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ENDOWMENT

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July 26, 1999

Top Hat Plan Exemption
Pension and Welfare
Benefits Administration
Room N-5638
U. S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dear Sir or Madam:

This is a statement filed pursuant to Section 2520.104-23 of the Department of Labor Regulations advising the Secretary of Labor that the Employer, The Kansas University Endowment Association, P. O. Box 928, Lawrence, KS 66044-0928 (employer identification number 48-0547734) maintains the Nonqualified Retirement Plan for Employees of The Kansas University Endowment Association primarily for the purpose of providing deferred compensation for a select group of management and highly compensated employees. The Nonqualified Retirement Plan for Employees of The Kansas University Endowment Association currently covers one employee.

Please file stamp the enclosed copy of this letter and return it to the undersigned in the stamped return self-addressed envelope which is also enclosed.

Please direct all communications regarding these Plans to the undersigned.

The Kansas University Endowment Association

By Clark Cropp
Clark Cropp
Sr. Vice President for Administration

Copy: Ms. Alisa Ford

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RESOLUTION OF BOARD OF TRUSTEES

At a meeting of the Executive Committee of the Board of Trustees of The Kansas University Endowment Association (hereinafter referred to as the "Employer"), held on the 18th day of June, 1999, the following resolution was unanimously adopted:

WHEREAS, the Employer desires to adopt a Nonqualified Retirement Plan for certain employees who, due to the application of Internal Revenue Code Sections 415 and 401(a)(17), are precluded from receiving from the assets of the Retirement Plan for Employees of The Kansas University Endowment Association all the payments to which they would otherwise be entitled; and

WHEREAS, such Nonqualified Retirement Plan shall be effective April 1, 1999;

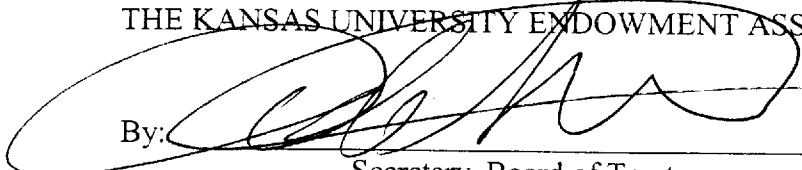
NOW, THEREFORE, BE IT RESOLVED, that the Plan titled the Nonqualified Retirement Plan for Employees of The Kansas University Endowment Association, a copy of which has been presented to the Board participants at this meeting, is hereby approved and adopted, effective April 1, 1999; and

IT IS FURTHER RESOLVED, that the officers of the Employer are authorized to take such action as necessary and proper to carry out the purpose of said Plan and to make such amendments and changes, if any, as may be necessary from time to time.

I, Dale Seuferling, Secretary, hereby certify that the foregoing is a true and exact copy of the resolution adopted by the Executive Committee of the Board of Trustees of the Employer at a meeting held on the 18th day of June, 1999, and entered upon the regular minute book of said corporation and is now in full force and effect. I further certify that the Executive Committee of the Board of Trustees of the Employer at the time of adoption of said resolution had full powers and lawful authority to adopt said resolution.

(SEAL)

THE KANSAS UNIVERSITY ENDOWMENT ASSOCIATION

By: 
Secretary, Board of Trustees

062199

**NONQUALIFIED RETIREMENT PLAN
FOR EMPLOYEES OF
THE KANSAS UNIVERSITY ENDOWMENT ASSOCIATION**

(Effective as of April 1, 1999)

**NONQUALIFIED RETIREMENT PLAN
FOR EMPLOYEES OF
THE KANSAS UNIVERSITY ENDOWMENT ASSOCIATION**

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PURPOSE

The purpose of this Nonqualified Retirement Plan is to provide payments of equivalent value from the general assets of The Kansas University Endowment Association to those participants in the Retirement Plan for Employees of The Kansas University Endowment Association who, due to the application of Internal Revenue Code Sections 415 and 401(a)(17), are precluded from receiving from the assets of the Retirement Plan for Employees of The Kansas University Endowment Association all the payments to which they would otherwise be entitled. The Nonqualified Plan expresses the commitment of The Kansas University Endowment Association to provide such equivalent payments and sets forth the method for doing so. This Nonqualified Plan is intended to provide benefits on an unfunded basis to certain select management and highly compensated employees.

ARTICLE I

DEFINITIONS

- 1.01 **Accrued Benefit** means the benefit which is calculated under Section 3.04 of the Retirement Plan.
- 1.02 **Actuarial Value** means the lump sum benefit of equal value computed based on the rate of interest on 30-year Treasury securities for the second calendar month prior to the month in which a benefit is distributed and based on a fixed blend of 50% of the male mortality rates and 50% of the female mortality rates from the 1983 Group Annuity Mortality Table.
- 1.03 **Beneficiary** means the person or persons or the estate of a Participant entitled to receive any benefits under this Plan.
- 1.04 **Board** means the Board of Trustees of The Kansas University Endowment Association.
- 1.05 **Code** means the Internal Revenue Code of 1986, as amended from time to time.
- 1.06 **Committee** means the Executive Committee of the Board of Trustees of The Kansas University Endowment Association.
- 1.07 **Effective Date** means April 1, 1999.
- 1.08 **Employee** means an individual employed by the Employer.
- 1.09 **Employer** means The Kansas University Endowment Association.
- 1.10 **Normal Retirement Date** means the first day of the month coinciding with or next following the date on which a Participant attains age 65, or, if later, the age of the Participant on the fifth anniversary of the date he commenced participation in the Retirement Plan.
- 1.11 **Participant** means an Employee who is eligible to participate in the Retirement Plan and who meets the conditions set forth in Article II of the Plan.
- 1.12 **Plan** or **Nonqualified Plan** means the Nonqualified Retirement Plan for Employees of The Kansas University Endowment Association, described in this instrument and as amended from time to time.
- 1.13 **Plan Administrator** means the Executive Committee of the Board of Trustees of The Kansas University Endowment Association, or such person or persons designated by the Committee from time to time.

- 1.14 **Plan Year** means the twelve-month period beginning each April 1 and ending the following March 31.
- 1.15 **Retirement Plan** means the Retirement Plan for Employees of The Kansas University Endowment Association.
- 1.16 **Termination of Service** or similar expression means the termination of the Participant's employment as a regular Employee of the Employer.
- 1.17 **Gender and Number** Wherever the context so requires, masculine pronouns include the feminine and singular words shall include the plural.
- 1.18 **Titles** Titles of the Articles of this Plan are included for ease of reference only and are not to be used for the purpose of construing any portion or provision of this Plan document.

ARTICLE II

ELIGIBILITY AND PARTICIPATION

2.01 Eligibility to Participate

An Employee who has become a Participant in the Retirement Plan shall become eligible to participate in this Plan, provided payment of the Participant's Accrued Benefit is limited as described in Section 2.02 below.

2.02 Participation

An Employee shall become a Participant in the Plan when such Employee is precluded from receiving from the assets of the Retirement Plan all the payments to which he would otherwise be entitled if not for the application of Section 415 or 401(a)(17) of the Code.

ARTICLE III

AMOUNT OF BENEFITS

3.01 Normal Retirement Benefit

With respect to any Participant, the benefits payable on his Normal Retirement Date under this Section shall be an amount which when added to the Accrued Benefit that can be paid to the Participant from the Retirement Plan, produces a sum equal to the total Accrued Benefit to which the Participant would have been entitled under the Retirement Plan formula applicable to the Participant disregarding any limitation or reduction brought about by Section 401(a)(17) or Section 415 of the Code.

3.02 Vesting

A Participant shall be fully vested in his benefit under the Plan on his Normal Retirement Date.

ARTICLE IV

TIME AND FORM OF PAYMENT

4.01 Payment of Benefits

The payment of benefits under this Plan shall commence as of the Participant's Normal Retirement Date.

4.02 Forms of Payment

The form of benefit paid under this Plan shall be in the same form as the benefits paid under the Retirement Plan; except that the Board may, in its sole and absolute discretion, pay the Participant, in a single lump sum, an amount equal to the Actuarial Value of the benefit payments and may, in its sole discretion, postpone payment of such lump sum for not more than one (1) year after the Participant's Normal Retirement Date, provided that payment shall include interest from the Participant's Normal Retirement Date, as determined by the Board. Actuarial equivalency under this Plan shall be determined using the factors used for comparable determinations under the Retirement Plan.

4.03 Method of Payment

All payments hereunder shall be made in cash.

ARTICLE V

DEATH BENEFITS

5.01 **Effect of Death**

Except as provided in Section 5.02 below, no death benefit will result from the death of a Participant.

5.02 **Post-Retirement Death Benefit**

When a retired Participant who is receiving benefits hereunder shall die, his Beneficiary shall not be entitled to any benefits due except as provided under the form of payment under Section 4.02 of this Plan.

ARTICLE VI

GENERAL PROVISIONS

6.01 **Administration**

This Plan shall be administered by the Committee. Subject to the Plan, the Committee shall, from time to time, establish rules, forms and procedures for the administration of the Plan. Except as herein otherwise expressly provided, the Committee shall have the exclusive right to interpret the Plan and to decide any and all matters arising thereunder or in connection with the administration of the Plan, and it shall endeavor to act, whether by general rules or by particular decisions, so as not to discriminate in favor of or against any person. The decisions, actions and records of the Committee shall be conclusive and binding upon the Employer and all persons having or claiming to have any right or interest in or under the Plan, and cannot be overruled by a court of law unless arbitrary or capricious.

6.02 **Minor or Incompetent Beneficiary**

In making any payments to or for the benefit of any minor or an incompetent Participant or Beneficiary under the Plan, the Employer, in its sole and absolute discretion, may (a) make a distribution to a legal or natural guardian or other relative of a minor or court appointed committee of such incompetent; or (b) make a payment to any adult with whom the minor or incompetent temporarily or permanently resides. The receipt by a guardian, committee, relative or other person shall be a complete discharge to the Employer. Neither the Plan Administrator nor the Employer shall have any responsibility to see to the proper application of any payments so made.

6.03 **Certificates and Reports**

The members of the Committee, the Plan Administrator and the officers and directors of the Employer shall be entitled to rely on all certificates, opinions, and reports made by any duly appointed accountants and consultants, and on all opinions given by any duly appointed legal counsel, which legal counsel may be counsel for the Employer.

6.04 **Indemnification and Exculpation**

The Employer shall indemnify and hold harmless each member of the Committee, the Plan Administrator and any person acting on behalf of or pursuant to appointment by the Plan Administrator (hereinafter referred to as "designee") in connection with the administration of the Plan against any and all expenses and liabilities arising out of his membership on the Committee or administration of the Plan or any action or failure to act by the Committee, Plan Administrator, any member of the Committee or any designee, except if such action or failure to act constitutes gross negligence or willful misconduct.

Expenses against which a member of the Committee, the Plan Administrator or any designee shall be indemnified hereunder shall include, without limitation, the amount of any settlement or judgment, costs, counsel fees, and related charges reasonably incurred in connection with a claim asserted, or a proceeding brought or settlement thereof. The foregoing rights of indemnification shall be in addition to any other rights to which the any such member of the Committee, Plan Administrator or designee may be entitled as a matter of law.

6.05 **Expenses**

The expenses of administering the Plan shall be borne by the Employer.

ARTICLE VII

CLAIMS PROCEDURE

7.01 Written Claim

Benefits shall be paid in accordance with the provisions of this Plan. The Participant, or a designated Beneficiary or any other person claiming through the Participant, shall make a written request for benefits under this Plan. This written claim shall be mailed or delivered to the Plan Administrator. Such claim shall be reviewed by the Plan Administrator or his delegate.

7.02 Denied Claim

If the claim is denied, in full or in part, the Plan Administrator shall provide a written notice within ninety (90) days setting forth the specific reasons for denial and any additional material or information necessary to perfect the claim and an explanation of why such material or information is necessary and appropriate information and explanation of the steps to be taken if a review of the denial is desired.

7.03 Review Procedure

If the claim is denied and a review is desired, the Participant (or Beneficiary) shall notify the Plan Administrator, in writing, within sixty (60) days after receipt of the written notice of denial. In requesting a review, the Participant or his Beneficiary may request a review of the Plan document or other pertinent documents with regard to the employee benefit plan created under this agreement, may submit any written issues and comments, may request an extension of time for such written submission of issues and comments and may request that a hearing be held, but the decision to hold a hearing shall be within the sole discretion of the Committee.

7.04 Committee Review

The decision on the review of the denied claim shall be rendered by the Committee within sixty (60) days after the receipt of the request for review (if no hearing is held) or within sixty (60) days after the hearing if one is held. The decision shall be written and shall state the specific reasons for the decision including reference to the specific provisions of this Plan on which the decision is based.

ARTICLE VIII

NATURE OF EMPLOYER'S OBLIGATION

8.01 Employer's Obligation

The Employer's payment obligations in connection with the benefits under this Plan shall be an unfunded and unsecured promise to pay the benefit due in accordance with the Plan. The Employer shall not be obligated under any circumstances to fund its financial obligations under this Plan; provided, however, that the Employer may establish a trust and contribute assets to the trust for the purpose of satisfying its obligations under the Plan. The Employer's obligations hereunder shall be discharged and satisfied to the extent proper payments are made from such trust to a Participant or Beneficiary.

8.02 Creditor Status

Any assets which the Employer may acquire or set aside to help cover its financial liabilities are and shall remain general assets of the Employer subject to the claims of its general, unsecured creditors. Neither the Employer nor this Plan gives the Participant or any other person any beneficial or equitable ownership interest in any asset of the Employer. All rights of ownership in any such assets are, and remain, in the Employer.

ARTICLE IX

MISCELLANEOUS

9.01 Written Notice

Any notice which shall or may be given under this Plan shall be in writing and shall be mailed by United States mail, postage prepaid. If notice is to be given to the Employer, such notice shall be addressed to the Employer at: The Kansas University Endowment Association, P.O. Box 928, Lawrence, KS 66044-0928

9.02 Change of Address

Any Participant may, from time to time, change the address to which notices shall be mailed by giving written notice of such new address.

9.03 Merger, Consolidation or Acquisition

The Plan shall be binding upon the Employer, its assignees, and any successor employer which shall succeed to substantially all of its assets and business through merger, acquisition or consolidation, and upon a Participant, his Beneficiary, assigns, heirs, executors and administrators.

9.04 Amendment and Termination

The Employer retains the sole and unilateral right to terminate, amend, modify or supplement this Plan, in whole or in part, at any time. This right includes the right to make retroactive amendments and the right to discontinue contributions. However, in no event shall the Employer have the right to amend the Plan in a manner which adversely affects any rights of any Participant or, if deceased, such Participant's Beneficiary, including, but not limited to, the right to payment of benefits pursuant to Article III or Article V hereof.

9.05 Employment

This Plan does not provide a contract of employment between the Employer and the Participant, and, except as provided in any other contractual arrangement, if any, between a Participant and the Employer, the Employer reserves the right to terminate the Participant's employment, for any reason, at any time, notwithstanding the existence of this Plan.

9.06 Non-Transferability

Except insofar as prohibited by applicable law, no sale, transfer, alienation, assignment, pledge, collateralization or attachment of any benefits under this Plan shall be valid or

recognized by the Employer. Neither the Participant or his Beneficiary, shall have any power to hypothecate, mortgage, commute, modify or otherwise encumber in advance of any of the benefits payable hereunder, nor shall any of said benefits be subject to seizure for the payment of any debts, judgments, alimony maintenance, owed by the Participant or his Beneficiary, or be transferable by operation of law in the event of bankruptcy, insolvency or otherwise.

9.07 **Legal Fees**

All reasonable legal fees incurred by any Participant (or former Participant) to successfully enforce his valid rights under this Plan shall be paid by the Employer in addition to sums due under this Plan.

9.08 **Tax Withholding**

The Employer may withhold from a payment any federal, state or local taxes required by law to be withheld with respect to such payment and such sum as the Employer may reasonably estimate as necessary to cover any taxes for which the Employer may be liable and which may be assessed with regard to such payment.

9.09 **Acceleration of Payment**

The Employer reserves the right to accelerate the payment of any benefits payable under this Plan at any time without the consent of the Participant, his estate, his Beneficiary or any other person claiming through the Participant.

9.10 **Applicable Law**

This Plan shall be governed by the laws of the state of Kansas.

IN WITNESS WHEREOF, the Executive Committee of the Board of Trustees of The Kansas University Endowment Association has caused this Plan to be signed and adopted, effective as of April 1, 1999.

**The Executive Committee of the Board of Trustees
The Kansas University Endowment Association**

By


Dolph C. Simons, Jr. Chairman

Attest:


Dale Seufferling, Secretary

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