust and the Trustee's own financial interests or personal interests, or the financial interests or personal interests of the members of the Trustee's family or associates. In the event that a Trustee believes that he or she has a conflict of interest, the Trustee shall disclose the conflict to the Trust Committee and shall refrain from participating in the matter to which the conflict relates. The minutes of the meeting where the disclosure is made shall reflect the disclosure and the fact of the Trustee having abstained from participation in the matter. A Trustee shall not use confidential information acquired in the course of the performance of Trust Committee responsibilities to further that Trustee's own financial interests or personal interests, or the financial interests or personal interests of the members of the Trustee's family or associates.

3.9 **QUORUM AND VOTING**:

(a) To constitute a quorum at any regular or special meeting of the Trust Committee and for any action to be valid at such meeting, there must be present in person or by proxy at least four (4) of the five (5) Trustees and one (1) Trustee from each Employer. In the event that there is only one (1) Trustee from UPI, such Trustee from UPI may designate a delegate to represent him or her in the event the Trustee is ill or has another unavoidable event which precludes such Trustee's attendance at any meeting.

(b) Valid actions at meetings at which a quorum is present require the affirmative vote of at least three (3) Trustees, regardless of the number of Trustees present except as provided in Sections 3.9(c), 3.9(e), 5.5(d), 5.5(e), 6.1, 6.2(c), 6.3, 9.1 or 12.1.

(c) To approve the following items, a super majority vote (as defined below) is required:

- (1) annual budget;
- (2) incurring any debt other than liabilities in the ordinary course of business;
- (3) settling litigation over \$100,000;
- (4) amending the Trust Agreement except as otherwise provided in Section 9.1; and
- (5) the Investment Policy Statement.

A super majority vote is the affirmative vote of at least four (4) Trustees of whom at least three (3) Trustees are from different Employers.

Notwithstanding the above, medical management decisions made by the Self-Funded Benefit Plan providers shall be made in accordance with the provisions in the Self-Funded Benefit Plans and shall not be subject to a vote of the Trustees.

(d) Each Employer may establish its own eligibility criteria and for the Self-Funded Benefit Plans, such additional benefits which may be added to such Self-Funded Benefit Plans.

(e) If a vote pertains to a contract or services to be provided by one (1) of the Employers, the Trustee or Trustees from such Employer shall abstain from voting and a unanimous vote is required of the other Trustees. Furthermore, the abstaining Trustee or Trustees shall provide any relevant information to the other Trustees involved in the decision making process.

(f) In the event a Trustee believes that he or she has a conflict of interest, the Trustee shall disclose the conflict to the Trust Committee. A Trustee shall not vote or decide upon any matter relating solely to himself or vote in any case in which his individual right or claim to any benefit under the Plan is particularly involved or in which he otherwise has a conflict of interest. In any case in which a Trustee is disqualified to act and the remaining Trustees cannot agree, a temporary substitute Trustee may exercise all the powers of the disqualified Trustee concerning the matter in connection with which he or she is disqualified. The appointment of any temporary substitute Trustee shall be made by the same person or his or her successor who appointed the disqualified Trustee.

3.10 ACTION WITHOUT A MEETING: Any action that may be taken at a meeting of the Trustees may be taken without a meeting upon the written consent of a sufficient number of the Trustees, to approve such action at a meeting and shall be effective on the date of the last consent, unless two (2) or more Trustees object to taking the action without a meeting. A copy of such written consent, signed by the Trustees, shall be provided within ten (10) days of the effective date of the consent to each Trustee. Consent may be signified by a signature of the Trustee on a written consent or by an electronic means, such as an affirmative email response to a request for confirmation of favorable action on a matter, approval of a specific resolution, etc.

3.11 OFFICE LOCATION AND MEETING PLACE: All meetings of the Trust Committee shall be held at a place designated at least annually by the Trust Committee, or the chairperson, if

the Trust Committee is unable to reach an agreement regarding a meeting location. The Trust shall have its principal office at 1800 Grant Street, Suite 800, Denver, Colorado 80203.

3.12 AGENT FOR SERVICE OF LEGAL PROCESS: The University's Counsel, University of Colorado, 1800 Grant Street, Suite 800, Denver, Colorado 80203, shall be the designated agent for service of legal process.

3.13 RULES AND REGULATIONS: The Trust Committee shall have the power at any annual regular or special meeting to adopt bylaws, rules, regulations and policies for the administration of the Trust, and for the conduct of the affairs of the Trust Committee. Bylaws, rules, regulations and policies of the Trust Committee shall be consistent with the written provisions of the Trust Agreement, and shall be binding upon all persons dealing with the Trust and upon any and all persons claiming any benefits under a Benefit Plan. In the event all of the other Trustees believe another Trustee has breached his or her fiduciary duties, the other Trustees may address the removal of such Trustee with the appointing Employer.

3.14 BONDS AND INSURANCE: Bonding is permitted under this Section 3.14 but shall be required if Section 13.10 applies. In such event, each Trustee shall be bonded in an amount not less than ten percent (10%) of the amount of the funds the Trustee handles; provided, however, the minimum bond shall be \$1,000 (or such other minimum as set forth in ERISA Section 412) and the maximum bond shall be \$500,000 (or such other maximum as set forth in ERISA Section 412). The amount of funds handled shall be determined at the beginning of each Fiscal Year by the amount of funds handled by such person, group, or class to be covered and their predecessors, if any, during the preceding Fiscal Year, or if there is no preceding Fiscal Year, then by the amount of the funds to be handled during the then current year. The bond shall provide protection to the Benefit Plans and Trust against any loss by reason of acts of fraud or dishonesty by the Trustee alone or in connivance with others. The surety shall be a corporate surety company. The cost of such bonds shall be an expense of the Trust and paid from the Trust Fund.

3.15 INDEMNIFICATION: The Trust Committee may purchase on behalf of the Plan, as permitted by ERISA Section 410(b), fiduciary liability insurance in such amounts as are recommended by a licensed insurance broker for benefit plans and a trust of similar size.

ARTICLE IV

POWERS AND DUTIES OF TRUSTEES

4.1 **ACCEPTANCE:** The Trustees, upon acceptance of being named or appointed on this Agreement for the initial Trustees or a separate acceptance for subsequent Trustees, agree to serve as Trustees on behalf of the membership, and declare that they will receive and hold the Trust Fund established by this Agreement for the uses and purposes set forth herein, as fiduciaries on behalf of the Employees and Participants, and in accordance with the provisions of the Trust Agreement. The Trust Committee shall have exclusive authority and discretion to manage, control and administer the assets of each Benefit Plan, which shall be held in the Trust Fund, for the exclusive purpose of providing health and welfare benefits to Participants and defraying reasonable expenses of administering the Trust, except to the extent that the authority to manage, acquire, or dispose of Benefit Plan assets is delegated to one (1) or more investment managers. The Trust Committee shall faithfully hold and keep adequate and proper records of any and all monies it receives as the Trust Committee for the purposes of the Trust.

4.2 **POWERS:** The Trust Committee shall have, without exclusion, all powers conferred under Colorado law including, but not limited to, the following:

(a) To contract with any parties necessary to provide the benefits under the Benefit Plans and to pay all reasonable costs and expenses related to the administration of the Plan;

(b) To retain any investments and other assets, and to invest and reinvest in partnership interests, stocks, shares and obligations of corporations, unincorporated associations, trusts or investment companies, or any common trust fund, and to retain uninvested cash for reasonable periods of time;

(c) To pledge or mortgage, assign, lease, contract to lease, grant, exercise, or acquire options to purchase or sell, sell for cash or on credit at a private or public sale, convert, redeem, exchange for other securities or other property in which the Trust Fund may be invested under this Trust Agreement, or otherwise dispose of any securities or other property at any time held by the Trust;

(d) To purchase, own, and pay premiums on insurance, including but not limited to fiduciary liability insurance for Trust Committee and each individual Trustee;

(e) To invest all or a part of the Trust Fund in interest-bearing deposits with a bank or with any other Federally-insured institution at a reasonable rate of interest, including, but not limited to, investment in time deposits, savings deposits, certificates of deposit or time accounts;

(f) To exercise any conversion privilege or subscription right available in connection with any securities or property at any time held by it; to consent to the reorganization, consolidation, merger or readjustment of the finances of any corporation, company or association, or to the sale, mortgage, pledge or lease of the property of any corporation, company or association of which any of the securities may at any time be

held by it; and to do any acts with reference thereto, including the granting and/or exercise of options, making of agreements or subscriptions, and the payment of expenses, deemed to be necessary or advisable in connection therewith, and to hold and retain any securities or other property which the Trust Committee may so acquire;

(g) To vote any corporate stock belonging to the Trust hereunder and to give proxies or general or limited powers of attorney for the purpose of such voting to other persons, with or without power of substitution;

(h) To the extent permitted by law, borrow money on insurance contracts, assume indebtedness, extend mortgages and encumber by mortgage or pledge assets in the Trust Fund upon such terms and conditions determined by the Trust Committee;

(i) To lease property on any terms or conditions and for any terms of years even if extending beyond the period of the Trust hereunder; to manage, insure, administer, operate, repair, improve and mortgage or lease, regardless of any restrictions on leases; to renew or extend or to participate in the renewal or extension of any mortgage or lease, and to agree to the reduction in the interest on any mortgage or other modification or change in the terms of any mortgage, guarantee thereof or lease in any manner and upon such terms as may be deemed advisable; to alter and partition real estate, erect or raze improvements, grant easements, subdivide, or dedicate to public use;

(j) To collect the income, rent, issues, profits and increases of the Trust Fund through such means as are deemed advisable;

(k) To employ and consult with agents, attorneys, advisors and independent fiduciaries and to pay their reasonable compensation and expenses in performing any of its duties or obligations hereunder. The Trustees may consult with the University's general counsel's office and/or UCH's general counsel's office, as legal counsel for the Trust and shall be entitled to rely upon the advice rendered by such legal counsel, provided the Colorado Rules of Professional Conduct are followed, specifically, Rule 1.7 Conflict of Interest: Current Clients and Rule 1.8 Conflict of Interest: Current Clients: Specific Rules;

(l) To retain any funds or property subject to dispute without liability for the payment of interest, and to decline to make payment or delivery thereof until final adjudication is made by a court of competent jurisdiction;

(m) To pay personal and real property taxes, transfer taxes and other taxes levied or assessed against the Trust assets under the law of any jurisdiction, but the Trust Committee shall have the right to contest, protest, and settle the liability of the Trust for any such taxes;

(n) To settle, compromise, contest or submit to arbitration any claims, debts or damages due or owing to or from the Trust, and to commence or defend suits or legal proceedings;

(o) To be the sole and exclusive authority to interpret this Trust Agreement;

(p) To have an audit of the Trust and Benefit Plans (if applicable) performed each year by a qualified independent auditor;

(q) To contract with one (1) or more of the parties to the Trust and compensate such party provided that such compensation shall not exceed reasonable compensation for such services; and

(r) To perform any and all other acts in its judgment necessary or appropriate for the proper and advantageous management, investment and distribution of the Trust assets.

All fees, costs and expenses necessary or incident to the administration of the Self-Funded Benefit Plans may be paid from the Trust and shall, unless otherwise determined by the Trust Committee, be based upon the average number of covered Employees of each Employer participating in the Self-Funded Benefit Plans as of the first day of each month for the Fiscal Year commencing July 1, 2010 and each Fiscal Year thereafter. Unless an Employer agrees to pay a particular expense or there is a majority vote by the Trustees that a particular expense is specific to an Employer and shall be paid by such Employer, any fees, costs and expenses shall be paid by the Trust. Any other fees, costs and expenses shall be allocated among the Benefit Plans in an equitable manner as determined by the Trustees.

The Trust Committee shall have such other powers as may be necessary to fulfill its fiduciary duties and responsibilities. The Trust Committee may delegate, subject to its direction and control, the power to one (1) or more Employers or their representatives to act in good faith on behalf of the Trust Committee and Trust, subject to a fiduciary duty of loyalty to the Trust. Any one (1) Trustee may sign documents with respect to actions that have been properly approved by the Trust Committee, and third parties may rely on such signature as a representation of proper Trust Committee approval of the Trustee's authority to sign the document.

4.3 LIMITATION TO POWERS: All rights and powers associated with the Trust assets shall be exercised by the Trust Committee or the person(s) designated by the Trust Committee, and shall in no event be exercisable by or rest with any individual Trustee or any Participant. No person, including an individual Trustee, without the consent or approval of the Trust Committee, shall have or exercise the power to vote or direct the voting of any stock or other securities of the Trust, to control the investments of the Trust, either by directing investments or reinvestments, or by vetoing proposed investments or reinvestments, or to acquire or exchange any property of the Trust by substituting property of an equivalent value.

4.4 FIDUCIARY DUTIES: The Trust Committee shall act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Trust Committee shall incur no liability to any person for any action taken in reasonable reliance upon the terms of this Trust Agreement, or pursuant to a direction, request or approval given by an Employer which is contemplated by, and in conformity with, the terms of the Benefit Plans and the Trust and is provided in writing by an Employer.

4.5 **BENEFIT PLANS:** The Trust Committee in carrying out the purposes of this Agreement shall provide a funding vehicle for health and welfare benefits permitted under the Trust Agreement, that are selected by the Employers. The Trust Committee is hereby expressly authorized to pay to any Insurance Company and/or Claims Administrator the required insurance premiums in connection with group insurance contracts or costs and expenses of any self-insured plans, including stop-loss insurance premiums. The decision as to whether or not benefits under any Benefit Plan shall be provided by means of self-funding, the procurement of group insurance, or any combination thereof, shall be made by the Employers.

4.6 **DEPOSITS AND INVESTMENTS:** All assets of the Trust shall be deposited by the Trust Committee, in the name of the Trust, in a depository or depositories as determined by the Trust Committee or its designee.

4.7 **WITHDRAWALS:** All checks, drafts, electronic funds transfers, vouchers or other withdrawals from the Trust Fund for other than regularly recurring insurance premiums and operating expenses, and any transfer or liquidation of insurance policies or investments, shall be authorized by the Trust Committee, except that checks or other payment of claims for benefits that are self-funded which may be coordinated through the Claims Administrator(s) responsible for administering the Self-Funded Benefit Plan and the administrators for the health care flexible spending account plans.

4.8 **HEALTH FLEXIBLE SPENDING ACCOUNTS/HEALTH REIMBURSEMENT ACCOUNTS/HEALTH SAVINGS ACCOUNTS:** Separate accounts shall be maintained for each separate plan permitted by law to be included under this Trust such as a health flexible spending account plan, a health reimbursement account plan and/or a health savings account plan; provided, however, recordkeeping accounts and not separate accounts may be maintained for each individual.

4.9 **DISPUTES OVER EXERCISE OF POWERS:** In the event of any disagreement between the Trust Committee and any Insurance Company or Claims Administrator over the exercise of the powers granted in this Agreement, the Trust Committee shall prevail and the Insurance Company or Claims Administrator shall have no liability to any person with respect to such act or omission, if it provides written notice of its dissent from such act to each member of the Trust Committee.

ARTICLE V

CONTRIBUTIONS TO THE TRUST FUND

5.1 EMPLOYER CONTRIBUTIONS: Each Employer shall make contribution to the Trust for the Self-Funded Benefit Plans in amounts sufficient to fund the Self-Funded Benefit Plans. The Trust Committee shall receive the amount of each Employer's contribution (based on input from a qualified actuary) and shall notify each Employer of the amount and date due. The Trust Committee may also require any Employer to contribute such amount as is necessary for its health care flexible spending account plan, including amounts to meet the uniform coverage requirement under Code Section 125.

5.2 EMPLOYEE CONTRIBUTIONS: Employees and other Participants may be required to contribute to the Trust such amounts determined by the Employer to be appropriate and necessary to provide benefits under the Benefit Plans of the Trust. Employee Contributions may be paid by payroll deductions or other appropriate methods approved by the Trust Committee. The Employers shall remit all monies obtained through payroll deductions to the Trust no later than the earliest date on which such contributions can be reasonably segregated from the Employer's general assets. Employee Contributions shall be made in conjunction with an Employer's payroll dates; provided, however, that if there are two (2) or more payroll dates during a calendar month, the Employee Contributions shall be made in conjunction with the first two (2) payroll dates during each month. No provision in this Trust is intended to constrain an Employer from changing its payroll dates. The Employers shall identify the amount of each Participant's contributions so remitted to the Trust. Each Employer may change the amount of Employee Contributions from time to time at its discretion. In addition, each Employer may determine the amount of administrative fees it charges its Employees in addition to Employee Contributions.

5.3 CONTRIBUTION RATE STRUCTURES: The Contribution Rate Structures shall be sufficient to fund the projected benefits and applicable expenses for the Participants covered by each Contribution Rate Structure.

5.4 CONTRIBUTION RATES WITHIN EACH CONTRIBUTION RATE STRUCTURE: Each Employer shall determine the portion of its monthly contribution rate under each Contribution Rate Structure that shall be an Employer Contribution and the portion that shall be an Employee Contribution.

5.5 FAILURE TO MAKE CONTRIBUTIONS BY DUE DATE:

(a) If any Employer fails to make its Employer Contribution and the Employee Contributions (other than such Employee Contributions which are paid directly to the Trust by the Participants) to the Trust within three (3) business days after the date on which they are due, such contributions shall bear interest from the date due at the rate of return for the three (3) month LIBOR rate set on the date when such contribution was first due plus one percent (1%), compounded monthly.

(b) Any other Employer may, with the consent of the Trust Committee, make the contribution on behalf of the delinquent Employer and, such amount shall become a debt of the delinquent Employer to the contributing Employer.

(c) For any Benefit Plan which is insured and which contains a provision for termination of such Benefit Plan with respect to an Employer due to failure to pay premiums, such insurance policy and/or contract shall govern.

(d) The Trust Committee has the right, upon an affirmative vote of three (3) Trustees, with the Trustees from Employer in default excluded from the vote, should the delinquent Employer not cure the delinquency within five (5) calendar days after the Trust Committee provides written notice to the Employer of its delinquency, to terminate:

- (1) such Employer's participation in the Benefit Plans and Trust at the end of an additional five (5) calendar day notice period or the end of the Benefit Plan year of the Employer's delinquency, if earlier, if such delinquency is not cured, and
- (2) upon such termination, no claims submitted by Employees (or Participants associated with such Employees) of the delinquent Employer, or received by the Claims Administrator or the Insurance Company, for claims incurred by such Employees (or Participants associated with such Employees) subsequent to the date of the termination, shall be paid by the Trust.

(e) The Trust Committee also has the right, upon an affirmative vote of three (3) Trustees, with the Trustees from Employer in default excluded from the vote, to notify the Employees and Participants of such delinquent Employer that such Employer's participation in the Benefit Plan and Trust has been or will be terminated.

(f) Nothing herein, however, shall relieve the delinquent Employer of its responsibility for benefits payable to its Employees (or Participants associated with such Employees) or its share of any Trust deficit attributable to any period before such termination.

5.6 EMPLOYER CONTRIBUTIONS ARE NOT WAGES: The Employers' contributions to be paid into the Trust shall not constitute or be deemed wages due to Employees, nor shall such contributions in any manner be liable for or subject to the debts, contracts, or liabilities of the Employers. The Trust and Benefit Plans shall not be deemed to constitute a contract of employment between the Employers and its Employees or any representative thereof, nor shall it give to any Employee the right to be retained in the employ of the Employer, affect the right of the Employer to discipline or discharge any Employee or affect any Employee's right to terminate his employment at any time.

5.7 REPORTS: The Employers shall make all reports required by the Trust Committee. The Trust Committee may at any time request an audit to be made by internal auditors of any Employer of the wage records of the Employer in connection with its contributions and/or reports and such Employers shall cooperate with the Trust Committee with respect to such

request, provided, however, if the request is denied, the Trust Committee may engage an independent certified public accountant to undertake such audit. The Trust Committee shall have an audit of the Trust performed each year by a qualified independent auditor. Furthermore, the Trust is required to report to the Employers, at least annually, information comparable to that required by Internal Revenue Service Form 990 and is subject to financial audit by the Employers to which it reports. For purposes of trust accounting, capital gains are allocated to trust income. The Trust Committee shall also have such audits performed of the Benefit Plans and/or Trust as it deems necessary.

5.8 IRREVOCABILITY OF CONTRIBUTIONS: Subject to the provisions of Article XII governing the termination of the Trust, all contributions to the Trust shall be irrevocable, and under no circumstances shall any monies properly paid into the Trust or any part of the Trust, including any increments to the Trust arising from its investments, be recoverable by or payable to the Employers or any Participant, nor shall any of the same be used for or diverted to purposes other than for the exclusive benefit of Employees and Participants under this Trust Agreement. Furthermore, except as provided in Section 12.3, the assets of the Self-Funded Benefit Plans held in trust are available to pay the claims or premiums of the Participants of all participating Employers.

5.9 NO PRIVATE INUREMENT: No part of the Trust Fund may inure to the benefit of any private shareholder or individual other than through the payment of benefits under a Benefit Plan.

5.10 STOP LOSS INSURANCE: The Trust may purchase stop loss insurance for its Self-Funded Benefit Plans, which may be separately allocated as an expense to the experience for the Self-Funded Benefit Plans for (a) the University and UPI, collectively and (b) UCH.

ARTICLE VI

PARTICIPATION AND WITHDRAWAL OF EMPLOYERS

6.1 PARTICIPATION IN THE TRUST BY EMPLOYERS: University, UCH and UPI shall initially participate in the Trust. Participation by additional employers is subject to the unanimous approval of the Trust Committee, and shall be effective as of the beginning of the next Fiscal Year, insurance contract renewal date, or such other date as determined by the Trust Committee. The Trust Committee reserves the right to require a new participating Employer to contribute to the reserves of the Trust, or make such other appropriate financial contribution as determined by the Trust Committee. The Trust Committee may reject requested participation by any additional employer for any reason.

6.2 WITHDRAWAL BY EMPLOYER: An Employer may withdraw from participation in the entire Trust on the following terms and conditions:

(a) Except as provided in this section, any Employer which intends to withdraw from participation in the Trust must give at least one (1) year's advance written notice to the Trust Committee. Withdrawal from participation in the Trust is only permitted effective at the end of the Trust's Fiscal Year. The Employer must provide reasonable advance notification to all of its Employees and Participants of the Employer's withdrawal from the Trust. Upon an Employer's withdrawal from the Trust, any Trustees who are employees of such Employer shall no longer serve as Trustees.

(b) Upon withdrawal, the Employer shall be deemed to have withdrawn from participation in the entire Trust. Upon the effective date of withdrawal, the Employer's Employees who were Participants shall cease to participate in the Benefit Plans of the Trust, provided, that if required by law, a Participant may extend benefits pursuant to benefit continuation laws, insurance contract conversion rights and the terms and provisions of a Benefit Plan, including those Participants who have filed a claim for or are receiving benefits under the terms of any Benefit Plan prior to the effective date of the Employer's withdrawal, in which case contributions shall continue.

(c) In the event of an Employer's withdrawal pursuant to this section, such withdrawing Employer shall have no right to any of the assets, income or reserves of the Trust at any time, nor shall such Employer have any right to a refund or rebate of any of its contributions to the Trust. If, however, there are excess reserves applicable to the favorable experience of the Employer withdrawing from Self-Funded Benefit Plans and an Employer has given notice of withdrawal under Section 6.2(a), the Contribution Rate Structures for the Benefit Plans for such Employer's final year of participation in the Trust shall be adjusted to reflect such excess reserve amounts. Such Employer shall, however, be required to continue its adjusted Employer Contribution and Employee Contributions, as recommended by a qualified actuary and approved by a super majority vote of the Trust Committee, until the later of such time as its withdrawal becomes effective pursuant to the terms of the Trust or all Participants with extended benefits under Section 6.2(b) cease to be Participants and no longer have any remaining claims against the Benefit Plans and/or Trust. There shall be a final accounting of the costs

(both claims and administration) incurred under the Self-Funded Benefit Plans with the contributions (both Employer and Employee Contributions) made which shall be prepared by qualified actuary sometime between twelve (12) and fifteen (15) months after the final date the withdrawing Employer has terminated its participation in the Trust. Any deficit may result in a payment obligation assessed to the withdrawing Employer as determined by the Trust Committee. If a payment obligation is assessed by the Trust Committee, it shall be paid within ten (10) calendar days of receipt of written notice from the Trust Committee. Any assets remaining in a health care flexible spending account plan may not revert to the Employer but may be used to cover experience losses or defray reasonable costs of administrative expenses for such plan.

6.3 **SUCCESSORS AND ASSIGNS:** Upon unanimous approval of the Trust Committee, a participating Employer may transfer or assign its participation in the Trust to any successor in interest, whether by merger, consolidation, reorganization, restructuring, transfer of employees, or dissolution, creation or consolidation of governing boards or otherwise.

ARTICLE VII

PAYMENT OF BENEFITS

7.1 **BENEFITS TO BE PROVIDED:** The initial Benefit Plans are set forth in Exhibit A to this Trust Agreement. All benefits that are funded, in whole or in part, through the Trust shall be provided exclusively pursuant to the terms of any Benefit Plan. The Employers shall determine the Benefit Plans that shall be funded, in whole or in part, through the Trust which Benefit Plans may be bundled for compliance purposes and any other purpose as permitted under ERISA and the Code, and treated as a single plan except that the Employers shall sponsor their own Code Section 125 plans.

7.2 **ASSIGNMENT OF BENEFITS:** Prior to payment to any Participant, all assets of the Trust shall be held in trust by the Trust Committee in accordance with this Agreement and shall not be liable in any way for any debt or obligation of the Employers or any Participant. To the extent permitted by law, all benefits provided under any Benefit Plan of the Trust shall be exempt from attachment, garnishment, levy of execution, bankruptcy proceedings, or other legal process at any time; and any attempt to cause the same is and shall be null and void. No benefit payable at any time under any Benefit Plan of the Trust will be assignable, transferable, or subject to any lien, in whole or in part, either directly or by operation of law, or otherwise, provided that a Participant may assign benefits payable under a Benefit Plan of the Trust to a health care provider or hospital.

7.3 **CLAIM TO BENEFITS:** No Participant shall have any right or claim to benefits under the Benefit Plans of the Trust except as specified in any Benefit Plan, whether by insurance policy, contract or self-funded benefits. Any disputes as to eligibility, time, amount, or duration of benefits under a fully-insured Benefit Plan shall be resolved by the appropriate Insurance Company, under and pursuant to such policy, contract or program; and no Participant shall have any right or claim with respect thereto against the Trust or Trustees, except in accordance with the Insurance Company's determination of benefits under an insurance policy.

7.4 **FAILURE TO PAY BENEFITS:** Neither the Employers nor any of the Trustees shall be liable for the failure or omission, for any reason, to pay any benefits under a Benefit Plan of the Trust, except that an Employer which has not deposited contributions or has deficit payments due to the Trust shall be liable therefor. If for any reason, including, but not limited to, epidemics, catastrophes, or normal depletion, the Trustees determine that the assets of the Trust are not sufficient to pay the current claims, the amount of benefits payable to a Participant, shall, in all events, be limited to the extent that the assets of the Trust are sufficient for the payment of all such claims, in such manner and such amount as determined by the Trust Committee. If any controversy or dispute exists concerning such matters, all disputes or controversies shall be settled by the dispute provision contained in Article VIII.

7.5 **PAYMENT TO REPRESENTATIVE:** In the event that a guardian, conservator, committee or other legal representative has been duly appointed for a Participant entitled to any payment under a Benefit Plan of the Trust, any payment due may be made to the legal representative making claim. If a Participant dies while benefits remain unpaid, the Trust Committee may choose to direct the Claims Administrator or Insurance Company to make direct

payment to the executors or administrators of the Participant's estate. Payment in the manner described above will be in complete discharge of the liabilities of any Benefit Plan of the Trust and the obligations of the Trust Committee, Claims Administrator, Insurance Company and the Employers.

7.6 RESPONSIBILITY OF PAYMENT: It is the Participant's responsibility, in all cases, to pay the hospital, physician or other provider of service for any share of fees for benefits provided that are payable by the Participant.

7.7 OVERPAYMENTS: If, for any reason, any benefit under the Benefit Plans of the Trust is erroneously paid to a Participant or a provider for the benefit of a Participant, the Participant shall be responsible for refunding the overpayment to the Trust. The refund shall be a lump-sum payment, a reduction of the amount of future benefits otherwise payable or any other method as the Trust Committee, in its sole discretion, may require.

7.8 PARTICIPANT RESPONSIBILITY: Each Participant shall be responsible for providing the designated party which may be the Claims Administrator, the applicable Employer, the Plan Administrator, or the Trust Committee with his or her current address and such other information they deem necessary to administer the Benefit Plans. Any notices required or permitted to be given hereunder to the Participant shall be deemed given if directed to such address and mailed by regular United States mail. None of the Claims Administrator, the Trust Committee, the Employers nor the Plan Administrator shall have any obligation or duty to locate a Participant. In the event a Participant becomes entitled to payment under a Benefit Plan and such payment cannot be made because (a) the current address referred to above is incorrect, (b) such Participant fails to respond to the notice sent to the current address referred to above, (c) conflicting claims to such payment, or (d) for any other reasons, the amount of such payment, if and when made, shall be that determined under the provisions of the Benefit Plan.

7.9 CLAIMS APPEAL PROCEDURES, SUBROGATION AND THIRD PARTY REIMBURSEMENT: Each Benefit Plan shall set forth claims appeal procedures and shall also set forth subrogation, third party reimbursement and similar recoupment procedures. Any amount recouped pursuant to such subrogation, third party reimbursement and similar recoupment procedures shall be deposited in the Trust, unless an insured Benefit Plan requires deposit with the insurer.

7.10 RIGHT TO INFORMATION AND FRAUDULENT CLAIMS: Any person claiming benefits under a Benefit Plan shall furnish the designated party, which may be the Claims Administrator, the Plan Administrator, and/or the Trust Committee, with such information and documentation as may be necessary to verify eligibility for benefits under a Benefit Plan. If a person is found to have falsified any document in support of a claim or coverage under a Benefit Plan, the Trust Committee may without the consent of any person, retroactively terminate coverage and direct the Claims Administrator to refuse to honor any claim under the Benefit Plans for the Participant or Dependent related to the person submitting the falsified information. Upon request, any person claiming benefits under the Benefit Plans shall provide the designated party, which may be the Claims Administrator, the Plan Administrator and/or the Trust Committee, with any information necessary to administer the Benefit Plans and verify entitlement to benefits.

ARTICLE VIII

CONTROVERSIES AND DISPUTES

8.1 **BENEFIT DISPUTES:** The Trust Committee shall have the sole and absolute authority to reasonably construe the provisions of this Trust Agreement and any reasonable construction adopted by the Trust Committee shall be binding upon the Employers, Employees and Participants, and their respective families, dependents, successor, assigns, executors, administrators, and/or legal representatives. The Employers may provide benefits under a Benefit Plan through an insurance policy or contract and in such case all rights of a Participant to benefits shall be determined by the Insurance Company in accordance with the insurance contract, and no claim for benefits or liabilities shall be brought against the Trust Committee or the Employers. Disputes concerning fully insured benefits and eligibility shall be resolved by the Insurance Company issuing the policy or certificate for the Benefit Plan, and the decision of the Insurance Company shall be conclusive and binding upon all parties interested in the Trust.

8.2 **TRUSTEE/EMPLOYER DISPUTES:** The Trustees and Employers (each, a “party”) are mutually committed to collaborative problem solving for resolving issues that may arise between them concerning this Agreement. In the event of a dispute, the complaining party may notify the other party of the dispute in writing and the President of the University, the President and Chief Executive Officer of UCH, and the Executive Director of UPI will each appoint a representative to negotiate in good faith to resolve the dispute. These negotiations between representatives of the parties shall continue until the earliest of: (a) the time the dispute has been resolved; (b) the designated representatives have concluded that continued negotiation does not appear likely to resolve the dispute; or (c) thirty (30) days from the date of written notice of the dispute. If the dispute is not resolved through direct negotiations, the parties may, with the consent of all parties, attempt to settle any dispute arising out of or related to this Agreement through mediation. Unless otherwise agreed by the parties, mediation shall proceed as follows. The parties may agree on a mediator. If they are unable to agree on a mediator within thirty (30) days of the agreement to mediate, the parties shall contact an agreed upon dispute resolution organization or service and shall use its selection process to select a mediator. Each party shall bear its own costs of the mediation and the parties shall share the costs of the mediator. The mediation shall be scheduled within ninety (90) days of the agreement to mediate. If the direct negotiation process is unsuccessful and the parties do not consent to mediation or the agreed-upon mediation process is unsuccessful, the parties shall be entitled to pursue any other remedy allowed by law or this Agreement. However, no party shall pursue such a remedy without first exhausting the direct negotiation process.

8.3 **DEFAULT AND REMEDIES UPON DEFAULT:**

(a) In the event any Employer believes another of them has breached any term or condition of this Agreement, the non-breaching party shall provide the breaching party with written notice setting forth a description of such breach and shall initiate the dispute resolution process described in Section 8.2 hereof. In the event that the dispute resolution process is concluded without resolution, the breaching party shall have a period of thirty (30) days following conclusion of the dispute resolution process to cure the default. At the end of such thirty (30) day period, if the breach is not cured to the satisfaction of the

non-breaching party, the breaching party shall then be in default, provided however that, if the nature of the breach is such that it cannot reasonably be cured within such thirty (30) day period, the cure period shall extend for sixty (60) additional days and the breaching party shall not be in default so long as the breaching party initiates action to cure the breach within the thirty (30) day period and pursues such action diligently to completion within the additional sixty (60) day period. If, in the good faith determination of the non-breaching party, any such extension would materially and adversely affect the non-breaching party, the non-breaching party shall be entitled to declare a default at any point on or after the end of the initial 30-day cure period without giving effect to the sixty (60) day extension period.

(b) In the event of the occurrence of any default by any party, the non-defaulting party shall have any remedy provided in this Agreement, in law or in equity subject to the limitations on remedies described in this Agreement or by law, including, with respect to the University and UCH, limitations based upon governmental immunity. In the event of the occurrence of a default resulting from a material breach of this Agreement by a party, the other parties may also terminate the defaulting party's participation under this Agreement without further notice. A party's exercise of the termination rights described in this Section 8.3(b) is expressly conditioned upon that party's providing notice of the breach and proceeding in accordance with Section 8.2 prior to the determination of a default.

(c) Notwithstanding the above, the provisions of Section 5.5 shall supersede the provisions of Section 8.3.

ARTICLE IX

AMENDMENTS

9.1 POWER TO AMEND: It is anticipated that in the administration of this Trust, conditions may arise that are not foreseen at the time of execution of this Agreement, and it is the intention of each of the Trustees and Trust Committee, and each Employer, that the power of amendment which is herein granted be exercised in order to carry out the spirit, objectives and purposes of this Trust. Therefore, the Trust Committee is hereby granted the power to amend the Trust Agreement in accordance with Section 3.9, and the Trustees, Employers and all persons claiming any interest under this Agreement are and shall be bound by any such amendment. Notwithstanding the preceding sentence, such retroactive or prospective amendments, if any, which are required as part of the exempt status approval process with the Internal Revenue Service may be made by any one (1) of the Trustees.

ARTICLE X

NON-VESTING OF RIGHTS

10.1 RIGHTS: Neither any Participant, his family or dependents, any beneficiary, or any other person or group, nor their respective successors, assigns, or legal representatives, shall have any right, title or interest, vested or otherwise, in or to any assets of the Trust, whatsoever, or in or to the eligibility requirements for any Benefit Plan as changed or altered, except to the extent otherwise specifically provided for in this Agreement. Any Participant who withdraws or ceases to participate in the program does hereby and shall immediately and expressly waive and forfeit any right, title or interest in or to any assets of the Trust. Any benefits such Participant may have shall be forever terminated and discharged when this Agreement is terminated, the Trust is dissolved or a Participant ceases to be eligible under the terms of any Benefit Plan, provided that a Participant may extend benefits pursuant to benefit continuation laws, insurance contract conversion rights and the terms and provisions of a Benefit Plan. No benefit right or interest of any such person shall be transferable or assignable by any Participant or other person to any other person or entity.

ARTICLE XI

ADMINISTRATION OF BENEFIT PLANS

11.1 ADMINISTRATION OF BENEFIT PLANS: The general administration of and the responsibility for carrying out the provisions of the Benefit Plans and Trust shall be placed with the Plan Administrator for the Self-Funded Benefit Plan, and the general administration of and carrying out of the provisions of the Trust for the health care flexible spending account plans shall also be placed with the Plan Administrator. The Trust Committee, in conjunction with the Plan Sponsor, shall select one (1) or more Claims Administrators to process all or a designated portion of claims under the Self-Funded Benefit Plan in accordance with their terms. The person, persons, entity or entities serving as Claims Administrator shall serve at the pleasure of the Trust Committee and the Plan Sponsor.

ARTICLE XII

TERMINATION OF TRUST

12.1 BY THE TRUST COMMITTEE: This Trust may only be terminated by unanimous vote of the Trust Committee and agreement by each of the Employers. Such action must be memorialized in an instrument in writing duly executed by the Trustees and the Employers. The Trust Committee may, in its sole and absolute discretion, discontinue or terminate this Trust, in whole or in part, at any time without any liability whatsoever for such discontinuance or termination. Upon termination of this Trust or any Benefit Plans, Participants will not be vested in any benefits or have any further rights.

12.2 NOTIFICATION OF TERMINATION: Upon termination of the Trust in accordance with this Article XII, the Trustees shall promptly notify all Participants and all other necessary parties; and the Trustees shall continue as Trustees for the purpose of winding up the affairs of the Trust. Notwithstanding any provisions of this Agreement concerning the duration and termination of the Trust, the Trust shall continue in existence for so long a period as may be necessary to wind up its affairs after termination.

12.3 EXCESS FUNDS: Upon dissolution of the Trust after termination, any assets remaining in the Trust Fund after satisfaction of all liabilities to participants of the Plan and expenses must be applied, either directly or through the purchase of insurance, for the provision of permissible health and welfare benefits within the meaning of Reg. Section 1.501(c)(9)-3 pursuant to criteria that do not provide for disproportionate benefits to officers, shareholders, or highly compensated employees of the Employers.

12.4 FINAL ACCOUNTING: At such time as the Trust is terminated, the Trust Committee shall render a final accounting of the affairs of the Trust to the Employers, and thereafter there shall be no claim or action against the Trustees, and they shall have no further responsibilities or duties and shall be discharged.

ARTICLE XIII

MISCELLANEOUS

13.1 SITUS/GOVERNING LAW: The City and County of Denver, State of Colorado, shall be deemed the situs of the Trust created under this Agreement. All questions pertaining to validity, construction and administration shall be determined in accordance with the laws of the State of Colorado, and this Agreement has been made, executed and delivered in the State of Colorado.

13.2 CONSTRUCTION: Wherever any words are used in this Agreement in the masculine gender, they shall be construed as though they were also in the feminine or neuter gender in all situations where they would so apply; wherever any words are used in this Agreement in the singular form, they shall be construed as though they were also used in the plural form in all situations where they would so apply; and wherever any words are used in this Agreement in the plural form, they shall be construed as though they were also used in the singular form in all situations where they would so apply. All titles in this Trust Agreement are for purposes of identification only and shall have no bearing on the meaning, construction or interpretation of the Articles or sections to which they refer.

13.3 SEVERABILITY: Should any provision or term in this Agreement be deemed or held to be unlawful or invalid for any reason, such fact shall not adversely affect the other provisions or impact the functioning of the Trust, and in such event, the remaining provisions shall be in full force and effect.

13.4 ENTIRE TRUST: This Trust Agreement, including Exhibit A listing the Benefit Plans, shall constitute the entire Trust.

13.5 NO GUARANTY OF TAX CONSEQUENCES: The Trust Committee makes no commitment or guaranty that any amounts paid to or for the benefit of a Participant under a Benefit Plan will be excludable from the Participant's gross income for federal, state or local income tax purposes, or that any other federal, state or local tax treatment will apply to or be available to any Participant.

13.6 PROHIBITION AGAINST DISCRIMINATION: Any objective criteria used to restrict eligibility for membership or benefits may not be selected or administered in a manner that limits membership or benefits to officers, shareholders, or highly compensated employees of an Employer contributing to or otherwise funding the Trust. Similarly, eligibility for benefits may not be subject to conditions or limitations that have the effect of entitling officers, shareholders, or highly compensated employees of an Employer contributing to or otherwise funding the Trust to benefits that are disproportionate in relation to benefits to which other members are entitled. The Benefit Plan and/or Trust may contain a provision that excludes or has the effect of excluding from membership in the organization or participation in a particular benefit plan employees who are members of another organization or covered by a different plan, funded or contributed to by the employer, to the extent that such other organization or plan offers similar benefits on comparable terms to the excluded employees.

13.7 **DEPENDENT**: For purposes of providing for the payment of sick and accident benefits to participants and their dependents, the term "dependent" shall include any individual who is a child (as defined in Code Section 152(f)(1)) of a participant who as of the end of the calendar year has not attained age twenty-seven (27).

13.8 **ERISA**: It is intended that this Trust and the Self-Funded Benefit Plans constitute a governmental plan or plans within the meaning of ERISA Section 3(32); however, the Trust and Self-Funded Benefit Plans will generally abide by select terms of Part 1 (Reporting and Disclosure), Subtitle B of Title I of ERISA and ERISA Section 503 (Claims Procedure) pertaining to welfare benefit plans and the Trust Committee shall function in the manner of an ERISA named fiduciary of the Self-Funded Benefit Plans. The Trust Committee, may in its sole discretion compromise or settle any claim, liability or controversy in such manner as it thinks best, and any decision made by the Trust Committee in compromise or settlement of a claim or controversy, and any compromise or settlement agreement entered into by the Trust Committee, shall, be conclusive and binding upon all parties interested in the Trust Fund. Notwithstanding the preceding sentence, the Trust Committee shall only compromise or settle any benefit claim provided that the Trust Committee, in its role as a fiduciary, determines such benefit claim may be a significant and extraordinary liability to the Trust for a Self-Funded Benefit Plan, and further provided the Self-Funded Benefit Plan's claim appeal process has been fully exhausted first.

13.9 **GOVERNMENTAL IMMUNITY**: It is specifically understood and agreed that nothing contained in this Agreement shall be construed as an express or implied waiver by the Trust, the Trust Committee, the individual Trustees, or the Employers of governmental immunity or of the sovereign immunity of the State of Colorado or its instrumentalities or any provision of the Colorado Governmental Immunity Act C.R.S. Section 24-10-101 et seq.

13.10 **GOVERNMENTAL STATUS**: In the event it is determined (whether by the Department of Labor, the Internal Revenue Service, a court or otherwise) that the Benefit Plans and this Trust are not a governmental plan within the meaning of ERISA Section 3(32) and thus subject to Title I of ERISA, then the following shall be in effect:

(a) The Trust and Benefit Plans shall abide by the terms of Title I of ERISA pertaining to welfare benefit plans.

(b) The Trust Committee shall be comprised of six (6) individuals, with each Employer designating two (2) of its Employees to serve as Trustees.

(c) UPI, through its Executive Director, shall designate two (2) of its Employees to serve as Trustees and members of the Trust Committee.

(d) To constitute a quorum at any regular or special meeting of the Trust Committee and for any action to be valid at such meeting, there must be present in person or by proxy at least four (4) of the six (6) Trustees and one (1) Trustee from each Employer.

(e) Valid actions at meetings at which a quorum is present require the affirmative vote of at least four (4) Trustees, regardless of the number of Trustees present except as provided in Sections 3.9(c), 3.9(e), 5.5(d), 5.5(e), 6.1, 6.2(c), 6.3, 9.1 or 12.1.

(f) A super majority vote is the affirmative vote of at least five (5) Trustees.

(g) To the extent required by ERISA, separate accounting for the applicable Benefit Plans shall be maintained.

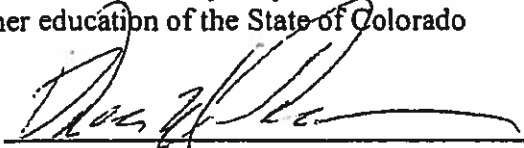
(h) The Trust Committee shall be the ERISA named fiduciary for any Benefit Plans set forth in Items 1-4 of Exhibit A.

13.11 **COUNTERPARTS AND DELIVERY**: This Trust Agreement and any amendments thereto may be executed in multiple counterparts and may be delivered by fax or other electronic means, all of which shall be deemed to be originals, and all of which shall constitute one (1) document.

This Declaration of Trust and Agreement has been adopted and executed effective as of the Effective Date as follows.

EMPLOYERS:

THE REGENTS OF THE UNIVERSITY OF COLORADO, a body corporate, and state institution of higher education of the State of Colorado

By: 

Bruce D. Benson
President

Date: 6-25-10

UNIVERSITY OF COLORADO HOSPITAL AUTHORITY, a body corporate and political subdivision of the State of Colorado

By: _____
Bruce Schroffel
President and Chief Executive Officer

Date: _____

UNIVERSITY PHYSICIANS, INCORPORATED

By: _____
Lilly Marks
Executive Director

Date: _____

This Declaration of Trust and Agreement has been adopted and executed effective as of the Effective Date as follows.

EMPLOYERS:

THE REGENTS OF THE UNIVERSITY OF COLORADO, a body corporate, and state institution of higher education of the State of Colorado

By: _____
Bruce D. Benson
President

Date: _____

UNIVERSITY OF COLORADO HOSPITAL AUTHORITY, a body corporate and political subdivision of the State of Colorado

By: _____
Bruce Schreffel
President and Chief Executive Officer

Date: June 28, 2010

UNIVERSITY PHYSICIANS, INCORPORATED

By: _____
Lilly Marks
Executive Director

Date: _____

This Declaration of Trust and Agreement has been adopted and executed effective as of the Effective Date as follows.

EMPLOYERS:

THE REGENTS OF THE UNIVERSITY OF COLORADO, a body corporate, and state institution of higher education of the State of Colorado

By: _____
Bruce D. Benson
President

Date: _____

UNIVERSITY OF COLORADO HOSPITAL AUTHORITY, a body corporate and political subdivision of the State of Colorado

By: _____
Bruce Schroffel
President and Chief Executive Officer

Date: _____

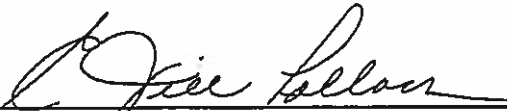
UNIVERSITY PHYSICIANS, INCORPORATED

By: Lilly Marks
Lilly Marks
Executive Director

Date: 6/28/10

NAMED TRUSTEES APPOINTED AND DESIGNATED ON BEHALF OF EMPLOYEES

ACCEPTANCE OF APPOINTMENT AND
DESIGNATION AS NAMED TRUSTEE EFFECTIVE
AS OF THE EFFECTIVE DATE

By: 
E. Jill Pollock
Senior Associate Vice President and
Chief Human Resources Officer of the
University of Colorado

Date: 6/28/10

ACCEPTANCE OF APPOINTMENT AND
DESIGNATION AS NAMED TRUSTEE EFFECTIVE
AS OF THE EFFECTIVE DATE

By: _____
Darryl W. Varnado
Vice President of Human Resources of the
University of Colorado Hospital Authority

Date: _____

ACCEPTANCE OF APPOINTMENT AND
DESIGNATION AS NAMED TRUSTEE EFFECTIVE
AS OF THE EFFECTIVE DATE

By: _____
Elizabeth Kissick
Director, Health Plan Development of
University Physicians, Inc.

Date: _____

NAMED TRUSTEES APPOINTED AND DESIGNATED ON BEHALF OF EMPLOYEES

ACCEPTANCE OF APPOINTMENT AND
DESIGNATION AS NAMED TRUSTEE EFFECTIVE
AS OF THE EFFECTIVE DATE

Date: _____

By: _____

E. Jill Pollock
Senior Associate Vice President and
Chief Human Resources Officer of the
University of Colorado

ACCEPTANCE OF APPOINTMENT AND
DESIGNATION AS NAMED TRUSTEE EFFECTIVE
AS OF THE EFFECTIVE DATE

Date: 6/24/10

By: _____

Darryl W. Varnado
Vice President of Human Resources of the
University of Colorado Hospital Authority

ACCEPTANCE OF APPOINTMENT AND
DESIGNATION AS NAMED TRUSTEE EFFECTIVE
AS OF THE EFFECTIVE DATE

By: _____

Elizabeth Kissick
Director, Health Plan Development of
University Physicians, Inc.

Date: _____

NAMED TRUSTEES APPOINTED AND DESIGNATED ON BEHALF OF EMPLOYEES

ACCEPTANCE OF APPOINTMENT AND
DESIGNATION AS NAMED TRUSTEE EFFECTIVE
AS OF THE EFFECTIVE DATE

Date: _____

By: _____

E. Jill Pollock
Senior Associate Vice President and
Chief Human Resources Officer of the
University of Colorado

ACCEPTANCE OF APPOINTMENT AND
DESIGNATION AS NAMED TRUSTEE EFFECTIVE
AS OF THE EFFECTIVE DATE

Date: _____

By: _____

Darryl W. Varnado
Vice President of Human Resources of the
University of Colorado Hospital Authority

ACCEPTANCE OF APPOINTMENT AND
DESIGNATION AS NAMED TRUSTEE EFFECTIVE
AS OF THE EFFECTIVE DATE

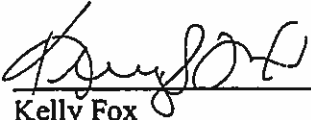
By: EKissick

Elizabeth Kissick
Director, Health Plan Development of
University Physicians, Inc.

Date: 6/28/10

NAMED TRUSTEES DESIGNATED BY EMPLOYER

ACCEPTANCE OF APPOINTMENT AND
DESIGNATION AS NAMED TRUSTEE EFFECTIVE
AS OF THE EFFECTIVE DATE

By: 
Kelly Fox
Vice President and Chief Financial Officer
of the University of Colorado

Date: 6/28/10

ACCEPTANCE OF APPOINTMENT AND
DESIGNATION AS NAMED TRUSTEE EFFECTIVE
AS OF THE EFFECTIVE DATE

By: _____
Anthony C. DeFurio
Vice President of Finance and Chief Financial
Officer of the University of Colorado Hospital
Authority

Date: _____

NAMED TRUSTEES DESIGNATED BY EMPLOYER

ACCEPTANCE OF APPOINTMENT AND
DESIGNATION AS NAMED TRUSTEE EFFECTIVE
AS OF THE EFFECTIVE DATE

By: _____
Kelly Fox
Vice President and Chief Financial Officer
of the University of Colorado

Date: _____

ACCEPTANCE OF APPOINTMENT AND
DESIGNATION AS NAMED TRUSTEE EFFECTIVE
AS OF THE EFFECTIVE DATE

By: Anthony C. DeFurio
Anthony C. DeFurio
Vice President of Finance and Chief Financial
Officer of the University of Colorado Hospital
Authority

Date: 6/24/10

UNIVERSITY OF COLORADO
HEALTH AND WELFARE TRUST

EXHIBIT A

LIST OF BENEFIT PLANS

UNIVERSITY OF COLORADO HEALTH AND WELFARE PLAN: LIST OF COMPONENT BENEFIT PLANS (EFFECTIVE JULY 1, 2010)

1. BlueAdvantage HMO Plan for the University of Colorado (HMO Colorado) (which includes Blue View Vision for the University of Colorado)
2. Lumenos Health Savings Account (HSA – Compatible) Plan for the University of Colorado
3. UA Net Plan for the University of Colorado (which includes Blue View Vision for the University of Colorado)
4. Medicare Primary Plan for the University of Colorado

The University of Colorado Health and Welfare Plan is sponsored by the University. The Trust is the funding vehicle.

PLANS FUNDED THROUGH TRUST (EFFECTIVE JULY 1, 2010)

5.
 - (a) Health Care Flexible Spending Account Component of The University of Colorado Flexible Benefits Plan (“University Flex Plan”)
 - (b) Pretax Premium Component of the University Flex Plan with respect to Health Premiums for the Component Benefit Plans listed in Items 1-4 of this Exhibit A
6.
 - (a) Health Care Spending Account Plan of the University of Colorado Hospital Authority Cafeteria Plan (“UCH Cafeteria Plan”)
 - (b) Pretax Premium Component of the UCH Cafeteria Plan with respect to Health Premiums for the Component Benefit Plans listed in Items 1-4 of this Exhibit A

Item 5 is sponsored by the University. Item 6 is sponsored by UCH. The Trust is the funding vehicle for Items 5 and 6.