**Agendum**
**Oakland University**
**Board of Trustees**
**Finance, Audit and Investment Committee**
**December 2, 2010**

## ADOPTION OF THE 2011 EMPLOYEE SEVERANCE PLAN™

1. **Division and Department:** Academic Affairs, Finance and Administration, Academic Human Resources, University Human Resources

2. **Introduction:** The proposed 2011 Employee Severance Plan™ (Plan™) is a non-age based severance program that provides a monthly stream of income to the participants or their beneficiaries for 60 months via payments to the participants' 403(b) retirement account (See Attachment). The Plan™ provides that employees must agree, during a specific election time period, to terminate employment on June 30, 2011 for non-faculty, August 14, 2011 for faculty, or as otherwise agreed to. The severance benefit induces a diverse age group of employees to retire, make a career change, return to school, or be with family, while reducing compensation costs to Oakland University (University). The Plan™ will be offered to all eligible employees with at least 15 years of employment with the University. The Plan™ benefits are as follows:

- Academic Administrators and Deans – 100% of base salary, not to exceed $90,000
- Faculty – 100% of base salary, not to exceed $75,000
- Administrative Professional (AP) – 100% of base salary, not to exceed $65,000
- Police Sergeants – 100% of base salary, not to exceed $50,000
- Police Officers/Dispatchers – 100% of base salary, not to exceed $40,000
- Clerical/Technical – 100% of base salary, not to exceed $35,000
- Campus Maintenance and Trades – 100% of base salary, not to exceed $35,000
- Collectively bargained and employee manual provisions for vacation and sick leave payout will be honored

Benefits to the University include projected reductions in compensation costs, managing employment levels, employee promotions, and potentially avoiding program and staff cuts.

Educators Preferred Corporation (EPC) will manage the administration of the Plan™ including comprehensive counseling for participants and their spouses, enrollment procedures, documentation preparation, record keeping, tax reporting, and employee communications. A Letter of Agreement between EPC and Oakland University recognizing EPC as the Agent and Consultant of Record to implement the Plan™ has been reviewed and approved by the Office of the Vice President for Legal Affairs and General Counsel, complies with the law and University policies and regulations, and conforms to the legal standards and policies of the Vice President for Legal Affairs and General Counsel.

3. **Previous Board Action:** None.

4. **Budget Implications:** Severance payments will be budgeted and funded over a three year period (paid to retirees over 60 months). Projected savings over the next eight years are approximately $1.3 million.

5. **Educational Implications:** None.

6. **Personnel Implications:** Vacated positions will be evaluated on a case by case basis for strategic replacement, repositioning, or elimination.

7. **University Reviews/Approvals:** The proposal was developed by the University Human Resources Department in collaboration with EPC, and reviewed by Academic Human Resources, the Vice President for Finance and Administration, Senior Vice President for Academic Affairs and Provost, and President.

8. **Board Action to be Requested:** The Finance, Audit and Investment Committee is asked to recommend approval of the Plan™ to the Board of Trustees at its December 9, 2010 Formal Session.

9. **Attachments:** A. 2011 Employee Severance Plan™ (ESP™)

**Submitted by Associate Professor of Political Science and Associate Provost for Academic Affairs Michelle Piskulich:** CMP
(Please Initial)

**Submitted by Vice President for Finance and Administration and Treasurer John W. Beaghan:** JWB
(Please Initial)

**Reviewed by Secretary Victor A. Zambardi:** VZ
(Please Initial)

**Reviewed by President Gary D. Russi:** GDR
(Please Initial)

**Exhibit A**

Oakland University

2011 Employee Severance Plan (ESP™)

## 1. Eligibility

This is the Plan document for the Oakland University 2011 Employee Severance Plan (hereinafter ESP™ or "Plan"). This Plan was approved by the Oakland University Board of Trustees ("Board") on December 9, 2010. The terms of the Plan consist of this Plan document (Exhibit A) and Exhibits B, C, D, E, and F attached hereto.

"Eligible Employees" are defined as all full-time employees who will have fifteen (15) or more years of service with Oakland University (hereinafter "University") as of August 14, 2011 for faculty and June 30, 2011 for non faculty and were on a paid status or approved leave status at the time of the Board approval. The ESP™ is not a fringe benefit nor a condition or term of employment. The Plan is being offered to provide Eligible Employees career options and to meet operational and budgetary needs.

The Plan is not available to any other employees, including part time, temporary or contracted employees, employees in positions supported 100% by grant or other external funding, those who have been laid off, terminated, or those who have formally retired or resigned from service with notification to the University in writing prior to the adoption of this Plan by the Board, including those that have retired/resigned and have been subsequently rehired by the University or who, prior to December 9, 2010, made a contractually binding commitment to separate from University employment.

Under the Plan, the University promises to pay the ESP™ benefit described below to Eligible Non-Faculty Employees who agree to retire or separate from service on June 30, 2011. The University also promises to pay the ESP™ benefit described below to Eligible Faculty Employees who agree to retire or separate from service on August 14, 2011. Participating employees must fulfill his or her contractual obligations through the date of his or her retirement or separation from service (the "Exit Date"). Failure to fulfill contractual obligations through the Employee's Exit Date will result in forfeiture of the ESP™ benefits. Disability or death is not considered a lack of fulfillment of contractual benefits, and does not preclude the Employee or beneficiary from receiving ESP™ benefits as stated under Section 3 below.

The University in its sole and absolute discretion reserves the right to retain certain employees who agree to participate in the Plan for up to one (1) year beyond his/her respective elected Exit Date, based on educational and operational needs of the University. Those Employees so retained will still receive the same ESP™ benefit dollar amount based on his/her elected exit date, and the ESP™ benefits will commence four (4) months following his/her actual Exit Date.

To become a Plan participant, an eligible employee must agree to retire or separate from University service as of the exit date specified above (or an alternate Exit Date established by the University based on educational or operational need as described in the paragraph above). Following retirement or separation from service with the University, the employee is free to accept full or part-time employment with any other employer; however any future employment with the University will be subject to Section 6 found herein.

## 2. ESP™ Benefits

Those employees who meet the ESP™ eligibility requirements can elect to resign or retire effective August 14, 2011 for faculty and June 30, 2011 for non faculty (or an alternate later Exit Date as determined by the University in its sole and absolute discretion based on operational and educational needs) from University employment during the one-time window period of enrollment as referred to in Section 5. Academic Administrators and Deans electing the EPC™ will receive 100% of base salary, not to exceed $90,000 divided into 60 equal monthly payments. Faculty electing the ESP™ will receive 100% of base salary, not to exceed $75,000, divided into 60 equal monthly payments. Administrative Professionals electing the ESP™ will receive 100% of base salary, not to exceed $65,000, divided into 60 equal monthly payments.

Police Sergeants electing the ESP™ will receive 100% of base salary, not to exceed $50,000, divided into 60 equal monthly payments. Police Officers and Police Dispatchers electing the ESP™ will receive 100% of base salary, not to exceed $40,000, divided into 60 equal monthly payments. Employees represented by Oakland University Professional Services Association (hereinafter "OUPSA") or the Oakland University Campus Maintenance and Trades (hereinafter "OUCMT") electing the ESP™ will receive 100% of base salary, not to exceed $35,000, the total of which is divided into 60 equal monthly payments.

All ESP™ benefits are subject to final verification for accuracy by the University after the elected Exit Date.

Participants shall receive payment of the total ESP™ benefit over five (5) years, divided into sixty (60) equal monthly payments made to an annuity contract or custodial account that is designed to meet the tax-qualification requirements of Internal Revenue Code ("IRC") Section 403(b) (a "TSA") (a "Post Employment 403(b) account"). A Participant shall designate the Post Employment 403(b) account provider that is to receive the contribution; provided, however, that any such provider is on the University's approved list of providers that is in effect at the time of the employee's resignation from employment or retirement; and the University shall continue to have authority to approve or disapprove any of the providers. The participant can access the funds each month, within the parameters of the terms of his/her selected providers account agreement and applicable law.

ESP™ benefits begin to be deposited into a 403(b) Contract on a date between October 15 and October 30 following the employee's Exit Date and will be paid on or about the 15th of each month thereafter until all payments are completed. There is NO option for participants to elect cash rather than Post Employment 403(b) deposits. The deposits into the Participant's Post Employment 403(b) account are considered employer discretionary contributions only, and not employee contributions, transfers or rollovers. Participants will be directed to their personal advisor to answer tax questions.

In the calendar year of retirement, or in any other calendar year, the total amount that may be paid to a Participant's Post Employment 403(b) account shall not exceed the maximum contribution amount allowable under the federal income tax law for annuities or custodial accounts that are intended to be tax qualified under IRC Section 403(b). If the amount payable to the Post Employment 403(b) account in any calendar year would exceed the maximum amount that is permitted under the applicable federal income tax law for that year, the excess amount shall be contributed to the 403(b) Plan on the first payroll date in January of the next calendar year. This process shall be repeated to provide for contributions during a maximum of five (5) calendar years following the year of retirement, in each such year not to exceed the maximum amount permitted under the applicable federal income tax law for that year; and if there are still any remaining excess amounts after the contribution is made during the fifth calendar year after the year of retirement, the remaining excess shall be paid in cash to the retired employee.

There can be no exceptions to or options for Plan benefit payments, including no future deferral of Plan benefits or acceleration of Plan benefits, nor altering the formulas, calculations, or method of Plan benefit payments, or timing or number of payments, as explained herein. There is no option for the Eligible Employee participating in the Plan to elect any payout schedule.

Faculty participating in the Plan waive eligibility to participate in the Phased Retirement Plan described in Article XVIII, Paragraph 134 of the Oakland University 2009-2012 Faculty Contract entitled "Reduced Work Schedule Prior To Retirement".

3. **Death or Disability**

If an Eligible Employee is entitled to benefits under the Plan, but dies before receiving all such benefits, the Eligible Employee's beneficiary shall be entitled to a benefit pursuant to the terms of this paragraph. The payment to the Eligible Employee's beneficiary shall be made in cash (less any applicable tax withholdings) within sixty (60) days of the Eligible Employee's death (or, as soon as administratively feasible thereafter) and shall be equal to the lesser of: (i) the excess of the Eligible Employee's includable compensation (through the last day of the month of the death) for that year over the contributions previously made for the Eligible Employee during that year; or (ii) the total benefits that would have been paid to the Eligible Employee if the Eligible Employee had survived until the end of the sixty (60) monthly payments. For purposes of this paragraph, an Eligible Employee's includable compensation shall be determined on a monthly basis, and the amount of the monthly includable compensation shall be based on the Eligible Employee's compensation during the most recent year of service divided by twelve (12) months. This paragraph shall be interpreted in accordance with Treasury Regulations Section 1.403(b)-4(d) and such contributions shall not exceed the limitations imposed by IRC Section 415(c).

As used in this paragraph, the Employee's beneficiary shall be the individual(s), trust(s), and or other entity named on a beneficiary form provided at the time of enrollment; provided that if no such beneficiary has been named or remains alive or in existence, then remaining benefits shall be paid to the Employee's surviving spouse, if any, otherwise to the Employee's estate as executed by state probate law. Payment will be made to a beneficiary, spouse, or estate only upon proper proof submitted to and accepted by the Plan Administrator (see item 7), establishing legal entitlement to be paid. Beneficiary designations shall be effective upon execution and filing in accordance with instructions on the designation form. Beneficiary designations may be revoked and changed before the Employee's death only by the filing of a new designation form by the Employee.

If the Employee has filed a written election to participate in the Plan and becomes disabled (so that in the opinion of a physician acceptable to the University, the Employee will be unable to return to full-time work prior to the agreed Exit Date) then the Employee shall receive separation benefits on the same schedule that would have applied had he or she continued to work (or continued on approved leave) until the agreed Exit Date under the Plan. An Employee who becomes disabled after filing an election to participate in the Plan will not be able to revoke that election after the close of the window period of election and the seven (7) day revocation period have passed.

4. **Divorce**

To the extent required under any final judgment, decree or order (including approval of a property settlement agreement), referred to as the "Order," that (i) relates to the provision of child support, alimony payments, or marital property rights; (ii) is made in compliance with Section 409A of the Internal Revenue Code of 1986, as amended and any regulations issued there under; and (iii) is made pursuant to a state domestic relations law, any portion of a Participant's benefits may be paid to a spouse, former spouse, child or other dependent of the Participant (the "Alternate Payee"). A separate account shall be established with respect to the Alternate Payee, in the same manner as the Participant, and any amount so set aside for an Alternate Payee shall be paid out within ninety (90) days of the date of the Order under the same terms applicable to the Employee. Under no circumstance, however, shall an Alternate Payee obtain rights to payment that are different from those of Employee or which require an accelerated payment schedule over that specified in the Plan or the Agreement. Any payment made to an Alternate Payee pursuant to this paragraph shall be reduced by required income tax withholding.

The Plan's liability to pay benefits to a Participant shall be reduced to the extent that amounts have been paid or set aside for payment to an Alternate Payee pursuant to an Order. No such transfer shall be effectuated unless the University as the former Employer (plan sponsor) has been provided with such an Order.

The Employer or its agents and representatives, shall not be obligated to defend against or set aside any Order, or any legal order relating to the garnishment of a Participant's benefits, unless the full expense of such legal action is borne by the Participant. In the event that the Participant's action (or inaction) nonetheless causes the University as former Employer to incur such expense, the amount of the expense may be charged against the Participant's benefit amount and thereby reduce the University's obligation to pay benefits to the Participant. In the course of any proceeding relating to divorce, separation, or child support, the University shall be authorized to disclose information relating to the Participant's benefits to the Alternate Payee (including the legal representatives of the Alternate Payee), or to a court.

5. **Election Period and Procedure**

The "Window Period" for Eligible Employee elections begins (January 18, 2011 and ends March 7, 2011 (postmarked). Late elections will not be accepted. Election forms may be obtained from EPC (see item 7). An Eligible Employee may elect to participate in the Plan by signing the Indication of Interest Form (Exhibit B) and returning to EPC the required waivers, releases, and other documentation described in Section 6 below within the Window Period. If such documentation is not signed and returned to EPC within the Window Period, then the Employee's indication of interest shall be deemed withdrawn and the Eligible employee shall not be entitled to participate in this Plan. If all of the required documentation is signed and returned to EPC within the Window Period, the Eligible Employee shall have seven (7) additional days from the end of the Window Period, which is March 8, 2011 through March 14, 2011 (postmarked), to revoke the Eligible Employee's decision to retire or separate from service. A decision to revoke an Eligible Employees' election to participate in the Plan must be made in writing and submitted to EPC within the seven (7) day revocation period.

If that decision is not revoked in writing within the seven (7) day revocation period, the Eligible Employee's decision to retire or to separate from service becomes final and binding on the Eligible Employee.

The Eligible Employee's designation of an Exit Date shall not create any contract entitling the Eligible Employee to work through the specified Exit Date, and the University continues to reserve the right to terminate or lay-off an Eligible Employee in accordance with applicable law. However, if an Eligible Employee who has elected to participate in the Plan should be laid-off, he or she shall receive separation benefits on the same schedule that would have applied had he or she continued to work until the agreed to Exit Date under the Plan.

6. **Additional Conditions**

As a condition of becoming a Participant in the Plan, and in consideration of benefits to be received under the Plan, an Eligible Employee shall be required to waive all past employment disputes against the University, future employment rights except as otherwise provided below, property rights, all entitlement to future wage and benefits increases, all rights to participate in any University-sponsored benefit plan (other than the right to payments under this Plan and the right to purchase continuation of health care coverage as specified in an applicable employment contract between the eligible employee and the University or employee manual or as required under applicable federal law); and also shall agree not to apply for reemployment (unless such application is consented to by the President of the University). *Faculty and staff who elect to participate in the Plan may only be rehired as part-time instructors, on a course by course basis, as approved by the Provost. Such part-time instructor positions may be for one or more terms.*

An Eligible Employee who wishes to participate in the Plan shall be required to execute and to deliver to EPC all of the following documents before the end of the Window Period. Documents will be considered delivered to EPC if they are postmarked before the end of the Window Period.

- Exhibit B - "Indication of Interest Form"
- Exhibit C – "Agreement including Release and Waiver of Claims"
- Exhibit D – "Notice Of Enrollment"
- Exhibit F – "Post Employment 403(b) Contract Notification Form"
- Designation of Beneficiary Form

7. **Additional Information**

Employees considering the ESP™ Plan are urged to consult with their own legal and financial advisors. The University has retained Educators Preferred Corporation (EPC), 26877 Northwestern Highway, Suite 305, Southfield, Michigan 48033, to assist in administration of the Plan. EPC is not a plan fiduciary. EPC shall not serve as the legal or financial advisor to any University employee. EPC assists the University in implementing the Plan. The Plan is not created to be a deferred compensation arrangement for employment services to be rendered in the future or rendered in the past. For questions about the Plan as described above, or about the attached documents, or for additional information about benefits under the Plan, please contact: Educators Preferred Corporation Telephone: 1-800-747-1504 Fax: 1-888-676-8792 or in person at 26877 Northwestern Highway, Suite 305 Southfield, MI 48033.

# Exhibit B
## Oakland University
2011 Employee Severance Plan (ESP$^{TM}$)
**Indication of Interest Form**

I, ______________________________________, (Last four Soc. Sec.# ________________________) hereby indicate interest to participate in the Oakland University 2011 Employee Severance Plan (hereinafter "Plan") and receive the benefits as provided in said Plan.

In exchange for such benefits, I acknowledge I have read and agree with the terms of Exhibit A, B, C, D and F. As a condition of my participating in the Plan:

(1) I hereby agree to retire or to resign from employment with the Oakland University effective ________________, **20**____(or an alternate exit date determined by Oakland University based on operational and educational needs).

(2) I agree to execute the Release and Waiver of Claims Agreement (Exhibit C) in the form attached to the Plan and to deliver to EPC no later than March 7, 2011.

I acknowledge that I am making this election under my own free will, with no coercion or duress having been applied to me by anyone. I acknowledge that my resignation makes me ineligible for unemployment compensation benefits.

I also acknowledge the Oakland University Board of Trustees reserves the right to offer or not offer a similar plan in the future, without obligation to those electing this Plan.

I also acknowledge that Oakland University advised me to consult with my personal attorney and accountant prior to signing this agreement.

______________________________________ Dated: ________________

Employee Signature

Participation accepted by the Oakland University on ________________ of 2011.

______________________________________________________

Oakland University

***Oakland University Internal Use Only***

____ Application for ESP$^{TM}$ approved.

____ Application for ESP$^{TM}$ not approved.

____ Accepted with an alternative exit date of ________________.

____ Employee's initials if an alternate exit date has been determined by Oakland University.

**Exhibit C**
**Oakland University**
2011 Employee Severance Plan (ESP$^{TM}$)

This Agreement including the Release and Waiver of Rights (sometimes referred to as "Agreement") is executed by and between ______________________________ on his/her own behalf and on behalf of his/her heirs, executors, administrators and assigns (hereinafter collectively referred to as "Employee") and Oakland University (hereinafter referred to as "University").

**WHEREAS**, the Employee is an Eligible Employee who may become entitled to receive certain separation incentive payments in accordance with the terms of the Oakland University 2011 Employee Separation Plan (hereinafter "ESP™" or "Plan") the terms of which are incorporated into this Agreement by reference ; and

**WHEREAS**, the Employee has indicated that he or she wants to be a participant in the Plan; and

**WHEREAS**, as a condition of the Employee being a Participant in the Plan, and subject to the revocation rights set forth herein, the Employee is required to enter into this Agreement no later than March 7, 2011;

**WHEREAS,** the Plan is being offered to provide Eligible Employees career options and to meet operational and budgetary needs of the University. The ESP$^{TM}$ is offered to Oakland University employees meeting the ESP$^{TM}$ eligibility criteria (in Exhibit A), and is not a fringe benefit.

**NOW, THEREFORE, IT IS AGREED** by and between the Employee and the Oakland University as follows:

1.0 The Employee understands and agrees that his/her resignation has been accepted by the University, without further action by the Oakland University Board of Trustees, upon his/her submission of the Release and Waiver of Claims Agreement to Educators Preferred Corporation by March 7, 2011 and the expiration of the revocation period (ending March 14, 2011).

2.0 In the event the Employee fails to render full and faithful service through the Employee's Exit Date as specified in paragraph 3.0 below, (or an alternate date) this Agreement shall be null and void and the Employee shall forfeit all rights under this Agreement and the Plan and the Employee shall be subject to the usually applicable University disciplinary procedures. Disability or death is not considered a lack of fulfillment of contractual benefits, and does not preclude the Employee or beneficiary from receiving ESP$^{TM}$ benefits.

3.0 Eligible Non-Faculty employees who meet the Employee Severance Plan (ESP$^{TM}$) eligibility requirements can elect to resign or retire effective June 30, 2011 from University employment. Eligible Faculty employees who meet the Employee Severance Plan (ESP$^{TM}$) eligibility requirements can elect to resign or retire effective August 14, 2011 from University employment. The eligible employees election to participate in the ESP™ must be executed during the one-time window period of enrollment as referred to in Paragraph 15.1 below.

4.0 Eligible Academic Administrators and Deans who elect to participate in the ESP$^{TM}$ shall receive 100% of base salary, not to exceed \$90,000, divided into equal monthly payments and paid to the Employee's 403(b) account as described in Section 9.1 below

5.0 Eligible Faculty who elect to participate in the ESP™ shall receive 100% of base salary, not to exceed $75,000, divided into equal monthly payments and paid to the Employee's 403(b) account as described in Section 9.1 below.

6.0 Eligible Administrative Professionals who elect to participate in the ESP™ shall receive 100% of base salary, not to exceed $65,000, divided into equal monthly payments and paid to the Employee's 403(b) account as described in Section 9.1 below

7.0 Eligible Police Sergeants who elect to participate in the ESP™ shall receive 100% of base salary, not to exceed $50,000, divided into equal monthly payments and paid to the Employee's 403(b) account as described in Section 9.1 below. Eligible Police Officers and Police Dispatchers who elect to participate in the ESP™ shall receive 100% of base salary, not to exceed $40,000, divided into equal monthly payments and paid to the Employee's 403(b) account as described in Section 9.1 below.

8.0 Eligible Employees represented by Oakland University Professional Services Association (hereinafter "OUPSA") or the Oakland University Campus Maintenance and Trades (hereinafter "OUCMT") electing the ESP™ will receive 100% of base salary, not to exceed $35,000, divided into equal monthly payments and paid to the Employee's 403(b) account as described in Section 9.1 below.

9.0 The scheduled benefit to be paid under the ESP™ is as follows. All benefits are subject to final verification by the University.

$________________ divided and distributed into <u>60</u> equal monthly installments, of $_______ per month.

**Signature If Electing**

______________________________________________

9.1 This payment shall be made to a tax sheltered annuity contract or custodial account that is designed to meet the tax-qualification requirements of Internal Revenue Code ("IRC") Section 403(b) (a "TSA") (a "Post Employment 403(b) account"). A Participant shall designate the Post Employment 403(b) account provider that is to receive the contribution; provided, however, that any such provider must be on the University approved list of providers that is in effect at that time of the Employee's resignation from employment or retirement; and the University shall continue to have authority to approve or disapprove any of the providers. The participant can access the funds each month, within the parameters of the terms of his/her selected providers account agreement and applicable law. ESP™ benefits begin to be deposited into a 403(b) Contract on a date between October 15 and October 30 following the employee's Exit Date and will be paid on or about the 15th of each month thereafter until all payments are completed. There is NO option for participants to elect cash rather than Post Employment 403(b) deposits. The deposits into the Eligible Employee's Post Employment 403(b) account are considered employer discretionary contributions only, and not employee contributions, transfers or rollovers. Please refer tax questions to your personal attorney and accountant.

9.2 In the calendar year of retirement, or in any other calendar year, the total amount that may be paid to a Participant's Post Employment 403(b) account shall not exceed the maximum contribution amount allowable under the federal income tax law for annuities or custodial accounts that are intended to be tax qualified under IRC Section 403(b). If the amount payable to the Post Employment 403(b) account in any calendar year would exceed the maximum amount that is permitted under the applicable federal income tax law for that year, the excess amount shall be contributed to the 403(b)

Plan on the first payroll date in January of the next calendar year. This process shall be repeated to provide for contributions during a maximum of five (5) calendar years following the year of retirement, in each such year not to exceed the maximum amount permitted under the applicable federal income tax law for that year; and if there are still any remaining excess amounts after the contribution is made during the fifth calendar year after the year of retirement, the remaining excess shall be paid in cash to the retired employee.

9.3 There can be no exceptions to or options for Plan benefit payments, including no future deferral of Plan benefits or acceleration of Plan benefits, nor altering the formulas, calculations, or method of Plan benefit payments, or timing or number of payments, as explained herein. There is no option for the Eligible Employee participating in the Plan to elect any payout schedule.

10.0 Faculty participating in the Plan agree to waive all rights and eligibility for participation in the Phased Retirement Plan described in Article XVIII, Paragraph 134 of the Oakland University 2009-2012 Faculty Contract entitled "Reduced Work Schedule Prior To Retirement".

11.0 To the fullest extent permitted by law and only to the extent permitted by law, the Employee, in consideration of the University's promises under the Plan and this Agreement and its subsections, promises not to sue, releases and forever discharges the University, the University's Board of Trustees, individual Board members, both past and present, the University's past and present administrators, employees, agents, and representatives and Educators Preferred Corporation, and any related insurance carrier, from any and all claims, actions or suits arising from, relating to, concerning or touching upon his/her employment with the University or the resignation of his/her employment with the University, so long as such claims are able to be waived under governing law. As used in this Agreement "claims" include any complaints, charges, disputes, assertions of rights, demands for payment, damages or other liabilities of any kind, whether civil or criminal, including any and all claims that could be brought under any contract, common law, federal or state statute, regulation, executive order, public policy, or any other law that provides protection to employees, businesses or other individuals. This waiver includes but is not limited to:

A. Any claim, action or suit alleging that he/she was illegally or improperly forced to resign his/her employment with the University;
B. Any grievance, claim, action or suit alleging that the University breached any provision of its policies, procedures, employment agreements or collective bargaining agreements , except in the occasion of non-performance by the University and/or Educators Preferred Corporation or any related insurance carriers of any of the terms and conditions imposed upon it and/or them;
C. Any claim, action or suit alleging that the University illegally discriminated against him/her in violation of any state or federal law or constitutional provisions, including any claim under the Elliott-Larsen Civil Rights Act, being MCLA §37.2101, et seq., Title VII of the Civil Rights Act of 1964, being 42 USC §2000e, et seq. and 42 USC §1983;
D. Any claim, action or suit alleging that the University discriminated against him/her on the basis of his/her age in violation of the Age Discrimination in Employment Act of 1967, as amended, being 29 USC §621, et seq., including any claim under the "Older Workers Benefit Protection Act" or in violation of the Elliot-Larsen Civil Rights Act, being MCLA §37.2101, et seq.;
E. Any claim, action or suit over which any local, state or federal administrative agency would have jurisdiction alleging that he/she was improperly separated, treated or discriminated against as an Employee of the University;
F. Any claim, action or suit over which any state or federal court would have jurisdiction, including, but not limited to, any claim of mental and/or physical injury; damage to or loss of personal reputation, defamation, intentional infliction of emotional distress or violation of constitutional rights; and,
G. Any claim, action or suit for salary, fringe benefits and/or other costs, expenses or attorney fees.

H. Any taxes to any government entity that are owing on behalf of the Employee. The Employee acknowledges and accepts the tax and FICA consequences and liability resulting from the Plan as his/her personal liability.

This waiver and release does not waive rights or claims pertaining to alleged age discrimination under the Age Discrimination in Employment Act of 1967, as amended, that arise after the date this Release and Waiver of Claims Agreement is executed.

12.0 As a condition of becoming a Participant in the Plan, and in consideration of benefits to be received under the Plan, Employee waives all future employment rights as specified in Paragraph 22 below, property rights as specified in the Plan, all entitlement to future wage and benefits increases, all rights to participate in any University-sponsored benefit plans (other than the right to payments under this Plan and the right to purchase continuation of health care coverage as is required under applicable federal law); and also agrees not to apply for reemployment.

13.0 Notwithstanding the foregoing, the Employee does not hereby release any claims that may not be waived under the law, including but not limited to the right to participate in an administrative agency proceeding, and does not waive any claims that may arise with respect to the operation and administration of this Plan after the date of his or her retirement or termination of employment. After Employee's retirement or termination of employment under the Plan, Employee shall be permitted to take any action that is permitted under applicable law to enforce the terms of the Plan and Employee's rights there under.

14.0 The University has advised the Employee to consult with their personal attorney and accountant prior to signing this Agreement.

15.0 The Employee agrees and acknowledges, by signing this Agreement, that he/she received a copy of this Agreement at least forty-five (45) days prior to March 7, 2011.

15.1 The window period of election begins January 18, 2011 and ends March 7, 2011 (postmarked). Late elections will not be accepted. THIS AGREEMENT MAY BE REVOKED BY THE EMPLOYEE BY NOTIFYING EPC, IN WRITING, WITHIN SEVEN (7) DAYS (March 8, 2011 – March 14, 2011) FROM THE CLOSE OF THE WINDOW PERIOD. If this Agreement is not so revoked, it shall become effective, enforceable and irrevocable. There is no obligation of the University to make any payments prior to expiration of the revocation period.

16.0 The Employee acknowledges and understands that the benefit of this Agreement is available to all full-time employees who will have fifteen (15) or more years of credited service with the University as of August 14, 2011 for faculty and June 30, 2011 non faculty employees. The Plan is not available to any other employees, including part time, temporary or contracted employees, employees in positions that are entirely supported by grant or other external funding, those who have been laid off, terminated, any employee who, prior to December 9, 2010, made a binding commitment to separate from University employment, or those who have formally retired or resigned from service with notification to the University in writing prior to the adoption of this Plan by the Oakland University Board of Trustees on December 9, 2010 including those that have retired/resigned and have been subsequently rehired by the University.

17.0 A list of the job titles and ages of all employees who, in the University's estimation, are or are not eligible for the benefit of this Agreement is available at the University's Office of Human Resources and is incorporated herein by this reference. Refer to Exhibit E.

18.0 The Employee acknowledges and agrees that the University and its representatives, agents and employees have not made, and that Employee has not relied on, any representation(s) or promise(s) from the University, its Board of Trustees, employees, representatives and agents (Educators Preferred Corporation) in making his/her decision to enter into this Agreement, except for the representations and promises that are contained in this Agreement. The Employee and the University further understand and agree that this Agreement constitutes the entire Agreement between them pertaining to its subject matter; supersedes any other agreement, written or otherwise, pertaining to its subject manner; and, constitutes their full obligation to one another.

19.0 Employee acknowledges that he/she has not relied upon any representation or statement by any representative, employee or agent of the University with respect to the tax and Medicare consequence(s) of the Plan. The Employee acknowledges and accepts the tax consequence(s) and liability resulting from the Plan as his/her personal liability and will not attempt to or otherwise hold the University, its Board of Trustees or any representative, agent or employee of the University responsible for any tax consequence(s) or liability resulting there from.

20.0 This Agreement shall be binding upon the University and the Employee, as well as his/her heirs and executors.

21.0 The Employee acknowledges that no representations have been made to Employee regarding the availability, unavailability, level or character of retirement or separation benefits which may or may not be made available in the future to the employees of the University. Employee affirms that the terms of the Plan represent good and valuable consideration for Employee's resignation, regardless of any separation or retirement incentive benefits which may become available in the future to employees of the University. Employee understands that increased, different or reduced benefits and/or additional programs of the same character may be made available in the future and Employee expressly disclaims any reliance on any representations to the contrary.

22.0 As a condition of becoming a Participant in the Plan, and in consideration of benefits to be received under the Plan, an Eligible Employee hereby waives all future employment rights except as specified in Paragraphs 23.0 and 23.1 of this Agreement , property rights, all entitlement to future wage and benefits increases, all rights to participate in any University-sponsored benefit plans (other than the right to payments under this Plan and the right to purchase continuation of health care coverage as is required under applicable federal law); and also agrees not to apply for reemployment.

23.0 Faculty and staff who elect to participate in the plan shall only be rehired as part-time instructors, on a course by course basis, as approved by the Provost. Such part-time instructor appointments may be for one or more terms at the discretion of the Provost.

23.1 Plan participants who choose to retire shall not be eligible to be rehired by the University unless such application is consented to by the President of the University.

24.0 Source of Payment and Non-Assignability - The Employee, beneficiary and any other person having or claiming a right to payments hereunder or to any interest under this Plan shall rely solely on the unsecured promise of the University, and nothing in this Plan shall be construed to give the Employee, beneficiary or any other person any right, title, interest or claim in or to any specific asset, fund, reserve, account or property of any kind whatsoever owned by the University or in which it may have any right, title or interest now or in the future, but the Employee, beneficiary or any other person shall have the right to enforce his/her right to the Plan benefits against the University in the same manner as any unsecured creditor. Specifically, the Employee, beneficiary and any other person shall have no rights in any group annuity contract or other investment account or the proceeds of any annuity or investment account purchased or entered into by the University for the purpose of providing the University with the funds to meet its obligations under the Plan.

25.0 Employee, beneficiary and any other person shall have no right to commute, sell, assign, transfer or otherwise convey the right to receive any payments hereunder, which payments and right thereto are expressly declared to be non-assignable, non-transferable, and not subject to transfer by operation of law in the event of bankruptcy or insolvency, attachment, garnishment and execution, except as required by applicable law.

26.0 Employee agrees that prior to the effective date of separation from University employment, employee shall return to the University all documents, reports, files, memoranda, records, keys, key cards, identification cards, computer access codes, software, or any other physical or personal property which the Employee received or prepared or helped to prepare in connection with the Employee's employment and which Employee has in his or her possession.

27.0 It is further understood by the Employee and the University that this voluntary separation from employment with the University will disqualify the Employee from receipt of unemployment benefits pursuant to the provisions of the Michigan law as it constitutes a voluntary termination of employment without cause attributable to the employer.

28.0 If an Eligible Employee is entitled to benefits under the Plan, but dies before receiving all such benefits, the Eligible Employee's beneficiary shall be entitled to a benefit pursuant to the terms of this paragraph. The payment to the Eligible Employee's beneficiary shall be made in cash (less any applicable tax withholdings) within sixty (60) days of the Eligible Employee's death (or, as soon as administratively feasible thereafter) and shall be equal to the lesser of: (i) the excess of the Eligible Employee's includable compensation (through the last day of the month of the death) for that year over the contributions previously made for the Eligible Employee during that year; or (ii) the total benefits that would have been paid to the Eligible Employee if the Eligible Employee had survived until the end of the sixty (60) monthly payments. For purposes of this paragraph, an Eligible Employee's includable compensation shall be determined on a monthly basis, and the amount of the monthly includable compensation shall be based on the Eligible Employee's compensation during the most recent year of service divided by twelve (12) months. This paragraph shall be interpreted in accordance with Treasury Regulations Section 1.403(b)-4(d) and such contributions shall not exceed the limitations imposed by IRC Section 415(c).

As used in this paragraph, the Employee's beneficiary shall be the individual(s), trust(s), and or other entity named on a beneficiary form provided at the time of enrollment; provided that if no such beneficiary has been named or remains alive or in existence, then remaining benefits shall be paid to the Employee's surviving spouse, if any, otherwise to the Employee's estate as executed by state probate law. Payment will be made to a beneficiary, spouse, or estate only upon proper proof submitted to and accepted by the Plan Administrator establishing legal entitlement to be paid. Beneficiary designations shall be effective upon execution and filing in accordance with instructions on the designation form. Beneficiary designations may be revoked and changed before the Employee's death only by the filing of a new designation form by the Employee.

If the Employee has filed a written election to participate in the Plan and becomes disabled (so that in the opinion of a physician acceptable to the University, the Employee will be unable to return to full-time work prior to the agreed Exit Date) then the Employee shall receive separation benefits on the same schedule that would have applied had he or she continued to work (or continued on approved leave) until the agreed Exit Date under the Plan. An Employee who becomes disabled after filing an election to participate in the Plan will not be able to revoke that election after the close of the window period of election and the seven (7) day revocation period have passed.

29.0 This Agreement shall be subject to, and governed by, the laws of the State of Michigan, irrespective of the fact that Employee may now be, or may become, a resident of a different state.

29.1 In the event any parts of this Agreement are found to be void, the remaining provisions of the Agreement shall nevertheless be binding with the same effect as though the void parts were deleted.

30.0 Employee hereby affirms and acknowledges that Employee has read the foregoing Agreement and that Employee has been advised to consult with their personal attorney and accountant prior to signing this Agreement. Employee further affirms that Employee understands the meaning of the terms of this Agreement and their effect and that Employee agrees that the provisions set forth in this

Agreement are written in language that Employee understands. Employee represents that he enters into this Agreement freely and voluntarily.

30.1 Employee acknowledges that Employee has been accorded a sufficient amount of time totaling at least forty-five (45) days to consider the terms of this Agreement, to discuss all aspects of this Agreement with Employee's personal attorney and accountant if Employee chose to do that (at Employee's expense), and to decide whether to accept this Agreement.

31.0 This Agreement, the Plan and the exhibits attached hereto contain the entire agreement of the parties with respect to the subject matter of this Agreement, and supersede all other representations. This Agreement may only be amended by a written document duly executed by all authorized parties.

31.1 If any provision of this Agreement is held unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.

Signatures:

**OAKLAND UNIVERSITY**

By: ______________________________ Title: ____________________

DATE: _______________

**EMPLOYEE**

By: ______________________________
Print Name

______________________________ ____________________
Signature Date

**WITNESSED**

By: ______________________________
Print Name

______________________________ ____________________
Signature Date

## Exhibit D

### Oakland University
### Notice of Enrollment Form for the

2011 Employee Severance Plan (ESP™)

To elect the ESP™, you must sign and return to Educators Preferred Corporation, postmarked no later than **March 7, 2011** this form along with the following forms:

1. Indication of Interest (Exhibit B)
2. Release and Waiver of Claims Agreement (Exhibit C)
3. Post Employment 403(b) Notification Form (Exhibit F)
4. Designation of Beneficiary Form

You may return the above forms in the enclosed envelope.

EPC - Educators Preferred Corporation
26877 Northwestern Hwy., Suite 305
Southfield, MI 48033-8417

Name: ____________________________________

Address: __________________________________

City: _____________________________________

State: ________________ Zip Code: ____________

Home Phone: ______________________________

Work Phone: ______________________________

Home Email Address (optional): ___________________

**EPC- Educators Preferred Corporation**

**1-800-747-1504**

**<u>Please Note</u>:** ***A list of employees indicating who is <u>eligible</u> and who is <u>not eligible</u> for the* ESP™ *by age and by group will be provided..***

**<u>Exhibit E</u>**
**Oakland University**

2011 Employee Severance Plan (ESP™)
**Tabulation of Eligible and Non Eligible Staff**

**The table on the reverse side will list the job titles and ages of those eligible and not eligible for the ESP as defined in Article 1 of the Plan Document - Exhibit A.**

## Exhibit F

## Post Employment 403(b) Contract Notification Form

**Oakland University**

2011 Employee Severance Plan (ESP™)

The University shall pay to the Employee the total ESP™ benefit over five (5) years, divided into sixty (60) equal monthly payments. This payment shall be made to a tax sheltered annuity contract ESP™ or custodial account that is designed to meet the tax-qualification requirements of Internal Revenue Code ("IRC") Section 403(b) (a "TSA") (a "Post Employment 403(b) account"). A Participant shall designate the Post Employment 403(b) account provider that is to receive the contribution; provided, however, that any such provider must be on the University's approved list of providers that is in effect at that time of the employee's resignation from employment or retirement; and the University shall continue to have authority to approve or disapprove any of the providers. The participant can access the funds each month, within the parameters of the terms of his/her selected providers account agreement and applicable law. ESP™ benefits begin to be deposited into a 403(b) Contract on a date between October 15 and October 30 following the employee's Exit Date and will be paid on or about the 15th of each month thereafter until all payments are completed. There is NO option for participants to elect cash rather than Post Employment 403(b) deposits. The deposits into the Eligible Employee's Post Employment 403(b) account are considered **employer discretionary contributions** only, and not employee contributions, transfers or rollovers. Please refer tax questions to your personal advisor.

I, ________________________________, have reviewed the 2011 Employee
(signature)

Severance Plan exhibits. My Exit Date is ___________.

I understand that Oakland University will be making contributions to a Post Employment 403(b) Contract on my behalf.

__________________________________________ ______________________

Name (Please Print) Date of signature above | Social Security Number

Last 4 numbers

__________________________________________ ______________________

(Street Address) | (City, State, and Zip Code)

PLEASE COMPLETE THE FOLLOWING INFORMATION

**PLEASE VERIFY, WITH YOUR POST EMPLOYMENT 403(B) CONTRACT PROVIDER, ALL INFORMATION NEEDED FOR DEPOSITS INTO YOUR POST EMPLOYMENT 403(B) CONTRACT.**

**This information requested below is needed to coordinate the delivery of your monthly benefit payment to your 403(b) account.**

My Post Employment 403(b) Contract provider is:______________________________

My Post Employment 403(b) Contract Number:________________________________

Address of Provider (not your local agent): ___________________________________

Phone Number of Provider (with area code):___________________________________