

RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII (RCUH)
TRANSPORTATION FRINGE BENEFIT PLAN
PLAN DOCUMENT

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TRANSPORTATION FRINGE BENEFIT PLAN

INTRODUCTION

The purpose of this Plan is to provide tax-free transportation benefits in lieu of otherwise taxable compensation. It is intended that this Plan comply with the requirements of Internal Revenue Code ("Code") Section §132(f).

The terms used in this Plan shall have the meanings set forth in this Article unless the context in which they are used clearly indicates that some other meaning is intended.

ARTICLE I DEFINITIONS

- 1.1 **"ADMINISTRATOR"** means the individual(s) or corporation appointed by the Employer to carry out the administration of the Plan. The Employer may appoint and remove the Administrator from time to time as it deems necessary for the proper administration of the Plan. In the event the Administrator has not been appointed, or resigns from a prior appointment, the Employer shall be deemed to be the Administrator.
- 1.2 **"Affiliated Employer"** means any corporation which is a member of a controlled group of corporations (as defined in Code Section 414(b)) which includes the Employer; any trade or business (whether or not incorporated) which is under common control (as defined in Code Section 414(c)) with the Employer; any organization (whether or not incorporated) which is a member of an affiliated service group (as defined in Code Section 414(m)) which includes the Employer; and any other entity required to be aggregated with the Employer pursuant to Treasury regulations under Code Section 414(o).
- 1.3 **"Anniversary Date"** means the first day of any Plan Year.
- 1.4 **"Commuter Highway Vehicle"** means any highway vehicle:
- (a) Which has a seating capacity of at least six adults (not including the driver); and
 - (b) Of which at least 80% of the mileage use is reasonably expected to be used:
 - (1) For purposes of transporting Employees in connection with travel between their residences and their places of Employment; and
 - (2) On trips during which places the number of Employees transported for such purposes is on average, at least half of the adult seating capacity of such vehicle (not including the driver).
- 1.5 **"Commuter Highway Vehicle (Van Pool) Expenses"** means expenses incurred for transportation in a Commuter Highway Vehicle if such transportation is in connection with travel between the Employee's residence and place of Employment.
- 1.6 **"Code"** means the Internal Revenue Code of 1986, as amended from time to time.

- 1.7 **“Compensation”** means the cash wage or salary paid to an Employee by the Employer.
- 1.8 **“Coverage Period”** means the time period, designated on the Salary Reduction Agreement, during which a Salary Reduction Agreement is in effect and irrevocable. Your coverage period for this plan is monthly.
- 1.9 **“Effective Date”** means July 1, 2000. The effective date of this amendment and restatement is July 1, 2015.
- 1.10 **“Eligible Employee”** means all Employees who meet the eligibility requirements set forth in Article II and as provided herein. An individual shall not be an “Eligible Employee” if such individual is not reported on the payroll records of the Employer as a common law employee. In particular, it is expressly intended that individuals not treated as common law employees by the Employer on its payroll records are not “Eligible Employees” and are excluded from Plan participation even if a court or administrative agency determines that such individuals are common law employees and not independent contractors. Furthermore, Employees of an Affiliated Employer will not be treated as “Eligible Employees” prior to the date the Affiliated Employer adopts the Plan as a participating employer.
- 1.11 **“Eligible Transportation Expenses”** means those qualified expenses incurred by the Employee to purchase or pay for Transit Pass Expenses, Commuter Vehicle Expenses, or Qualified Parking Expenses incurred for purposes of transportation between an Employee’s residence and place of Employment.
- 1.12 **“Employee”** means an individual that the Employer classifies as a common-law employee, but does not include (a) any leased employee (including, but not limited to, those individuals defined in Code Section 414(n)(2)), (b) any individual classified by the Employer as a contract worker, independent contractor, temporary employee or casual employee, whether or not any such persons are on the Employer’s payroll records or are later classified as common-law employees by a government agency or pursuant to a court action or other legal proceeding (including any settlement or judgment related thereto), (c) any employee covered under a collective bargaining agreement that does not provide participation in the Plan, or (e) part-time employees who are scheduled to work less than 20 hours per week.
- 1.13 **“Employer”** means Research Corporation of the University of Hawaii (RCUH) and any successor which shall maintain this Plan and any predecessor which has maintained this Plan. In addition, where appropriate, unless the context means otherwise, the term “Employer” shall include any participating employer, Affiliated, or adopting employer which shall adopt this Plan pursuant to Section 6.3.
- 1.14 **“Employment”** means the performance of services by an Employee for the Employer.
- 1.15 **“Plan”** means the Research Corporation of the University of Hawaii (RCUH) Transportation Fringe Benefit Plan as set forth in its entirety in this document including all amendments thereto.
- 1.16 **“Plan Year”** means the 12-month period beginning July 1st and ending on June 30th. However, if a participant commences participation during a Plan Year, then the initial coverage period shall be that portion of the Plan Year commencing on such participant's date of entry and ending on the

last day of such Plan Year. A period of less than 12 months may be a Plan Year for the initial and final Plan year, and/or a transition period to a different Plan Year.

1.17 “Qualified Parking Expenses” means the following parking expenses, unless such expenses are incurred for any parking on or near property used by the Employee for residential purposes:

- (a) Expenses incurred by an Employee to park his or her car on or near the business premises of the Employer; or
- (b) Expenses incurred by an Employee to park his or her car on or near a location from which the Employee commutes to work:
 - (1) By mass transit facilities, whether or not publicly owned;
 - (2) By using the services of any person in the business of transporting persons for compensation or hire, if such transportation is provided in a Commuter Highway Vehicle, as defined in this Plan;
 - (3) By Commuter Highway Vehicle; or
 - (4) By carpool (i.e., two or more individuals who commute together in a motor vehicle on a regular basis).

1.18 “Salary Reduction Agreement” means the actual or deemed agreement pursuant to which an Eligible Employee enrolls in the Plan in accordance with Article III.

1.19 “Transit Pass Expenses” means expenses incurred for any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is:

- (a) Provided by mass transit facilities, whether or not publicly owned; or
- (b) Provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle with a seating capacity of at least six adults (excluding the driver).

ARTICLE II ELIGIBILITY

2.1 ELIGIBILITY

Employees who are scheduled to work at least 20 hours per week shall be eligible to participate in the Plan following their Date of Hire. The following Employees are excluded: Union Employees; Non-resident aliens; Leased Employees.

An Eligible Employee shall become a participant effective as of the first day of the monthly Coverage Period coinciding with or next following the date on which he met the eligibility requirements. However, Employees who have completed eligibility requirements as of the Effective Date of the Plan will enter the Plan on such date.

2.2 REHIRE

If an Employee terminates his or her Employment for any reason including (but not limited to) disability, retirement, layoff, discharge, or voluntary resignation, and then is rehired, the Employee must complete any applicable waiting period (if any) established by the Employer before again becoming eligible to participate in the Plan.

ARTICLE III BENEFITS AND ELECTIONS

3.1 ELECTION OF BENEFITS

Eligible Employees may enter into a Salary Reduction Agreement with the Employer whereby the Employee agrees to reduce his or her unearned Compensation by the amount of his or her anticipated future Eligible Transportation Expenses for the upcoming Coverage Period. The amount elected for reduction will be divided by the remaining payroll periods in the Coverage Period. The resulting per payroll period reduction amount will be deducted on a pre-tax basis from the Employee's Compensation per payroll period until such time as the Employee changes his or her election. Election changes may be made in accordance with Section 3.3.

3.2 ACCOUNT

The Employer will create and maintain a bookkeeping account on behalf of each Employee who enters into a Salary Reduction Agreement, which account will reflect the accumulated amount of Compensation that has been deducted on a pre-tax basis from the Employee's Compensation. When cash reimbursement is made to the Employee for his or her Eligible Transportation Expenses, the balance shall not exceed the accumulated amount in said account at the time of reimbursement. The amount of any reimbursement shall not exceed the accumulated amount in said account at the time of the reimbursement, nor any of the following monthly limitations:

- (a) **Monthly Limitation for Qualified Parking Expenses:** Reimbursements for Qualified Parking Expenses will not exceed the monthly value as set forth in Code Section §132(f), as adjusted for inflation, or other applicable guidance.
- (b) **Monthly Limitation for Transit Pass Expenses and Commuter Highway Vehicle Expenses:** Reimbursements for combined expenses for Transit Pass Expenses and Commuter Highway Vehicle Expenses will not exceed the monthly value as set forth in Code Section §132(f), as adjusted for inflation, or other applicable guidance.
- (c) **Special Rules for Transit Passes:** A cash reimbursement may not be provided for an employee's mass transit expenses if a voucher (or similar item that may be exchanged only for a transit pass) is readily available to the Employer for direct distribution to Employees. A voucher (or similar item) is readily available if (1) the Employer can obtain the voucher on terms that are no less favorable than the terms available to an Employee directly, and (2) the Employer does not incur a significant administrative cost in obtaining the voucher. An administrative cost will be determined to be significant if the Plan Administrator (in its sole

discretion) determines that the average administrative cost incurred by the Employer (excluding delivery charges of \$15 or less) is more than one percent (1.0%) of the average monthly value of the vouchers for a particular transit system (i.e., train, bus, subway, etc.).

(d) Employees will have 90 days to turn in receipts following the end of the Plan Year.

3.3 TIME PERIOD FOR MAKING, MODIFYING, OR REVOKING A SALARY REDUCTION AGREEMENT

A Salary Reduction Agreement must be made before the earlier of (1) the Coverage Period to which it relates; and (2) the receipt of Eligible Transportation Expense benefits to which it relates. Such election shall be effective for the first pay period after the Employer processes the change. Salary Reduction Agreements may only be changed for future Coverage Periods during monthly election periods and such changes must be submitted to the Plan Administrator at least 15 days prior to the next monthly election period.

3.4 RETURN OF UNUSED AMOUNT IN ACCOUNT

Any amount in the Employee's account that has not been used to reimburse the Employee for Eligible Transportation Expenses incurred prior to the end of the monthly Coverage Period to which the Employee's Salary Reduction Agreement applies will be carried over into future Coverage Periods. However, any amount in the Employee's account that has not been used to reimburse the Employee for Eligible Transportation Expenses at the end of the Plan Year will be forfeited.

3.5 TERMINATION OF EMPLOYMENT

The Employee's Salary Reduction Agreement shall terminate upon termination of Employment. The Employee shall have a 90 day run out period after the end of the Plan Year to submit receipts for expenses incurred prior to the Employee's termination. Any amounts remaining in the Employee's account after the run out period shall be forfeited.

3.6 SUBSTANTIATION

The Employee may request reimbursement for Eligible Transportation Expenses by submitting, in the manner and form approved by the Employer, a record of the expenses incurred. The Employee shall provide information showing that any Eligible Transportation Expense was in fact incurred by the Employee. The Employee generally must certify in writing the amount paid and the date of the expenses for which reimbursement is requested, as well as submit evidence of such payment (parking receipt, used transit pass, etc.). The information submitted by the Employee may vary depending on the facts and circumstances surrounding the expenses, including the method of payment and the particular transportation method used by the Employee.

3.7 REIMBURSEMENT OF EXPENSES

The Employer will provide reimbursement of substantiated Eligible Transportation Expenses on an administratively convenient periodic basis and will debit the Employee's account accordingly.

**ARTICLE IV
ADMINISTRATION**

4.1 PLAN ADMINISTRATOR

The Plan Administrator of the Plan shall be the Human Resource Department, who shall act in the administrative capacity through the Executive Administrator.

4.2 POWERS AND DUTIES OF THE PLAN ADMINISTRATOR

The Plan Administrator shall have exclusive responsibility for, and all powers necessary or desirable to carry out, the administration of the Plan, and without limitation on the foregoing, shall have complete discretionary power and authority to:

- (a) Adopt any rules and regulations it deems desirable for the conduct of its affairs and the administration of the Plan;
- (b) Take any action it deems necessary or appropriate to comply with any requirements of applicable law.
- (c) Construe and interpret the Plan and make determinations (including factual determinations) under the provisions of the Plan with respect to all rights, benefits, duties, and entitlements, including, but not limited to, eligibility for benefits, amounts of benefits payable, and all other matters pertaining to the operation and administration of the Plan, all of which determinations are to be made in the Plan Administrator's sole discretion;
- (d) Appoint or employ persons to assist in the administration of the Plan; and
- (e) Make any equitable adjustments to correct any error or omission discovered in the administration of the Plan.

**ARTICLE V
AMENDMENT AND TERMINATION**

The Employer may at any time (a) amend the Plan contained in this document in any manner it deems advisable; (b) terminate or limit the Plan contained in this document; or (c) terminate or limit the participation in the Plan by any Employee, effective as of the date specified in the instrument of amendment or termination, without the consent of any Eligible Employee or participant. Such amendments may be retroactive to the extent deemed appropriate by the Employer and may be made in contemplation of, or with specific reference to, a particular transaction, job elimination, reduction in force, or similar event. The Employer shall be authorized to adopt all amendments to the Plan. Amendments shall be adopted in writing and signed by the Employer and shall be effective without further action.

**ARTICLE VI
MISCELLANEOUS**

6.1 RIGHT TO ASSETS

Neither the establishment of the Plan nor the payment of benefits under the Plan shall be construed as giving any legal or equitable right to any Eligible Employee, former Eligible Employee or participating Employee against the Employer, their officers or employees and all reimbursement requests under the Plan shall be satisfied, out of the general assets of the Employer.

6.2 NO INDUCEMENT, CONTRACT OR GUARANTEE OF EMPLOYMENT

The Plan does not constitute inducement or consideration for employment of any Eligible Employee, nor is it a contract between any Employer and Eligible Employee. Participation in the Plan shall not give any Eligible Employee any right to continued employment with his Employer, and the Employer retains the right to hire and discharge any Eligible Employee at any time, with or without cause, as if the Plan had never been adopted.

6.3 ADOPTION BY AFFILIATE

Any Affiliated Employer may, with the consent of the authorized officer of the Employer (or his designee), adopt the Plan by executing a copy of the Plan as a participating employer, in which case its Eligible Employees shall become entitled to the benefits designated herein.

6.4 PAYMENT OF EXPENSES

The Employer and, to the extent deemed appropriate by the Plan Administrator, the participating employers, shall pay all the expenses of administration of the Plan and any other expenses incurred at the direction of the Plan Administrator.

6.5 GOVERNING LAW

The Plan shall be governed, construed, administered and regulated in all respects under the laws of Hawaii (without regard to its choice of law provisions), except to the extent preempted by federal law.

6.6 CONSTRUCTION

The Plan's headings and subheadings have been inserted for convenience of reference only and must be ignored in any construction of the provisions. If a provision of this Plan is illegal or invalid, that illegality or invalidity does not affect other provisions. Any term with an initial capital not expected by capitalization rules is a defined term according to Article I.

6.7 TAXABILITY OF BENEFITS

The Employer makes no guarantee as to the excludability of benefits under this Plan from federal, state, or local taxes, and it shall be the Employee's sole responsibility to pay any taxes due as a result of the payment of benefits hereunder.

ADOPTION OF PLAN

As evidence of the adoption of the Research Corporation of the University of Hawaii (RCUH) Transportation Fringe Benefit Plan, effective _____ day of _____ of 20____, by Research Corporation of the University of Hawaii (RCUH), this document is signed by its duly authorized officer.

By: _____

Title: _____

**SUMMARY PLAN DESCRIPTION
MATERIAL MODIFICATIONS**

**RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII (RCUH)
TRANSPORTATION FRINGE BENEFIT PLAN**

**I
INTRODUCTION**

Research Corporation of the University of Hawaii (RCUH) has amended your Transportation Fringe Benefit Plan as of July 1, 2015.

This is merely a summary of the most important changes to the Plan. It is presented to you as an addition to the Employee Communication. If you have any questions, contact the Administrator. A copy of the Plan, including this amendment, is available for your inspection. If there is any discrepancy between the terms of the Plan or the amendment itself and this summary of material modifications, the provisions of the Plan, as amended, will control.

**II
SUMMARY OF CHANGES**

1. Election Period

You may change your election at the beginning of every month; however you can revoke your election at any time. There will be an entry date effective July 1, 2015 for the new Plan.

If you decide to revoke your election and then decide to re-elect this benefit at a later date, you will have to wait until the beginning of the next entry date to re-elect.

2. Claims for Employees

Once you have had deductions taken out of your pay and you have incurred Qualified Transit and Parking expenses, you need to submit your claim within 90 days following the end of the Plan Year along with your receipt/statement from the provider.

3. Claims for Terminated Employees

If you terminate employment at any time during the Plan Year, you will have 90 days following the end of the Plan Year to submit receipts for expenses incurred prior to your termination date.

4. Carryover

You can carry forward any unused deductions from month-to-month. However, any money remaining in your account at the end of the Plan Year or if you terminate employment before incurring qualified expenses the money will be forfeited.