

**July 1, 2007 – June 30, 2010**

**NJIT/FOP  
AGREEMENT**

Agreement Between:

NEW JERSEY INSTITUTE OF TECHNOLOGY  
and  
FRATERNAL ORDER OF POLICE (FOP)

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# **NJIT/FOP AGREEMENT**

This Agreement is entered into by New Jersey Institute of Technology, (hereinafter referred to as “NJIT” or “University”), and the Fraternal Order of Police, Lodge #93, (hereinafter referred to as “FOP”).

## **ARTICLE I**

### **RECOGNITION**

NJIT recognizes FOP as the sole and exclusive negotiating agent for the purpose of negotiating terms and conditions of employment for: All full-time employees employed as Commissioned Police Officers, (hereinafter referred to as “Officers”) but specifically excluding all Commissioned Police Sergeants, Commissioned Officers above the rank of Police Sergeant, and all other supervisors as defined in the New Jersey Employer-Employee Relations Act.

## **ARTICLE II**

### **NEGOTIATING PROCEDURE**

1. FOP shall present its demands for a successor Agreement to NJIT, in writing, related to terms and conditions of employment, on or before October 1, prior to the expiration of the existing Agreement. On or before November 1, NJIT shall meet with FOP for the purpose of negotiating, in good faith, a mutually acceptable Agreement.
2. Should any Article, Section, or portion thereof, of this Agreement be held unlawful and unenforceable by a court of competent jurisdiction, such decision of the court shall only apply to the specific Article, Section or portion thereof, directly specified in the decision. Upon the issuance of such decision, the parties agree immediately to meet and discuss a substitute for the invalidated Article, Section or portion thereof.
3. This Agreement incorporates the entire understanding of the parties on all matters, which were or could have been the subject of negotiations, and shall not be changed except by an amendment mutually agreed upon between the parties in writing.

## **ARTICLE III**

## **MANAGEMENT RIGHTS**

1. NJIT retains and reserves unto itself all rights, powers, duties, authority, and responsibilities conferred upon and vested in it by the laws and Constitutions of the State of New Jersey and the United States of America.
2. All such rights, powers, duties, authority, and responsibilities possessed by NJIT may be exercised without restrictions, subject to the limitations imposed by law and except as they are specifically abridged and modified by this Agreement.
3. NJIT retains its responsibility to promulgate and enforce the rules and regulations, subject to limitations imposed by law, governing the conduct of and activities of those Officers subject to this Agreement and not inconsistent with the expressed provisions of this Agreement, and subject to recognition of the fact that proposed new rules, policies or modifications of existing rules/policies governing negotiable terms and conditions of employment shall be presented to the FOP and negotiated upon the request of the with the FOP as may be required pursuant to the New Jersey Public Employer –Employee Relations Act, as amended. Requests for negotiations shall be made within thirty (30) days after receipt of notice of the proposed new or modified rule(s) and/or polic(ies)y.

## **ARTICLE IV**

### **DUES DEDUCTION**

#### **A. Dues Deduction:**

1. In accordance with Chapter 310 of the Laws of New Jersey for 1967 (N.J.S.A. 52:14-15 (9)(e), as amended), NJIT agrees to deduct from each paycheck, except for one (1) paycheck during each of the two (2) months in which three (3) paydays occur, FOP dues and regular assessments of each member of the negotiating unit who furnishes voluntary written authorization of such deduction on a form acceptable to NJIT.
2. The right of dues deductions for any Officer of the negotiating unit shall be limited to FOP and each Officer of the negotiating unit shall be eligible to withdraw such authorization only as of July 1 of each year, provided that the notice of withdrawal has been filed timely.
3. The amount of FOP dues shall be such amount as shall be certified to NJIT by FOP at least thirty (30) days prior to the date on which deduction of dues are to begin.
4. The deduction of FOP dues made from each paycheck except for one (1) paycheck during each of the two (2) months in which three (3) paydays occur pursuant hereto shall be submitted by NJIT to FOP before the fifteenth (15<sup>th</sup>) day of the calendar

month succeeding that in which such deductions are made, together with a list of names of negotiating unit members from whose pay such deductions are made.

5. FOP agrees to save NJIT harmless from any action or actions commenced by any Officer of the negotiating unit against NJIT, or for any claim arising out of such deduction, and FOP assumes full responsibility for the disposition of any such funds once they have been turned over to them as provided.

6. Errors made by NJIT in the deduction and/or remittance of monies under this Agreement shall not be considered by FOP as a violation of this Agreement.

**B. Representation Fee (Agency Shop):**

1. **Purpose of Fee:**

(a.) Subject to the conditions set forth in 1(b.) below, all eligible nonmember Officers in this unit will be required to pay to the majority representative a representation fee in lieu of dues for services rendered by the majority representative until June 30, 2010. Nothing herein shall be deemed to require any Officer to become a member of the majority representative.

(b.) It is understood that the implementation of the agency fee program is predicated on the demonstration by FOP that more than fifty percent (50%) of the eligible Officers in the negotiating unit are dues paying members of FOP.

If, at the signing of this Agreement, the above percentage has not been achieved, the agency fee plan will be continued through the fiscal year, after which it shall be discontinued unless the minimum has been achieved prior to that occurrence. Thereafter, if the minimum percentage is exceeded on any quarterly date. i.e., October 1, January 1, April 1, or July 1, the agency fee plan shall be reinstated, with proper notice to affected Officers.

In each year of the Agreement on July 1, an assessment shall be made to determine if the minimum percentage has been exceeded. If it has, the agency fee shall continue until the following annual assessment. If it has not, the agency fee will be discontinued and eligibility for reinstatement shall be on a quarterly basis as provided above.

2. **Amount of Fee:**

Prior to the beginning of each contract year, FOP will notify NJIT in writing, the amount of regular membership dues, initiation fees and assessments charged by FOP to its own members for that contract year, and the amount of the representation fee for that

contract year. Any changes in the representation fee structure during the contract year shall be certified to NJIT thirty (30) days in advance of the requested date of such change. The change will be reflected in payroll deductions at the earliest time after receipt of the request.

The representation fee in lieu of dues shall be in an amount equivalent to the regular membership dues, initiation fees and assessments charged by the majority representative to its own members less the cost of benefits financed through the dues, fees and assessments and available to or benefiting only its members, but in no event shall such fees exceed eighty five percent (85%) of the regular membership dues, fees and assessments.

3. **Deduction and Transmission of Fee:**

After verification by NJIT that an Officer must pay the representation fee, NJIT will deduct the fee for all eligible Officers in accordance with this Article.

The mechanics of the deduction of representation fees and the transmission of such fees to FOP will, as nearly as possible, be the same as those used for the deduction and transmission of regular membership dues to FOP.

NJIT shall deduct the representation fee as soon as possible after the tenth (10<sup>th</sup>) day following reentry into this unit for Officers who previously served in a position identified as excluded or confidential, for individuals reemployed in this unit from a reemployment list, for Officers returning from leave without pay, and for previous Officer members who become eligible for the representation fee because of nonmember status.

NJIT shall deduct the representation fee from a new Officer in the first full payroll following thirty (30) days from the date of employment as an Officer.

4. **Demand and Return System:**

The representation fee in lieu of dues only shall be available to FOP if the procedures hereafter are maintained by FOP.

The burden of proof under this system is on FOP.

The pro rata share subject to refund shall not reflect, however, the costs of support of lobbying activities designed to foster policy goals in collective negotiations and contract administration or to secure, for the Officers represented, advantages in wages, hours, and other conditions of employment in addition to those secured through collective negotiations with NJIT.

The Officer shall be entitled to review the amount of the representation fee by

requesting FOP to substantiate the amount charged for the representation fee. This review shall be accorded in conformance with the internal steps and procedures established by FOP.

FOP shall submit a copy of its review system to NJIT. The deduction of the representation fee shall be available only if FOP establishes and maintains this review system.

If the Officer is dissatisfied with FOP's decision, he may appeal to a three (3) member board established by the Governor.

**C. Employer Held Harmless:**

FOP hereby agrees that it will indemnify and hold NJIT harmless from any claims, actions or proceedings brought by any Officer in the negotiations unit which arises from deductions made by NJIT in accordance with this provision. NJIT shall not be liable to FOP for any retroactive or past due representation fee for an Officer who was identified by NJIT as excluded or confidential or in good faith was mistakenly or inadvertently omitted from deduction of the representation fee.

**D. Legal Requirements:**

Provisions in this clause are further conditioned upon all other requirements set by statute.

**ARTICLE V**

**RIGHTS OF FOP**

1. NJIT agrees to recognize those Officers of the negotiating unit not to exceed three (3) who are designated by FOP as representatives for collective negotiations by written notice of the names of such Officer(s) of the negotiating unit given to NJIT. This section shall not preclude either party from inviting others to attend collective negotiations or providing factual knowledge or expertise with respect to a particular subject for collective negotiations. In this event, advance notice shall be given the other party.

2. International Representatives of FOP shall be permitted to transact official business on NJIT's property at all reasonable hours provided they first have obtained authorization from the Department of Human Resources or permission in advance from the Director of Public Safety or his designee, and they do not interfere or interrupt normal NJIT operations or work of any Officer of the bargaining unit, other NJIT Officers or group of Officers.

3. FOP shall have the right to post on mutually agreed bulletin boards, bulletins and notices relevant to official FOP business which affects the Officers of the

negotiating unit.

## ARTICLE VI

### FOP/MANAGEMENT COMMITTEE

1. A committee consisting of NJIT and FOP representatives may meet for the purpose of reviewing the administration of this Agreement and to discuss problems, which may arise.

2. Either party to this Agreement may request a meeting and shall submit a written agenda of topics to be discussed seven (7) days prior to such a meeting. Requests by FOP for such a meeting will be made to the Department of Human Resources.

3. A maximum of two (2) Officer representatives of FOP may attend such meetings. Officer representatives who attend such meetings during their scheduled work shift shall be granted time off to attend without loss of pay.

4. The committee meetings are not intended to bypass the grievance procedure, the normal chain of command, or to be considered collective negotiating meetings, but are intended as a means of fostering good employee relations through an exchange of views between the parties to this Agreement. In this regard, and consistent with Article V 2., Rights of FOP, above, up to a total of two (2) state and/or federal FOP representatives may attend such meetings.

## ARTICLE VII

### INVESTIGATION, DUE PROCESS, DISCIPLINE AND CHALLENGE

As members of NJIT's Department of Public Safety, Officers are entrusted with the safety and security of university property and its representatives, employees, students, licensees and guests. Failure to perform or negligent performance of an Officer's responsibilities could have serious and unacceptable consequences. Misconduct is, on its face, unacceptable and often terminable. A high standard of excellence is expected and must be maintained by all Officers at all times, exemplifying respect, honor, dignity, commitment, integrity and requisite skills. It is against this purpose and expectation that the conduct of Officers will be measured.

#### **A. Management Meetings:**

The Department of Public Safety, through its supervisory structure and in accordance with the authorized chain of command, retains as a nonnegotiable prerogative, the right to meet with Officers, at its discretion, to discuss any matter of pertinent business, including, but not limited to, providing information and/or direction, reviewing and/or altering individual and/or departmental responsibilities and providing

performance assessment. Except as otherwise specifically provided for in this Agreement, there is no right to FOP representation for an Officer attending any of these meetings. Attendance and participation at these meetings are not optional with the Officer, but must be adhered to as directed.

**B. Investigation:**

An Officer's conduct is always subject to investigation where there is a real nexus between the conduct and the Officer's position at the University. Where the Officer is questioned directly as to his conduct or his knowledge on a matter under investigation and discipline is a foreseeable consequence of the Officer's response he shall be afforded FOP representation in accordance with law. This type of meeting is called an "investigatory conference" and is preliminary to any charge of disciplinable conduct. This meeting is not a part of an Officer's permanent record except when and unless it is found that the Officer engaged in misconduct in the meeting itself, (i.e., provides false evidence). There is no privilege or immunity in employment in providing false statements or refusing to respond to a direct inquiry, except and only as mandated under applicable law.

**C. Due Process:**

Prior to invoking formal, final, employment discipline upon an Officer, that is greater in severity than a written reprimand, he shall be afforded both notice of any and all charges against him and an opportunity to be heard on those charges. An Officer may choose to remain silent or not attend the meeting at all. This meeting is called a due process meeting and all Officers shall be afforded FOP representation at due process meetings. Legal counsel representing FOP shall be permitted to attend employment due process meetings only where employment charges include or reasonably may be construed to include criminal behavior in violation of New Jersey's Penal Code, as codified in New Jersey Statutes. Where such criminal behavior is a reasonably foreseeable consequence of such charge, the Officer will not be charged or allowed to waive FOP and/or legal representation without first contacting the FOP, who shall have a right to then have a representative, including legal counsel, at the meeting.

**D. Discipline:**

1. Following any investigation deemed necessary by NJIT and requisite due process, where applicable, an Officer may be disciplined for just cause.
2. Discipline under this Agreement means: Official written reprimand, suspension without pay and discharge.
3. Any disciplinary action imposed upon an Officer may be processed as a grievance through the regular grievance procedure.
4. An Officer who is suspended without pay or discharged may file a

grievance at Step Three of the grievance procedure.

5. The terms of this Article shall not apply to probationary Officers.

**E. Grievance Procedure:**

1. **Any Officer of the Negotiating Unit May Appeal:**

- (a.) A claimed violation or other improper application by the University of the terms of this Agreement, University rules, regulations or governing policy specifically affecting the grieving Officer's negotiable terms and conditions of employment.

2. **Time Limits:**

- (a.) Failure of a grievant to meet any of the calendar limitations stipulated in the procedure below will constitute a waiver of his rights to claim a grievance on the basis of the same alleged factual situation. Likewise, a failure on the part of the designated representative of NJIT to meet the procedural obligations of any step in the grievance procedure, within the prescribed period of time, will give the grievant an automatic right to proceed to the next available step in the procedure. It is understood that nothing contained in this procedure should be construed as limiting the right or propriety of an Officer of the negotiating unit from informally discussing any problem with an appropriate member of NJIT administration.

3. **Procedure for Handling Grievances:**

(a.) **Informal Conference**

A grievant may first discuss his/her grievance informally with the appropriate command Lieutenant. The grievant may at his/her option, be accompanied by a representative of FOP. All grievances resolved at the informal conference shall be without precedent.

(b.) **Step One**

- (i.) Within ten (10) workdays of the occurrence causing the grievance or of the time the grievant should have reasonably known of the

occurrence causing the grievance, the grievant shall, submit in writing to the Director of Public Safety, with copies to the Vice President of Human Resources, the claimed facts behind, and basis of the grievance and the desired remedy. Time limits which begin after the written grievance is submitted may be mutually extended by the parties only in writing.

- (ii.) FOP shall be notified by the Director of Public Safety in the event the grievant is not represented by FOP, and a representative shall have the right to be present, at this time and all subsequent steps in the grievance procedure, to present the views of FOP. The Director of Public Safety, or his/her designee which may be a representative from the Department of Human Resources or other University official, within ten (10) calendar days after receipt of the written grievance, shall meet with the grievant and the representative of FOP in an effort to resolve the grievance. The Director of Public Safety shall indicate his/her disposition of the grievance, in writing, within five (5) calendar days of said meeting to the grievant, FOP and Vice President of Human Resources.

(c.) **Step Two**

- (i.) If the grievant and/or FOP is dissatisfied with the decision at Step One of the grievance procedure, or if the discipline grieved consists of a suspension without pay or discharge from employment, directly appealable to the second step of the grievance procedure, the grievant and/or FOP shall, within seven (7) calendar days of the date of the decision at Step One (or the date of the notice of suspension or termination, in the case of a direct appeal), file a written grievance with the Senior Vice President of Administration and Treasurer, with copies to the Vice President of Human Resources. The grievance shall contain: (1) a brief and concise factual statement of the action grieved, (2) the section(s) of the collective bargaining agreement allegedly violated, (3)

the specific policy and/or rule or regulation allegedly violated and (4) the desired remedy.

- (ii.) Within thirty (30) days of receipt of the written grievance at Step Two , the Senior Vice President or his/her designee (Step Two Hearing Officer) shall schedule and hold a hearing for the purpose of determining the standing and merits of the grievance. If the grievance involves a challenge to an imposed disciplinary sanction the grievant may be represented either by their local FOP representative or legal counsel, provided the FOP designates such counsel as the representative of the FOP, or there is an appropriate substitution of representation. In no case shall grievant be entitled to dual representation of both an FOP representative released from active duty for purposes of representation and counsel at the Step Two hearing. An FOP representative, other than legal counsel may be present and represent the grievant at all non-disciplinary grievance hearings.
  
- (iii.) At least one (1) week prior to the date of the grievance hearing concerning an imposed disciplinary sanction, the University and the grievant shall exchange the following information:
  - (1.) All documents which the University relied upon in imposing the disciplinary sanction(s) and all documents relied upon by the grievant in challenging the sanction(s);
  - (2.) A list of all witnesses they intend to call at the grievance hearing, and a brief summary of the substance of the anticipated testimony;
  - (3.) If there is any tangible evidence which forms the basis of the disciplinary action, it shall be described and provided to grievant's representative for inspection and/or testing, provided that such inspection can be conducted without damaging or compromising the integrity of the evidence.

- (4.) Copies of the grievant's personnel files within the Department of Human Resources.

There shall be no other pre-hearing discovery authorized, including interrogatories, document production, depositions, or similar procedures.

(d.) **Hearing Procedures:**

- (i.) The grievance hearing shall be held before the Senior Vice President or the Step Two Hearing Officer. Such hearing is not intended to be judicial in nature, and therefore rules of evidence applicable in judicial or quasi-judicial hearings shall not be applied. The hearing officer controls the hearing and in so doing determines what evidence to hear and the manner of presentation of evidence, and advocacy witnesses may be subjected to a relevancy review and determination by the hearing officer. All allowed witnesses will be given paid release time from university duty to testify when called upon. Testimony may be in the form of reply to direct questioning, or may be narrative.
- (ii.) A transcript of the proceeding shall be arranged for and made by the University in cases of grievances of disciplinary terminations only. The grievant and/or FOP shall be entitled to a copy provided that they agree, in advance, to share the cost of transcription. No other recordings of the termination or other disciplinary grievance proceedings may be made (e.g. tape recordings) unless the parties specifically agree, in which case copies of any tapes shall be made available to the non-taping party.
- (iii.) The grievant bears the burden of proving their grievance (e.g. that there was a violation of agreement, policy, rule or regulation) by a preponderance of the credible evidence. In the case of a disciplinary sanction of a non-probationary Officer, alleging discipline without just cause, the University bears the

burden of demonstrating just cause by a preponderance of the credible evidence. Each party shall be permitted to make an opening statement, provided that same is not testimonial in nature.

- (iv.) In grievances of disciplinary sanctions, witnesses shall testify under oath, and where the proposed disciplinary penalty is termination of employment, witnesses shall be duly sworn by the certified shorthand reporter transcribing their testimony. The other party may cross-examine the witness upon completion of direct testimony; there will be an opportunity for redirect testimony and re-cross-examination. The Step Two Hearing Officer may, in his/her discretion, limit testimony and rule upon admissibility of evidence based upon relevancy of the testimony, its probative value, the potential for redundancy in cumulative effect, giving due regard both for grievant's opportunity to be heard and the necessity to conduct an efficient hearing that is neither unduly time consuming to the public entity nor directed to matters of limited or no substantial relevancy. Witnesses' testimony shall be factual and not based on hearsay. Only in exceptional circumstances, may expert and/or character testimony be presented by either party, and then only upon a significant proffer that such testimony is directly relevant to a necessary finding in resolution of the underlying grievance, and the relevancy of such testimony would outweigh the administrative burden of hearing such testimony.
- (v.) All procedural or evidentiary rulings of the Hearing Officer shall be final and binding for purposes of this hearing. Upon the close of testimony, the parties may present closing statements summarizing their positions. Upon mutual agreement of the parties, or upon the request of the Hearing Officer, written briefs will be provided.
- (vi.) The Hearing Officer may render his decision

orally at the time of hearing if there is no transcript of the hearing taken and briefs are not submitted, otherwise, he will reserve his decision until the transcript and/or briefs are submitted. At that time, the decision will be provided in writing, with copies to the Vice President, FOP, grievant, and Vice President of Human Resources. Absent agreement by the parties, this will occur within thirty (30) days of the receipt of the transcript and/or briefs.

- (vii.) In the event the grievance is one that is both appealable and, in fact appealed to either an arbitrator at Step Three or another appropriate forum, the arbitrator (or other appropriate third party) shall be provided a copy of the transcript below and briefs (where such exist) and the written determination of the Senior Vice President or the Step Two Hearing Officer. In the case of grievances of disciplinary sanctions, the sole issue before this Step Three forum, which shall be limited solely to a review of the record below, shall be whether the grievant by clear and convincing evidence of record carried his/her burden; the record thereby demonstrating that the hearing officer, in his/her determination, (1) committed a substantial violation of contractual procedure of significant effect or impact or (2) the decisional findings of the hearing officer were wholly arbitrary, capricious or unreasonable, based upon the evidence before him/her, giving due regard for the Step Two Hearing Officer's ability and authority to assess the credibility of witnesses.

(e.) **Step Three**

- (i.) If the FOP is dissatisfied with the decision at Step Two, and the alleged grievance involves a specific violation of this locally negotiated Agreement, as described in the definition of a grievance in E.1. above and the FOP desires and is authorized by law to institute arbitration or other appeal proceedings, it must, within fourteen (14) calendar days of receipt of the

Senior Vice President or the Step Two Hearing Officer's reply, give proper notice to either the New Jersey Public Employment Relations Commission, hereinafter referred to as PERC, or to the Board of Trustees, consistent with the procedures set forth by statute with copies to the Vice President of Human Resources and the General Counsel. Any arbitration proceedings shall be in accordance with the rules and regulations of PERC, and for grievances of disciplinary sanctions, subject to the parameters limiting the scope of review set forth in (d)(vii), above.

- (ii.) The recommendation or decision of the reviewing individual or body shall not in any manner modify or cause anything to be added to or subtracted from this Agreement or any policy of the University.
- (iii.) Fees and expenses of an arbitrator where such proceedings are authorized shall be shared equally by the University and the FOP. Only with prior written agreement of the parties, shall any other expense or fee contained in this grievance procedure be shared.

4. NJIT will give written notification to the President of FOP of grievance hearings or meetings beginning with Step One for all Officers of the negotiating unit. The President of FOP shall also be sent copies of all grievance answers.

5. Decisions of an arbitrator involving minor discipline, as defined by law, shall be final and binding.

## **ARTICLE VIII**

### **NONDISCRIMINATION**

A. The provisions of this Agreement shall be applied equally to all members of the negotiating unit without discrimination as to age, sex, gender preference, marital status, race, color, creed, national origin, veteran's status or political affiliation.

B. All references to Officers of the negotiating unit or agents of the University in this Agreement designate both sexes, and wherever the male gender is used it shall be construed to include both male and female Officers and University agents.

C. NJIT agrees not to interfere with the right of Officers to become members of this unit, and there shall be no discrimination, interference, restraint, or coercion, by either NJIT or any representative of FOP against any Officer because of FOP membership or lack of membership or because of an Officer's activity or lack of activity in any capacity pertaining to any legal activities of FOP.

D. FOP recognizes its responsibility as negotiating agent and agrees to represent all Officers in the negotiating unit without discrimination, interference, restraint, or coercion regardless of membership or lack of membership in FOP.

## **ARTICLE IX**

### **APPLICATION OF SENIORITY**

A. All Officers shall be considered as probationary Officers for one (1) year from the date of appointment as an Institutional Officer.

B. Upon completion of such probationary period, seniority will be dated as of the initial date of appointment as an Officer. In the event that two (2) or more Officers have the same initial date of appointment, continuous prior department service, continuous NJIT service, and the alphabetical order of their last names, in that order, shall be used to determine their seniority with regard to each other.

C. The Department of Human Resources shall maintain a seniority list of all Officers, a copy of which shall be furnished to FOP every six (6) months, normally in January and July.

D. Superior Officers of NJIT (e.g., Sergeants, Lieutenants), with prior NJIT commissioned Officer experience, may upon layoff from their positions, utilize all seniority accumulated as an Officer at NJIT to displace an Officer with less seniority accrued in accordance with this Agreement.

E. An Officer's seniority shall cease and his employment status shall terminate for any of the following reasons:

1. Resignation or retirement.
2. Discharge for cause.
3. Continuous lay-off for a period of two (2) years.
4. Failure of a recalled Officer to notify NJIT in writing, within seven (7) calendar days of receipt of notification of recall that he intends to accept such offer of reemployment. An Officer accepting such an offer of reemployment must return to active service within fourteen (14) calendar days of such notice of recall unless a later

date is agreed to by NJIT. Written notice of recall to work shall be sent by NJIT certified mail, return receipt requested, to the Officer's last known address as shown on NJIT records.

5. Failure to report for work for a period of five (5) consecutive scheduled working days without subsequent notification to NJIT of a justifiable excuse for such absence (Job Abandonment).

6. Failure to report back to work immediately upon expiration of vacation, leave of absence, or any renewal thereof unless failure to return to work is excused by NJIT, and such excuse shall not be unreasonably withheld by NJIT.

7. Failure to return to work immediately with appropriate, formal certification of the elimination of the disability (or other intervening cause for absence) following exhaustion of authorized leave, afforded under and pursuant to this Agreement (Job Abandonment).

## **ARTICLE X**

### **OUT OF TITLE WORK**

A. When an Officer is temporarily assigned to work in another job title within the negotiating unit, such assignment may be made for periods up to thirty (30) calendar days unless mutually extended by NJIT and FOP. NJIT is not restricted to filling the assignment from only those who apply, and in filling such opening shall first consider the qualifications of the applicant and providing such qualifications are equal, shall then consider the length of continuous service of the applicant.

1. If NJIT assigns an Officer to temporary work as an acting Sergeant he/she shall be entitled to a one-time annual cash payment of two hundred fifty dollars (\$250), provided the Officer works in such capacity for either:

- (a.) ten (10) or more consecutive days in a fiscal year or;
- (b.) fifteen (15) or more nonconsecutive days in a fiscal year.

## **ARTICLE XI**

### **POSTING, HIRING AND PROMOTION**

In keeping with NJIT's commitment to affirmative action and equal employment opportunities, all recruitment efforts will conform with the application sections of NJIT Personnel Policies and Procedures Manual and its Equal Opportunity/Affirmative Action policies. Accordingly, a permanent job opening which represents a promotional

opportunity shall be posted in accord with applicable University policies. Copies of such posting shall be furnished to FOP.

## **ARTICLE XII**

### **SICK LEAVE**

#### **A. Accrual:**

All Officers shall earn one (1) working day, 8 hours, per calendar month of employment. Unused, accrued sick leave is cumulative.

#### **B. Utilization:**

1. Sick leave may be utilized by Officers when they are unable to perform their work by reason of personal illness, injury or exposure to contagious disease or for the attendance of the Officer upon a member of the immediate family who is seriously ill, or whose spouse, domestic partner or civil union partner (as defined and recognized by State law, respectively, is hospitalized due to pregnancy. For the purpose of this provision, immediate Family shall be defined as father, mother, spouse, domestic partner or civil union partner, natural or adopted child, foster child, and legally recognized relatives legitimately residing in the same household as Officer.

2. Where Bereavement leave is not available, accumulated sick leave may be used to grieve the death and/or attend the funeral of the Officer's immediate family. Leave utilized for bereavement shall be limited to three (3) days per occurrence unless exception for extraordinary reason is made by and at the discretion of the University's Vice President of Human Resources express designee. For purposes of this provision only, immediate Family shall be defined as father, mother, spouse, domestic partner or civil union partner), natural or adopted child, foster child, sister, brother and legally recognized relatives legitimately residing in the same household as Officer.

#### **C. Authorization**

1. **Anticipated Leave:** Any proper utilization of sick leave anticipated in advance must be requested as far in advance as practicable and approved by the Officer's immediate supervisor prior to utilization. Approval will not be unreasonably denied. Examples of anticipated leave, by way of illustration but not limitation, include physician appointments, dentist appointments, scheduled surgery and short-term care for an ill member of the immediate family. Within a reasonable period of time following utilization of sick leave for this purpose the Officer upon request by NJIT must validate the reason for scheduled leave by means of written proof that the scheduled purpose of the sick leave did occur.

2. **Unanticipated Leave:** Utilization of sick leave that cannot be

anticipated in advance, such as sudden illness, must be validated by contacting, as soon as possible and, to the extent possible, within one-half (½) hour after the beginning of the Officer's scheduled workday, the Officer's supervisor or by utilizing such method specifically directed by the Officer's supervisor to notify NJIT of unanticipated sick leave.

#### **D. Validation**

In accordance with State and Federal regulations, the Employer may preliminarily designate an employee who has been absent for 3 or more consecutive days or who has exhausted his/her earned sick leave banks on Family Leave, pending medical certification. Family Leave for an Officers' health condition shall run consecutively with sick leave usage; Family Leave for immediate family shall run concurrently with sick leave usage.

Upon reasonable suspicion of abuse or patterned absenteeism, the Employer may require the employee to provide medical certification for future single day or multiple day absences.

If absent for five (5) or more consecutive working days, the Officer must present a physician's statement specifically validating the duration and nature of illness or injury enabling sick leave usage. An Officer absent for unanticipated sick leave for any and all periods totaling more than ten (10) days in one (1) fiscal year may be required to submit a physician's statement validating the duration and nature of illness enabling sick leave usage. Sick leave taken for purposes of bereavement, pursuant to provision B.2. above, shall not be counted for purposes of either the five (5) or ten (10) day validation requirement, however, bereavement utilization of sick leave must, upon request, be validated through independent written documentation whether anticipated or unanticipated.

Upon receipt of a specific diagnostic statement from a physician describing a chronic, debilitating illness of an Officer, the five (5) and ten (10) day validation requirement shall be waived as a matter of regular course, however, upon reasonable suspicion of abuse or following fifteen (15) days usage of sick leave during a fiscal year NJIT, FOP and the Officer shall meet for the purpose of either investigating potential abuse and/or to discuss the absenteeism in attempt to avoid disciplinary action.

An Officer suffering from a certified chronic illness must, at least once every six (6) months, provide NJIT with medical re-certification and following fifteen (15) days usage in a fiscal year on account of said illness, to provide additional re-certification of the chronic illness.

1. **Confidentiality of Records:** All medical reports and diagnosis provided pursuant to this Article shall remain confidential with the designees of the Department of Human Resources only subject to disclosure to such officers or agents of the university with a direct business need to know.

2. **Article XIII – Family Leave:** These procedures shall be administered consistent with Article XIII, Family Leave, below. If and where conflict arises, Article XIII, Family Leave shall take precedence.

**E. Unused Sick Leave – Retirement:**

Subject to the provision of N.J.S.A. 11A:6-17 and rules and regulations promulgated thereunder, a full-time Officer who enters retirement, pursuant to the provisions of a State administered or approved retirement system, and has to his credit any earned and unused accumulated sick leave shall be entitled to receive supplemental compensation for such earned and unused accumulated sick leave only to the extent such is funded by the State.

The supplemental compensation to be paid shall be computed at the rate of one-half (½) of the eligible Officer's daily rate of pay for each day of earned and unused accumulated sick leave based upon the average annual compensation received during the last year of his employment prior to the effective date of his/her retirement, provided, however, that no such supplemental compensation payment shall exceed the statutory limit for commissioned Police Officers upon entering retirement. This supplemental compensation shall be paid in a lump sum after the effective date of retirement. It may be deferred by the Officer for payment within one (1) year of the effective date of retirement.

## **ARTICLE XIII**

### **FAMILY LEAVE**

NJIT has long recognized the importance of family issues as an integral component of a responsive human resource environment in which its Officers will prosper. It has heretofore provided a number of benefits including leaves of absence for personal and family reasons. Both State and Federal government have determined to specifically legislate in this regard by affording unpaid leave to Officers under certain specific circumstances. The result demands that NJIT policies, State law and Federal law be properly recognized and promulgated in lawful, equitable and contemporary policy. NJIT and FOP, therefore, hereby adopt the following Family Leave Policy which incorporates as appropriate (and shall be interpreted consistent with) NJIT's other standing leave policies.

The University may preliminarily designate an employee's absence as Family Leave when:

1. An employee (or a spokesperson on behalf of an employee) notifies the Department of Human Resources or the immediate supervisor of a personal serious health condition or the serious health condition of an eligible family member (listed below).

2. Upon the employee or the supervisor's notification to the Department of Human Resources after 3 consecutive days of paid or unpaid absence.

Family Leave shall run consecutively after accumulated sick leave banks are exhausted for an Officer's own serious health condition and Family Leave shall run concurrently with accumulated sick leave for an Officers' eligible family member. Accumulated sick leave balances that exceed the 60 days of Family Leave may continue to be utilized thereafter upon submission of medical certification updates to be provided in intervals of not less than every 30 days.

**A. Available Leave:**

Under prescribed parameters as set out hereafter, an eligible Officer may take a leave of absence from employment for up to twelve (12) weeks during a defined twelve (12) month period for any one (1) of the following reasons:

1. Birth and child care of an Officer's biological child during the child's first year of life.
2. Adoption or foster care placement and care for the infant/child in his/her first year following adoption or foster care placement.
3. Serious illness or health related, disabling condition of a spouse, domestic partner or civil union partner, child(ren), or parent.
4. Serious illness or health related, work disabling condition of the Officer.

**B. Twelve Week Period (Parameters):**

1. While NJIT may, under other provisions of employment or of its own discretion, authorize leaves of absence greater than twelve (12) weeks and for other purposes, under this policy a maximum of twelve (12) weeks leave for any and all enabling reasons may be taken during the same twelve (12) month period for leaves pursuant to A. 1., 2. or 3. above. One (1) twelve (12) week leave pursuant to A. 4 above may also be taken in each defined twelve (12) month period. The twelve (12) month period is defined in provision E. below.

2. For leaves taken pursuant to A. 1 or 2. above, the maximum twelve (12) week period must commence prior to the child's first year following birth (A. 1.) or prior to the first anniversary date of an adoption or foster care placement (A. 2.).

3. The twelve (12) week period amounts to sixty (60) workdays that may be taken as set out below.

4. The leave may be taken on a consecutive week, intermittent weeks or reduced time basis as follows:

- (a.) Intermittent leave consists of leave taken in separate blocks of time, and may include leave of periods from an hour or more to at least one (1) week intervals that are not necessary consecutive, and within the twelve (12) month period. Intermittent leave may only be scheduled and taken with the consent of NJIT, when invoking leave under provisions A. 1. or 2. above.
- (b.) Reduced time leave consists of a work reporting schedule that allows a shortened workday or shortened workweek. Reduced time leave may only be scheduled and taken with the consent of NJIT when invoking provisions A. 1. or 2. above. An Officer on reduced time leave may, at the discretion of NJIT, be transferred for the term of leave, to another position of equivalent pay and benefits that better accommodates NJIT. Leave under this provision shall be accounted for and charged on an hour for hour basis.
- (c.) Requests for reduced time leave or intermittent leave under provisions A. 1. and 2. above, shall be forwarded to the Department of Human Resources for a case-by-case review and determination following consultation with the department head or other appropriate supervisor of the applicant.
- (d.) All leaves, for all reasons, are predicated upon the Officer providing NJIT as much notice as possible. Absent extraordinary circumstances, at least fifteen (15) days advance notice of leave is required. Failure to provide such notice except where appropriately waived, shall result in a delay in commencement of leave, if otherwise entitled, for the requisite fifteen (15) day period.

**C. Leave Validation:**

Each leave, as set out in provision A. above, is subject to the prerequisite validation as follows:

1. Both A. 1. and 2. leaves must be validated, at NJIT's request, as to the enabling facts of the leave. For example, it must be established by the applicant for leave hereunder that he/she is the parent, within the express meaning of that term as hereinafter defined.

2. Leave, under A. 3. above, must be validated by a written certification from a qualified, licensed, health care provider, that the Officer is needed and able to provide care directly related to and on account of an acutely or chronically debilitating health condition requiring hospitalization and/or continuing licensed health provider intervention and treatment. The certification must also specify the debilitating condition and the prognosis for abatement or recovery with medical opinion as to time anticipated for abatement or recovery. Finally, upon request by NJIT, the Officer must validate, through reasonable means, the enabling family relationship.

3. Leave, under A. 4. above, must be validated by a written certification of expert opinion by a qualified, licensed health care provider, describing the work debilitating illness or other work debilitating health related condition and its disabling onset, affect and anticipated duration.

4. Under leave enabling provisions A. 3. and 4. above, when NJIT reasonably believes a submitted certification is suspect, in significant degree, it may require a second opinion from a licensed health care provider who is qualified in the field of the contended disability/illness. An opinion concurring with the Officer's submitted validation shall result in leave validation. An opinion dissenting from a suspect/faulty validation shall result in referral, as set out hereunder, to a third, independent health care provider, qualified in the field of the contended disability/illness, for final, binding opinion either validating or invalidating the leave.

- (a.) Referral for a third, binding health care professional's opinion shall be by agreement of the Officer selected health care provider and NJIT selected health care provider. Failing agreement, referral shall be by agreement of the Officer and NJIT. Failing secondary agreement, referral shall be made by NJIT.
- (b.) Both second and third health care provider's opinions shall be arranged and paid for by NJIT.
- (c.) Failure by an Officer to provide a certification which, on its face, purports to meet the primary validation requirements set out above, shall result in denial of leave and its benefits, and not a second or third opinion, as the original certification is the sole responsibility of the Officer as prerequisite to either any leave entitlement or a second or third opinion by a licensed health care provider.

5. While an Officer is on Family Leave, pursuant to provisions A. 3. or 4. above, NJIT may request and is then entitled to periodic, formal updates or re-certifications as appropriate to the original certification parameters. NJIT imposed requirements for update or re-certifications hereunder shall not be unreasonably applied,

and NJIT will consider, in good faith, the necessity and frequency of update or revalidation unique to each individual leave based upon the nature and parameters of the original certification and any factual change in individual circumstance.

6. Prior to an Officer's return to NJIT from leave provided pursuant to provision A. 4. above, NJIT may request and receive health care provided certification that the Officer on leave is no longer work disabled from the originally certified health condition and can return to the workplace as sufficiently recovered to perform the regular, necessary functions of the job. NJIT will cooperate fully with the health care provider in making this assessment by providing, if necessary, a position description and/or thorough discussion of the dimensions of the position not easily gleaned from such position description.

7. All medical records provided in accordance with policy and consistent with law shall remain confidential with NJIT and within NJIT, shall remain disclosable only to the Department of Human Resources or those officers of NJIT with a need to know the certified rationale, including by way of illustration, the President, Senior Vice President for Administration and Treasurer, and the General Counsel. The Officer may choose to disclose the health condition diagnosis to his/her immediate supervisor or others in which case the legal confidentiality of the information is waived with respect to such agents to which such information is disclosed or to which disclosure is reasonably to be anticipated by the Officer's disclosure.

8. For Reduced Time Leave or Intermittent Leave taken under provisions A.3 and 4. above, employees must notify in writing, with copies to the appropriate supervisor and the Department of Human Resources, time taken (hours, days weeks) for authorized Family Leave. Notice can be summarized in one document for each pay period, as appropriate.

**D. Leave Prerequisites:**

**1. Prerequisite to Family Leave:**

- (a.) An Officer must have worked for NJIT at least one (1) year (365 days) prior to commencement of leave. However, the time need not be consecutive nor need it be full-time.
- (b.) An Officer must have worked a minimum of one thousand (1,000) hours in the year (twelve [12] consecutive months) immediately preceding the leave for leaves under provision A. 1. 2. and 3., above.
- (c.) An Officer must have worked a minimum of one thousand, two hundred and fifty (1,250) hours in the year (twelve [12] consecutive months) immediately

preceding the leave for leave pursuant to A. 4., above.

2. The hours prerequisites set out above refer to actual hours worked at NJIT and do not refer to excused or unexcused absences.

**E. Leave Year:**

NJIT will calculate available leave by the “rolling” method. This means that when requesting otherwise available leave under this policy, NJIT will calculate the amount of leave used within the immediately preceding twelve (12) months of employment and subtract that number from the total number of days equal to twelve (12) workweeks (60 days). Each leave year is then unique to each Officer to NJIT.

**F. Leave Entitlements:**

1. **Compensation:** Family Leave is, of itself, an unpaid leave.
  - (a.) For Well Baby Care leave under provisions A. 1. and 2., Available Leave, above, an Officer will be afforded an option to charge accrued vacation and/or administrative day leave for the absence.
  - (b.) For leave to care for a seriously ill spouse, domestic partner or civil union partner, child or parent under provision A. 3., Available Leave, above, an Officer will be required to charge any and all accrued sick leave, until exhausted, as prerequisite to taking unpaid leave under this policy. Following exhaustion of accrued sick leave, an Officer will be afforded the election of charging vacation and/or administrative leave while on an authorized, validated family leave.
  - (c.) For leave under provision A.4., Available Leave, above, an Officer will be required to charge any and all accrued sick leave until exhausted, as prerequisite to become eligible for Family Leave under this policy. Following exhaustion of accrued sick leave, an Officer will be afforded the election of charging vacation and/or administrative leave accruals which shall run concurrently with an authorized, validated Family Leave.
  - (d.) Charged vacation, administrative day or sick leave banked accruals will be taken in hour for hour increments of time taken to time charged.

- (e.) Elected or required utilization of paid vacation, administrative day, or sick leave accruals does not extend Family Leave or otherwise modify those other leaves available to Officers of NJIT.

2. **Health Benefits:** That health benefits coverage in effect and covering the Officer immediately prior to leave shall be maintained throughout the period of Family Leave subject only to program participation and parameters alteration as appropriately negotiated and/or implemented, consistent with law.

3. **Other Benefits:** Other benefits available to Officers on leave shall be governed by the provision applicable to the leave. If for example, the Officer is drawing paid sick leave while depleting Family Leave, the provisions of sick leave policy not inconsistent with this policy shall govern, while the provisions of unpaid leave policy that are not inconsistent with this policy shall govern an unpaid Family Leave or any portion thereof.

4. **Worker's Compensation:** Follow up visits to medical professionals as a result of Worker's compensation claims that are not covered under Workers' compensation Leave may be chargeable as Family Leave when all enabling prerequisites are met. If prerequisites are not met, sick leave banks may be utilized.

5. **Reinstatement:** An Officer ready and able to return to their position of employment immediately following exhaustion of Family Leave will be returned to their position or, at NJIT's discretion, to an equivalent position with equivalent pay and benefits unless the Officer would have been terminated in the absence of any leave (e.g., layoff, contractual non-reappointment, or natural term expiration of a terminal or temporary position of employment).

6. **Key Employee Exception:**

- (i.) Employees of NJIT, who, during a period of Family Leave taken pursuant to A. 1., 2. or 3. above, are within the top five percent (5%) of NJIT's employees with respect to gross income paid by NJIT, are "Key Employees" and may be denied leave as set out above if such leave will, as can be established by NJIT, cause substantial and grievous economic or other organizational harm to NJIT.
- (ii.) Employees of NJIT who, during a period of Family Leave taken under A. 4. above enabling provision, are within the top ten percent (10%) of NJIT's employees with respect to gross

income paid by NJIT are also “Key Employees” and may be denied reinstatement as set out above, if such reinstatement will, as can be established by NJIT, cause substantial and grievous economic or other organizational harm to NJIT.

- (iii.) Key Employees must be individually noticed by NJIT, prior to taking leave, that they are Key Employees and that leave and/or position restoration may be denied them depending upon their Key Employee status and type of leave desired.
- (iv.) An Employee on leave who, during the leave, becomes a Key Employee or a Key Employee who failed to receive such notice prior to commencement of leave and who would not otherwise be entitled to leave or would not otherwise be reinstated pursuant to this provision, will be notified by NJIT immediately and given an opportunity to immediately return from leave with full restoration to his/her position prior to denial of further leave or denial of reinstatement.

**G. Definitions:**

1. **Child:** A child is the biological, adopted or formally placed, foster care child, stepchild or legal ward of the Officer requesting leave and under eighteen (18) years of age or eighteen (18) years and over but certifiably incapable of self-care because of mental or physical impairment.

2. **Parent:** A parent is the biological or legally recognized parent of a child. For leave pursuant to provision A. 3. above, a parent shall include parents-in-law.

3. **Spouse:** A spouse is the legally recognized, married partner of the Officer requesting leave, a domestic partner or civil union partner.

4. **Serious Illness or Health Related Condition:** This is defined as an illness, injury or physical or mental impairment that involves a period of incapacity or treatment following in-patient care in a hospital, hospice, or residential medical care facility; a period of incapacity requiring more than three (3) days absence from work and continuing treatment by a health care provider; or continuing treatment by a health care provider for a chronic or long-term health condition that is so serious that, if not treated would likely result in incapacity of more than three (3) days; or continuing treatment by

or under the supervision of a health care provider of a chronic or long-term condition or disability that is incurable.

5. **Health Care Provider:** A “health care provider” is defined as any doctor of medicine or osteopathy, podiatry, optometry, or psychiatry or any nurse practitioner or psychologist performing within the scope of their licensed practice as defined under law.

**H. Jurisdiction:**

This policy applies to all Officers at NJIT and shall be administered consistent with other NJIT policies, including collectively negotiated policies, and the law.

**ARTICLE XIV**

**ADMINISTRATIVE LEAVE**

**A. Administrative Leave:**

1. Newly hired, full time NJIT Officers shall be granted one-half (½) day of administrative leave accrual after each full calendar month of employment to a maximum of three (3) days during their first contractually defined year of service.

2. Three (3) administrative leave days are granted to all full-time Officers entering their second year (first full fiscal year) of employment service and annually thereafter.

3. Priorities for granting of leaves are:

- (a.) Emergencies.
- (b.) Observation of religious or other days of celebration but not public holidays.
- (c.) Personal business.
- (d.) Attendance at the funeral of an individual other than a member of the immediate family. Absences related to funerals of immediate family members are considered under other provisions of this Agreement.
- (e.) Other personal affairs.

4. Administrative leave shall not be cumulative, and any such leave credit remaining unused by an Officer at the end of the fiscal year or upon separation shall be cancelled.

5. Requests for administrative leave must be approved in advance by the Director of Public Safety except in true emergency situations. In emergency situations, validation of the emergency may be requested by NJIT subsequent to the unapproved use. Unapproved emergencies are limited to health and safety related matters.

6. Administrative leave days cannot be used during an Officer's probationary period.

## **ARTICLE XV**

### **MILITARY LEAVE**

#### **A. Military Leave, Without Pay**

1. In accordance with State and/or Federal regulations, NJIT shall grant a qualifying employee, who is a member of the U.S. military reserves or the New Jersey State militia or the organized militia of another State, a leave of absence, without pay, for Inactive Duty Service. (An example of Inactive Duty Service is weekend drills.)

2. A qualifying employee granted Military Leave of Absence, without pay, that is less than two (2) consecutive weeks, shall continue to accrue vacation, personal, and sick leave. A qualifying employee granted a Military Leave of Absence, without pay, that is more than two (2) consecutive weeks, shall not accrue vacation, personal, and/or sick leave during such leave of absence.

3. A qualifying employee granted a Military Leave of Absence, without pay, may, with advance notice, use accrued vacation, personal leave, or floating holidays. Sick Leave shall not be used for Military Leave of Absence.

#### **B. Military Leave, With Pay**

1. In accordance with State and/or Federal regulations, NJIT shall grant a qualifying employee, who is a member of the U.S. military reserves or a member of the organized militia of another State, a leave of absence for up to 30 working days in any calendar year without loss of pay or benefits for Federal Active Duty Service. NJIT shall grant a qualifying employee who is a member of the New Jersey State organized militia a leave of absence for up to 90 working days in any calendar year without loss of pay or benefits for Federal Active Duty Service.

2. Should the employee be called to active duty service for a national or state emergency or foreign conflict which exceeds the 30 or 90 working days described in A above, NJIT shall grant a leave of absence through the end of that calendar year without loss of benefits and shall pay the employee the difference between their applicable NJIT base salary and their military "base pay" provided the employee provides proof of military service and "base pay". This is often referred to as Differential Pay and is not currently mandated by Federal or State regulations.

3. If a qualifying employee is eligible for a Military Leave with pay or a Military Leave with differential pay as described above, he/she continue to accrue vacation, personal, and sick leave. Qualifying employees eligible for Military Leave with pay or Military Leave with differential pay shall be entitled to all health and welfare benefits.

**C.** A qualifying employee who is called to New Jersey State Active Duty Service, for example during a natural disaster or New Jersey State emergency, shall be eligible for a Military Leave of Absence as required by New Jersey State or Federal regulations.

**D.** A qualifying employee for purposes of this Article shall be defined as any employee who has achieved non-probationary status at least once during his/her current employment with NJIT or a temporary employee who has been employed more than one (1) year. A non-qualifying employee is eligible for Military Leave of Absence, without pay, only.

**E.** A qualifying employee eligible for Military Leave of Absence, with or without pay, shall not suffer any loss of seniority.

**F. Extensions of Military Leave**

1. Should a qualifying employee be called to Federal Active Duty Service beyond the first calendar year or subsequent consecutive years, he/she shall be eligible for the paid leave as described in B. 1. above effective each January 1<sup>st</sup>.

2. Should a qualifying employee be called to Federal Active Duty Service beyond the 30 or 90 working days described above in the second calendar year or subsequent consecutive years, NJIT, at its sole discretion, may extend the Military Leave of Absence with differential pay, as described in B. 2. above, for the remainder of that second calendar year or subsequent consecutive years. If NJIT decides not to grant a Military Leave of Absence with differential pay, NJIT shall grant a Military Leave of Absence, without pay, for the remainder of that calendar year.

**G.** Failure to provide advance notice of call to duty, except in emergency situations, could result in loss of protections under Federal and/or State regulations and shall be just cause for disciplinary action up to termination of employment. Failure to provide verification of attendance or military pay records may result in delay in pay or benefits until such verification is provided.

**H.** In the event that Federal and/or State law may be amended to provide a greater benefit to the employee than set forth herein, such law shall supersede the terms of this contract.

## ARTICLE XVI

### **LEAVE FOR FOP ACTIVITY**

A. NJIT agrees to provide time off without loss of pay for delegates of FOP to attend FOP activities provided that the total amount of time without loss of pay, during the period of this Agreement, shall not exceed a total of twelve (12) days during each year of this Agreement.

The total number of days of such leave which may be used in each year shall be exclusive of leave provided under the provision of New Jersey law and ordinarily granted under that statute. Leaves for such activities of more than five (5) days duration in each year of the Agreement shall be at the sole discretion of NJIT. Such approval will not be unreasonably withheld.

B. FOP shall request, in writing, approval from the Department of Human Resources to use such leave. Such requests shall be made, in writing, no less than two (2) weeks in advance by FOP specifying the type of FOP activity for which time off is sought, the individual(s) to be granted the time off and the maximum amount of time to be utilized.

## ARTICLE XVII

### **OTHER LEAVES OF ABSENCE**

#### **A. Eligibility:**

1. Any Officer, not entitled to or after having exhausted the other leave benefits provided by this Agreement but desiring to remain employed by NJIT may apply for an unpaid leave of absence.

2. In reviewing requests for unpaid leave of absence, NJIT will ensure that Article XIII, Family Leave, is fully complied with as prerequisite to its discretionary determination as to whether to grant a request and the parameters on such grant when given. There shall be no benefits bank accrual during any unpaid leave, nor shall there be any monetary contribution by NJIT on behalf of such Officer except as may be mandated by law, or as otherwise expressly provided for by this Agreement.

#### **B. Procedure:**

1. Any and all requests for leave of absence under this provision must be made in writing, with specific statement of need for leave, as far in advance of the desired leave as possible. Application for leave must be submitted to the Officer's immediate supervisor, except in such cases where the specific statement of need recites a personal, medical or other extraordinary confidential basis, in which case the full application shall be submitted to the Department of Human Resources, with notice to the immediate

supervisor that a request has been made for the duration stated on the application.

2. Approval, denial or modified approval of the requested leave shall, except in the case of emergency, be provided within two (2) weeks by NJIT. Reason for denial of unpaid leave shall be provided with a denial of leave by NJIT.

3. Administration of this Article is grievable only on the limited basis that NJIT held no rational basis to deny the requested leave. Problems arising out of the administration of this Article may be referred to the Labor/Management forum for discussion and attempted resolution.

**C. Reinstatement:**

1. Should NJIT reasonably determine that an Officer's return to work might jeopardize his/her health or safety or that of NJIT's students or other Officers, NJIT may require a written medical, psychological or other licensed professional's certification, appropriate under the circumstances, attesting to the Officer's fitness to return to work, as a prerequisite to such return. NJIT may, upon reasonable evidence of such jeopardy, require examination and certification, at its expense, for return to work by a physician of its choosing.

2. An Officer, ready and able to return to work from a short-term leave, permitted pursuant to the above provisions, will be returned to his/her former position or an equivalent position with equivalent pay, and fringe benefits, including retirement system benefits. Accumulated seniority will be maintained and reinstated if and when necessary. A short-term leave is, in total consecutive duration, ninety (90) calendar days or less.

3. While NJIT will make every reasonable effort to place an Officer ready and able to return from long-term leave of absence in his/her former position or a comparable position, there is no entitlement to a position with NJIT following a long-term leave of absence. A long-term leave of absences is, in total consecutive duration, ninety-one (91) calendar days or more.

4. Accepting a position with another employer, while on leave of absence, except as may be expressly understood as part of the reason for leave and approved by NJIT in advance, will result in forfeiture of the leave of absence and all benefits derived there from or maintained during said leave and immediate termination of NJIT employment.

**D. Bereavement Leave:**

In addition to leave available pursuant to Article XII B.2. herein, Officers shall be entitled to up to three (3) paid days and up to three (3) additional unpaid days of leave each year of this agreement, to mourn and/or attend to familial responsibilities caused by the death of a member of the Officer's Immediate Family. Immediate Family shall be as

defined in Article XII B.4, herein. Unused Bereavement Leave is not cumulative year to year and NJIT reserves its right to require validation of the need for Bereavement Leave. Finally, Bereavement Leave must be taken within ten (10) days of the death of the immediate family member unless exception is authorized for extraordinary circumstances by and at the discretion of the Vice President for Human Resources.

## **ARTICLE XVIII**

### **WORKERS' COMPENSATION**

An Officer on Workers' Compensation shall receive that payment to which he/she is entitled by law, in accordance with benefit regulation and accompanying procedure in effect at the time of eligibility for Workers' Compensation. Should an Officer wish to supplement that compensation received under New Jersey Workers' Compensation law and regulation to receive the same total salary compensation received when not on Workers' Compensation, he/she may elect to utilize, on an hour for hour basis, his/her sick leave accrual for a period not to exceed six (6) calendar months. The election of supplement Workers' Compensation must be made in a signed writing to the Department of Human Resources, with a copy to the Benefits Manager, and supplementation will be progressive only from the time the request is received by the Department of Human Resources.

## **ARTICLE XIX**

### **HOLIDAYS**

A. Beginning Fiscal Year 2008 (July 1, 2007) and running through fiscal year 2010 (June 30, 2010):

1. Each Officer in active status shall annually be entitled to the following named, paid holidays:

- (a.) New Year's Day
- (b.) Thanksgiving Day
- (c.) Christmas Day

2. Each Officer shall receive two (2) floating holidays, providing such "floating" holidays shall be taken at a time agreeable to the supervisor.

B. In the event any of the regular paid holidays fall on an Officer's scheduled day off, they shall be observed on the following scheduled day of work.

C. An Officer on an unpaid leave of absence or layoff is not entitled to pay for a holiday falling during leave or layoff.

D. NJIT shall continue its requirements for eligibility for holiday pay, however, an

Officer who is not on the payroll shall not be eligible for holiday pay.

E. A holiday which occurs during a vacation period is considered a holiday and will not be charged as a vacation day.

F. Any Officer who is required to work any of the days designated by NJIT as a paid holiday pursuant to provision A. 1. or A. 2., shall be afforded the following premium pay in addition to the holiday pay:

1. For the first eight (8) hours, time and-one-half for all hours worked.
2. For all hours in excess of eight (8), double-time for all hours worked.

G. For the purposes of computing overtime, all holiday hours, whether worked or unworked, for which an Officer is compensated, shall be regarded as hours worked.

H. The five (5) holidays, annually provided pursuant to this Agreement, constitute the entire paid holiday schedule provided by NJIT.

I. It is expressly intended and understood that there are no additional paid days available to FOP Officers, except as expressly provided by other provisions of the controlling collective bargaining Agreement.

J. Seniority is a factor that will be considered by NJIT in assignment of designated and floating holidays. However, it is not dispositive of the issue of assignment.

## **ARTICLE XX**

### **EDUCATIONAL BENEFITS**

All Officers, and where applicable their dependents, are eligible to participate in the existing NJIT Tuition Remission Plan authorized by the Board of Trustees, and subject to the applicable rules and regulations governing the Plan.

## **ARTICLE XXI**

### **VACATION**

A. An Officer is entitled to a vacation with pay. Such vacation is scheduled as requested by the Officer, provided departmental staffing and workload permit. Vacation entitlements for full time, 40 hours per week, are as follows:

<b>Years of Service</b>	<b>Accrual in Hours</b>	<b>Which equates to</b>
Newly hired officer from date of hire to end of Fiscal Year	10 hours per month	1 ¼ days per month
One (1) year through eight (8) years of consecutive service	120 hours per year available on July 1 <sup>st</sup> of each year	15 days per year available on July 1 <sup>st</sup> of each year
Beginning with the ninth (9 <sup>th</sup> ) year of consecutive service	160 hours per year available on July 1 <sup>st</sup> of each year	20 days per year available on July 1 <sup>st</sup> of each year

1. An Officer employed on or before the 25<sup>th</sup> of any month will receive credit for the entire month. An Officer on any unpaid leave of absence of over two weeks loses vacation at the same rate as annual vacation would accrue if the annual allotment was accrued monthly. For instance, if an Officer receives fifteen (15) days of vacation per year and is on unpaid leave for six weeks, the Officer will lose 2½ days of vacation allotment.

2. An Officer who is promoted or transferred into the FOP and was afforded the entire allotment of his/her vacation on July 1<sup>st</sup> from his/her prior position, shall continue to receive the balance of his/her unused vacation days subject to the provisions of Paragraph I, below and continue to be afforded the entire allotment on the following July 1<sup>st</sup>.

3. While utilization of vacation is based upon mutual agreement of NJIT and an Officer, full utilization is both expected and encouraged in a properly scheduled manner, giving appropriate consideration for workload issues. In this regard, it is expected that NJIT supervisors will maintain a fully updated vacation record, showing unused allotment and usage, and will take a pro-active role in scheduling vacation usage in a manner that is mutually beneficial to NJIT and its Officers.

4. Vacation may be utilized in hourly increments, partial days, full days, or consecutive days in a manner that permits operations flexibility and minimizes disruption in university service.

5. Vacation may not be unilaterally scheduled or taken and neither may it be used to provide payment for an unauthorized absence.

6. On or before March 1<sup>st</sup> of each year, each Officer shall submit to his or her supervisor a vacation schedule applicable to the next twelve (12) months beginning April 1<sup>st</sup> of that year and ending March 31<sup>st</sup> of the following year. If the nature of the workload makes it necessary to limit the number of Officers on vacations at the same time and where two (2) or more Officers on the same shift request vacation at the same time and

for the same period of leave, the Officer with greater seniority shall be granted priority in receiving NJIT's approval, provided that the senior officer has submitted his or her request prior to the April 1<sup>st</sup> deadline. An officer may make a request for time off after the April 1<sup>st</sup> deadline where the date is available. In all instances, shift coverage, leave history, work and performance issues and relative equities as determined by supervisory personnel shall govern the process of receiving mutual consent of Officers and supervisor in scheduling vacations.

B. If, because of an emergency workload situation, approved and scheduled vacation time cannot be allowed, either a salary payment shall be made, equal to the compensation that would have been earned during the vacation period, and the vacation bank accordingly reduced, or vacation will be rescheduled to a later mutually agreeable time. Arrangements for such payment must be authorized by the Director of Public Safety and approved by the Department of Human Resources.

C. Up to ten (10) days of unused vacation allotment, remaining on June 30<sup>th</sup> of each fiscal year may be carried over for use in the ensuing year. Unused vacation, in excess of that allowed to be carried over, will be forfeited.

D. Under normal conditions, vacation periods may not exceed three (3) consecutive weeks.

E. If a regular paid holiday occurs during an Officer's vacation period, an additional vacation day may be scheduled at a time mutually agreeable to the Officer and the Director of Public Safety.

F. Upon separation from employment, unused vacation allotment, computed at the daily rate of the salary of the separating Officer at the time of separation will be handled as follows:

Termination for Cause (including job abandonment)	No Pay out of vacation
Voluntary Separation or death from causes other than specified below	No Pay out of vacation
Lay off or Death in the line of duty or death due to employment-related causes or conditions	Up to 15 days of unused vacation for layoff; up to one (1) years' accrual for death in the line of duty or death due to employment related causes or conditions

## **ARTICLE XXII**

### **UNIFORMS**

NJIT shall provide the following scheduled uniform allowance to all eligible Officers:

A. Newly hired Officers shall be required to purchase their own NJIT, standard issue, uniform. After six (6) months of continuous employment in good standing, as a New Jersey Institute of Technology commissioned Police Officer, the entire cost of the initial issue shall be reimbursed to said Officers.

B. Each Officer shall be entirely responsible for repair and/or replacement of damaged and/or worn out uniform articles. This responsibility includes the cost for such necessary repair and/or replacement. The Department of Public Safety uniform standards must be maintained and will be enforced.

C. Maintenance of the NJIT Officer's uniform shall be the entire responsibility of each Officer, including the cost of cleaning and pressing as necessary.

D. NJIT shall provide the following scheduled uniform allowance, for the maintenance, repair, and replacement, to all eligible Officers as follows:

July 1, 2007 – June 30, 2008: \$1,350.00

July 1, 2008 – June 30, 2009: \$1,350.00

July 1, 2009 – June 30, 2011: \$1,350.00

1. Payment of the scheduled uniform allowance shall be semi-annually as follows:

(a.) An Officer, with less than six (6) months full-time service prior to July 1 of each fiscal year of service, shall receive one-half (½) of the allowance further prorated as appropriate, to the nearest month of service, payable the last payroll of the first (1<sup>st</sup>) calendar year of service and one-half (½) of the allowance, prorated as appropriate, and payable the last payroll of the first (1<sup>st</sup>) full fiscal year of service.

(b.) An Officer with at least six (6) months full-time service prior to July 1 of each fiscal year of service shall receive one-half (½) of the allowance in the first (1<sup>st</sup>) payroll of each fiscal year of service under this Agreement and the remainder in the last payroll of each calendar

year of service under this Agreement.

E. The allowance is interchangeable and useable for maintenance and repair and replacement, as needed, on an individual basis.

F. **Payment Conditions:**

1. A condition precedent to eligibility for uniform allowances, as set out above, shall be active or approved inactive employment status at both the time of scheduled payment and at the time of ratification of this Agreement.

**ARTICLE XXIII**

**RETIREMENT\***

Officers shall be eligible to participate in the Police and Fireman Retirement System consistent with its rules and regulations. Should there be changes made in this Plan by legislation during the terms of this Agreement, all such changes appropriate to members of the negotiating unit shall be made in accordance with the provision of such legislation.

\*For information only

**ARTICLE XXIV**

**OVERTIME/WORK SCHEDULES /COURT APPEARANCES**

A. Overtime requested and authorized by the Department of Public Safety shall be compensated at time and one-half (1½) for hours worked in excess of forty (40) hours in the workweek.

B. NJIT will, insofar as possible, provide equal opportunity for overtime work and shall maintain an overtime log for this purpose which shall be available to FOP for review.

1. In the event that there are an insufficient number of Officers willing to cover a given overtime assignment, NJIT will assign the necessary number of Officers to cover the assignment. In assignment of overtime, seniority will be considered as will the number of involuntary overtime assignments to an Officer over the past month.

C. Any Officer called back to work after he has completed his/her regular work shift and has left his/her place of work shall be guaranteed a minimum of four (4) hours pay. Such Officers shall be required to work all hours which are required. If the Officer elects to leave before the end of the four (4) hours, and the supervisor approves, the Officer will be paid only for the time actually worked. Such Officer shall also be reimbursed one (1) meal allowance amount not to exceed \$8.00 where the Officer is called back to work if

the Officer works at least three (3) of the guaranteed minimum four (4) hours mentioned above. Meals shall be ordered from NJIT dining facilities, and eaten on campus where NJIT dining facilities are available. .

D. Except for emergencies, which shall be as reasonably determined by NJIT, Officers will be given at least one (1) week's notice of change in shift prior to effecting the change. The change may be in hours worked, days worked or both.

E. When an Officer is off duty and is required to appear as a witness before any court, judicial or quasi-judicial body or agency in connection with the responsibilities related to official duties, he/she shall be compensated for such time, and shall be paid in accordance with the call back provisions of Article XXV C Overtime/Work Schedules. The Officer shall be reimbursed for travel, parking and toll fees in accordance with the University Travel Policy.

## **ARTICLE XXV**

### **SALARY PROGRAM AND COMPENSATION**

**A. Salary Program: July 1, 2007 through June 30, 2010:**

It is agreed that during the term of this Agreement, for the period July 1, 2007 – June 30, 2010, the following salary and fringe benefit improvements shall be provided to eligible Officers in the unit, within the applicable policies and practices of NJIT and in keeping with the conditions set forth herein:

Subject to the State Legislature enacting appropriation of funds for these specific purposes, NJIT agrees to provide the following benefits, effective at the time stated herein.

**1. Across-the-Board Salary Guide Adjustments:**

- (a.) Effective the first (1<sup>st</sup>) full payroll of Fiscal Year 2008 as set out in Appendix A of this Agreement, each step of the matrix shall be increased by seven percent (7%). Each officer shall move step-to-step on the new scale. (Example: Officer A who is on Step 6 on 6/30/07, shall move to Step 6 on the FY08 matrix).
- (b.) Effective the first (1<sup>st</sup>) full payroll of Fiscal Year 2009 as set out in Appendix A of this Agreement, each step of the matrix shall be increased by four percent (4.0%). Each

officer shall move step-to-step on the new scale. (Example: Officer A who is on Step 6 on 6/30/08, shall move to Step 6 on the FY 09 matrix).

- (c.) Effective the first (1<sup>st</sup>) full payroll of Fiscal Year 2010 as set out in Appendix A of this Agreement, each step of the matrix shall be increased by three percent (3%). Each officer shall move step-to-step on the new scale. (Example: Officer A who is on Step 6 on 6/30/09, shall move to Step 6 on the FY10 matrix).

2. **Incremental (Step) Advancement:**

The Compensation Plan shall consist of 10 Step increments. Annual movement from 1 Step to the next, up through Step 9 will occur annually on the employee's anniversary date, providing the Officer's performance warrants the salary adjustment. "Performance Warrants" means that said officer has properly performed the job responsibilities of the position during the past full year prior to the effective date of step movement, provided that if the officer has received disciplinary action of two or more written reprimands/warnings, or is suspended said officer shall not receive the increment.

Officers who successfully complete their probationary period will, as of completion of the probationary period, and without retroactive application, receive the applicable across-the-board increases set out above.

3. **Senior Performance Step:**

Officers who have been at the ninth (9<sup>th</sup>) Step of the Salary Range for eighteen (18) months or longer shall be eligible for movement to the (10<sup>th</sup>) Senior Performance Step of the Salary Range providing their performance warrants as defined above, and the Officer makes a written request seeking said adjustment. The award of the senior step shall be based on a review of the Officer's entire personnel and departmental folder, which includes any record of

infractions, citations, awards, letters from supervisors and other members of the NJIT community. The award will also be based on the degree to which the Officer has participated in opportunities for community service and/or special projects, (ex. safety speeches, participation in open houses, Deans Day etc.) Special emphasis shall be placed on the last four (4) years of service preceding the request. The Chief may consult with supervisory staff and others in making this determination.

- a. A member of the bargaining unit denied the senior performance step shall have the right to submit a written appeal to the Senior Vice President of Administration and Treasury with a copy to the Director/Chief within five (5) work days of notice of the denial determination. The Senior Vice President may consult with the Director/Chief and render his/her final decision on the appeal within 10 days thereafter. The Senior Vice President's decision shall be final and binding.
- b. The Senior Step shall become effective on the date of its approval, and shall not be retroactive.

4. **Payment Conditions:**

- (a.) In order to receive any and all payments set out herein, including scheduled enhancements to those payments, an Officer must be employed at the time of actual payment.

## **ARTICLE XXVI**

### **HEALTH BENEFITS**

#### **A. State Health Benefits Program**

It is agreed that the State Health Benefits Program, and any rules and regulations governing its application, including amendments or revisions thereto shall be applicable to employees covered by this Agreement. The University agrees to continue to participate in the State Health Benefits Program for the duration of this agreement.

It is agreed that changes in benefits or open enrollment periods adopted by the State Division of Pensions and Benefits for State employees are a requirement for continued participation in the State Health Benefits Program and the parties recognize that changes shall apply to employees represented by the Union. Changes, corrections or reinterpretations of the Program promulgated by the State including changes in plan

operators, in co-payments and contributions, or other changes or modifications, shall be incorporated into the Agreement and thereafter be applicable to all employees.

Consistent with the above effective July 1, 2007 there shall be changes in co-payments and contributions for employees and retirees as determined by the State Division of Pension and Benefits. Additionally, employees enrolled in the State Health Benefits Plan will contribute 1.5% of their annual base salary for medical and prescription benefits, effective July 1, 2007.

Employees who retire with 25 years or more of pension credit service and/or who retire on a disability retirement on or after July 1, 2007 and wish to enroll in the State Health Benefits Plan will be required to contribute 1.5% of their pension allowance for State Health Benefits Plan coverage in retirement, and assume co payment charges in accordance with this agreement and/or any changes made by the State Health Benefits Commission.

## **B. Eye Care Program**

1. It is agreed that Eye Care Program shall include all employees and their eligible dependents (spouse, domestic partner, civil union partner and unmarried children under 23 years of age who live with the employee in the regular parent-child relationship). The coverage shall be \$35 for regular glasses and \$40 for bifocal glasses or more complex prescriptions with all other conditions for eligibility as in the current plan.
2. The extension of benefits to dependents shall be effective only after the employee has been continuously employed for a minimum of sixty (60) days.
3. Full-time employees and eligible dependents as defined above shall be eligible for a maximum payment of \$35 or the cost, whichever is less, of an eye examination by an Ophthalmologist or an Optometrist.
4. Each eligible employee and dependent may receive only one (1) payment for glasses and one payment for examinations during the period of July 1, 2007 to June 30, 2010. This program ends on June 30, 2010. Proper affidavit and submission of receipts are required of the employee in order to receive payment.

## **ARTICLE XXVII**

### **SHIFT PREMIUM**

Only during the term of this Agreement, as restricted by the following parameters, a Shift Premium shall be affected for eligible Officers in the bargaining unit:

1. Any bargaining unit member who is assigned to work a first shift, for a minimum of one hundred and fifty (150) full, consecutive shifts, not interrupted by contractual, statutory or other approved leave in a fiscal year under this Agreement, shall

be entitled to a one-time cash payment in the amount of Four Hundred Fifty Dollars (\$450.00), for Fiscal Year 2008. Four Hundred Fifty Dollars (\$450.00), for Fiscal Year 2009, and Five Hundred Dollars (\$500.00) for Fiscal Year 2010.

2. First shift shall be defined for purposes of this provision only, as any shift beginning after 10:00 p.m. on a given day and before 5:00 a.m. on a given day.

3. Shift Premium eligibility is conditioned upon actually working the designated number of shifts, as set out above, in the prescribed time period. Excused, paid or unpaid absence from a first shift does not count toward Shift Premium qualification. Further, an extended workday into a first shift, from any other shift, and for which overtime compensation is paid pursuant to Agreement, does not count toward Shift Premium qualification.

4. Payment for Shift Premium will be made in the second full pay period in August of the fiscal year following the year of shift premium qualification.

## **ARTICLE XXVIII**

### **DEFERRED COMPENSATION**

**A.** It is understood that the State shall continue the program which will permit eligible employees in this negotiating unit to voluntarily authorize deferment of a portion of their earned base salary so that the funds deferred can be placed in an Internal Revenue Service approved Federal Income Tax exempt investment plan. The deferred income so invested and the interest or other income return on the investments are intended to be exempt from current Federal Income Taxation until the individual employee withdraws or otherwise receives such funds as provided in the Plan.

**B.** It is understood that the State shall be solely responsible for the administration of the Plan and the determination of policies, conditions and regulations governing its implementation and use.

**C.** The State shall provide literature describing the Plan as well as a required enrollment or other forms to all employees when the Plan has been established.

**D.** It is further understood that the maximum amount of deferrable income under this Plan shall be as follows:

1. January 1, 2007 through December 31, 2007: Fifteen Thousand Five Hundred Dollars (\$15,500) for all employees less than 50 years of age and Twenty Thousand Five Hundred Dollars (\$20,500) for those employees 50 years of age or older.

2. Tax deferred annuity amounts through calendar year 2010 are subject to revision and determination by the Federal Internal Revenue Service (IRS).

Presently, the IRS has determined that the maximum deferral limit will be adjusted for inflation on a calendar year basis in \$500 increments

**ARTICLE XXIX**

**DRUG SCREENING POLICY & PROCEDURE**

NJIT and FOP agree to the NJIT/FOP Drug Screening Policy and Procedure as set out in Appendix B herein.

**ARTICLE XXX**

**JOB ACTION**

It is recognized by both NJIT and FOP that the continued and uninterrupted operation of NJIT is of paramount importance. Therefore FOP agrees that it will refrain from any act contrary to law such as strike, work stoppage, slow down, or other job action during the life of this Agreement and will eschew any threat, encouragement, support, or condoning of any such job action.

**ARTICLE XXXI**

**PARKING**

**A. Fees:**

The following parking fees shall be charged and collected through payroll deduction for all members of the bargaining unit desiring to park and duly registering his/her motor vehicle with the University according to published University regulations, enabling and entitling him/her to daily parking privileges on University premises:

All parking at all available locations, including NJIT's parking deck, shall be on a first come, first served basis following registration of a bargaining unit member's motor vehicle, entitling him/her to parking privileges at the rate not to exceed the parking fee schedule set out below:

**Fiscal Year 2008**

- a. Base Salary of \$0 - \$63,600.00.....pays \$150 per semester
- b. Base Salary of \$63,600.01-\$74,200.00.....pays \$175 per semester
- c. Base Salary of \$74,200.01-\$84,800.00.....pays \$200 per semester.
- d. Base Salary of \$84,800.01-\$95,400.00.....pays \$225 per semester.
- e. Base Salary of \$95,400.01-\$106,000.00...pays \$250 per semester.

**Fiscal Year 2009**

- a. Base Salary of \$0 - \$63,600.00.....pays \$155 per semester
- b. Base Salary of \$63,600.01-\$74,200.00.....pays \$180 per semester
- c. Base Salary of \$74,200.01-\$84,800.00.....pays \$205 per semester.
- d. Base Salary of \$84,800.01-\$95,400.00.....pays \$235 per semester.
- e. Base Salary of \$95,400.01-\$106,000.00...pays \$255 per semester.

**Fiscal Year 2010**

- a. Base Salary of \$0 - \$63,600.00.....pays \$165 per semester
- b. Base Salary of \$63,600.01-\$74,200.00.....pays \$190 per semester
- c. Base Salary of \$74,200.01-\$84,800.00.....pays \$215 per semester.
- d. Base Salary of \$84,800.01-\$95,400.00.....pays \$245 per semester.
- e. Base Salary of \$95,400.01-\$106,000.00...pays \$265 per semester.

2. Fees shall be collected through payroll deduction and spread over the first five (5) consecutive pay periods per semester following registration of a motor vehicle by an officer. There will be no rebates or discounts for partial use during any semester in which a vehicle is registered and therefore entitled to be parked on NJIT's premises.

3. The Parking Fee Table is illustrative of the program schedule and outlines the fee methodology. The tables are not exhaustive and the program accommodates higher salaried employees according to the incremental methodology outlined above.

**ARTICLE XXXII**

**DURATION**

This Agreement shall be effective as of July 1, 2007, and shall terminate as of June 30, 2010.

**ARTICLE XXXIII**


**SUCCESSOR AGREEMENT**

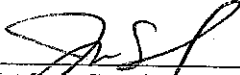
The parties agree to enter into collective negotiations concerning a successor Agreement to become effective on or after July 1, 2010, subject to the provisions set forth in Article II, Negotiating Procedures.

The parties hereby acknowledge and agree to the terms and conditions of the aforementioned Agreement between New Jersey Institute of Technology and the Fraternal Order of Police, Lodge #93, and effective July 1, 2007 through June 30, 2010.

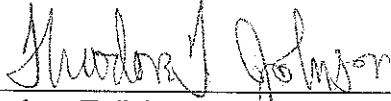
Signed this 15<sup>th</sup> day of October, 2007.

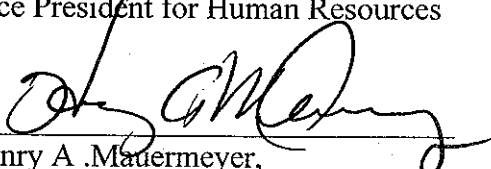
**For FOP, Lodge #93:**


  
Kevin Kesselman, President &  
Chief Negotiator


  
Joshua Sanders, Police Officer  
Negotiating Team Member

**FOR NJIT:**

  
Theodore T. Johnson, Chief Negotiator  
Vice President for Human Resources

  
Henry A. Mauermeier,  
Senior Vice President for Admin & Fin  
Negotiation Team Member

  
Holly Stern, General Counsel  
Negotiating Team Member

  
Denise P. Coleman  
Director of Labor/Employee Relations  
Negotiating Team Member

## APPENDIX A

### FOP Salary Schedule

Steps	Current	7.00%		4.0%		3.00%	
		Jul-07		Jul-08		Jul-09	
		\$ Increase	Salary	\$Increase	Salary	\$ Increase	Salary
1	44,183.00	3,092.81	47,275.81	1,891.03	49,166.84	1,475.01	50,641.85
2	46,390.00	3,247.30	49,637.30	1,985.49	51,622.79	1,548.68	53,171.48
3	48,600.00	3,402.00	52,002.00	2,080.08	54,082.08	1,622.46	55,704.54
4	50,808.00	3,556.56	54,364.56	2,174.58	56,539.14	1,696.17	58,235.32
5	53,016.00	3,711.12	56,727.12	2,269.08	58,996.20	1,769.89	60,766.09
6	55,225.00	3,865.75	59,090.75	2,363.63	61,454.38	1,843.63	63,298.01
7	57,433.00	4,020.31	61,453.31	2,458.13	63,911.44	1,917.34	65,828.79
8	59,641.00	4,174.87	63,815.87	2,552.63	66,368.50	1,991.06	68,359.56
9	61,861.00	4,330.27	66,191.27	2,647.65	68,838.92	2,065.17	70,904.09
<b>Senior Step 10</b>			68,507.96		71,248.28		73,385.73
	<b>3.50%</b>	2,316.69		2,409.36		2,481.64	

## **APPENDIX B**

### **NEW JERSEY INSTITUTE OF TECHNOLOGY PUBLIC SAFETY DEPARTMENT DRUG SCREENING POLICY AND PROCEDURE FOR POLICE OFFICERS**

#### **I. Introduction**

New Jersey Institute of Technology's Public Safety Department has a legal responsibility and managerial obligation to maintain a safe work environment for its officers, and employees, as well as a duty to protect the community that it is sworn to serve. The professional responsibilities, legal prerogative and the integrity of any law enforcement agency demands that its Police Officers (Officers) refrain, without excuse or exception, from the use and possession of illegal or medically unauthorized controlled dangerous substances (herein "drugs"). No person can function "well" while abusing drugs according to the New Jersey Department of Law and Public Safety Division of Criminal Justice. There is conclusive proof that the use and/or abuse of many types of drugs can and does produce negative effects on an individual's cognitive, emotional and physical health and conduct. Officers, being in positions of public trust, may not operate outside of the law. The possession and use of drugs in itself is a crime in this jurisdiction, and grounds for arrest, prosecution, incarceration and dismissal. A condition of employment must and shall be an Officer who is free from drug possession, use and/or dependence. It is, therefore, the policy of NJIT's Public Safety Department that an Officer shall possess or use any drugs, whether on or off duty, unless the drug has been legally prescribed for the Officer by a physician licensed to practice medicine and used in the manner prescribed.

#### **II. Purpose**

The purpose of this policy is to protect the integrity, credibility and effectiveness of NJIT's Public Safety Department; to preserve the public's trust earned by its Officers; and to ensure a drug free workplace for Department members. Testing Officers for substance abuse in accordance with legally authorized parameters, will help ensure that these objectives are accomplished, while balancing the need to safeguard the rights of the individual members tested against unreasonable intrusions into their person. It is acknowledged that legal requirements pertaining to drug testing may change and evolve; the policy may be amended from time to time to reflect changes in legal requirements and parameters, as well as the negotiated pacts of the university and its unionized Officers.



will be required based on the objective facts and on rational inferences, drawn by a supervisor, to indicate that the usage of any drug may be the cause of an unfit condition where the Officer is:

1. Impaired in, or incapable of performing their assigned duties, and/or
2. The subject of investigation where sufficient evidence and facts are present to constitute a "reasonable/individualized suspicion" that they are involved in the use, possession or sale of drugs; and/or
3. Experiencing (without plausible, legitimate explanation proffered and fully validated) excessive absenteeism and significantly reduced productivity, and/or
4. Found to have excessive or otherwise suspicious on-duty injuries or motor vehicle accidents indicating negligence in relation to assigned duties; and/or
5. Exhibiting unusual and/or bizarre behavior patterns, reasonably deemed inconsistent with regular and appropriate behavior patterns.

## V. Testing Procedures

A. Any department member who is consuming a prescribed medication which may not otherwise be defined as a drug under this policy or ingesting over-the-counter drugs, shall, upon being ordered to submit to drug testing, inform their immediate supervisor of the nature of the illness or injury, along with the name and type of medication being taken and the physician prescribing same.

B. **Reasonable Individualized Suspicion**: Supervisors shall prepare a written report requesting urinalysis, where there is a credibility to the sources of information, e.g., by tip, informant, personal knowledge, observations, other documentation or reliable information that a member is a user of drugs. The report, which shall be confidential, shall be forwarded to the Director of Public Safety, documenting the specific reasons for the request with all circumstances and/or corroborating evidence supporting individualized, reasonable suspicion (e.g., relevant facts exhibited by the Officer).

1. The decision to test an Officer for drugs based upon satisfaction of the standards for reasonable individualized suspicion, shall be made by the Director of Public Safety. Under emergent circumstances, the Director of Public Safety may order drug testing based

upon an oral report. If the Director of Public Safety cannot be contacted within a reasonable period of time, an NJIT designee (normally a Lieutenant) may (acting in his absence) order such test.

A. **Random Drug Testing:** In the case of random drug testing, a published standardized, selection procedure shall be utilized to select no more than twenty percent (20%) of the pool of Officers for drug testing at any one time. This procedure must conform with the following guidelines:

1. The selection of any officer must be based purely upon chance, which may only include mathematical probability as a likelihood of selection.
2. The selection procedure shall not be conducted by any member of the Department of Public Safety, but any of the following members of NJIT administration (or their successors in position responsibility) may be present to witness the selection process:
  - a. President,
  - b. Senior Vice President for Administration and Treasurer,
  - c. Associate Vice President for Facilities Management,
  - d. Director of Public Safety and Chief of Police or expressly authorized Superior Police Officers,
  - e. Vice President of Human Resources or his designee.
3. The FOP has the right, at its request, to have a duly authorized, Lodge #93, representative present as a witness to the selection process.
4. To reach the maximum allowable number of Officers tested at any one time, you would round to the number of Officers nearest twenty percent (20%) at the time of selection. For example, if there are sixteen (16) officers in the testing pool, three (3) officers equal eighteen point seventy-five percent (18.75%) of the pool and four (4) officers equal twenty-five percent (25%) of the pool. The maximum number of officers, under this example, that may be selected is three (3).
5. As the selection is truly random, there is no limit on the number of times one may be randomly selected nor will there be any alteration in the selection procedure regardless of comparable differences among Officers in times selected.

6. There will be no more than six (6) random tests per year to be scheduled at NJIT's discretion.
7. As the procedure is publishable, it will be available to the FOP for validity testing as a random process.
8. **Confidentiality**: The identification of Officers selected for random testing as well as the fact that a random selection and testing procedure has been determined and scheduled to occur, prior to the collection of specimens, shall remain confidential to the extent practicable. Any Officer who without authorization from NJIT, discloses either the identity of selected Officers or the planning of a random selection and testing, shall be subject to severe discipline. This, without mitigation of an extraordinary nature, is a terminable offense.
9. The only matter grievable under this Policy is whether the testing procedure reasonably leads to truly random selection.

**D. Notification of Drug Screening**

1. An Officer tested on the grounds of "reasonable individualized suspicion", discretionary testing during his/her probationary period, or random testing, need receive no minimum notification that drug screening, through urinalysis, will be conducted prior to reporting to the testing location, other than that notification time that is necessary for transportation purposes. Whenever practicable, Officers shall be notified during their tour of duty on the date of the test, and testing itself will be conducted during a tour of duty.
2. Any Officer who refuses to appear for testing at the time and place designated by the Department after being notified to do so, shall be subjected to the same penalties and consequences as those Officers who test positive for the presence of illegal drugs including, but not limited to, the termination of employment from NJIT, following provision of applicable due process of law.

E. **Responsibility** - A supervisor designated by the Director of Public Safety shall be directly responsible for scheduling and supervising the conducting of all drug screening for Officers.

**F. Processing of Urine Specimen**

1. **Designated Laboratory and Test** – The New Jersey

State Toxicology Laboratory within the Division of Criminal Justice, shall be the sole facility for testing procedures for Officers. The following two (2) step testing process will be followed:

- a. The Enzyme Multiplied Immunoassay Test (EMIT) and Thin Layer Chromatography (TLC) will be used as initial drug screening procedures.
- b. Gas Chromatography/Mass Spectrometry (GCMS) technique is used to confirm all positive results of initial drug screening.

2. **Preliminary Acquisition Procedures**

Before an Officer is ordered to submit to a drug test on the basis of “reasonable individualized suspicion”, the Department shall prepare a confidential report which documents the basis thereof. The Director of Public Safety (or such individual designated by this policy to render approval of testing) shall base his/her decision on the contents of this confidential report. No such report shall be required in the event of either emergent circumstances mandating immediate testing, or allowable random testing.

Prior to the submission of a urine sample for any type of testing, the Officer shall complete a medical questionnaire which clearly describes all medications, both prescription or over the counter, which he or she ingested during the prior thirty (30) days.

The Director of Public Safety shall designate an official monitor responsible for urine sample acquisitions. The monitor may, but need not be, an NJIT Superior Officer. The monitor shall, whenever practicable, be of the same gender as the Officer(s) producing the required samples. As the official monitor, he/she shall be responsible for ensuring that all relevant disclosure forms have been thoroughly completed by the Officer, and that the specimen containers used during the sample acquisition process have been approved by the New Jersey State Toxicology Laboratory. The official monitor shall also take all reasonable steps to ensure to the extent practicable that the invasion of the Officer’s privacy is minimized during the sample acquisition process.

Prior to submitting the urine sample to the laboratory for testing, both the official monitor and the Officer shall inspect the specimen bottle packet for indications of pre-void tampering. The official monitor may also choose to designate another witness to the sample acquisitions.

3. **Specimen Acquisition Procedure**

- a. After the official monitor has reviewed the appropriate forms for accuracy and inspected the empty specimen collection container for signs of tampering, the Officer shall void into the container. The Officer shall seal the specimen container and deliver it to the official monitor.
- b. At the time the urine sample is provided, the Officer will have the option to submit two (2) samples. Both samples will be acquired according to the procedures outlined herein. One will be forwarded to the State Toxicology Laboratory for testing. The official monitor will store the remaining sample in a frozen state within, or accessible to, the Department according to Departmental procedures regarding chain of custody and evidence storage, in accordance with Attorney General Guidelines. The samples will remain in storage for sixty (60) days or until notification by the State Toxicology Laboratory that the first specimen tested negative. This sample will be made available upon request through the appropriate channels to the Officer or at the Officer's election, his/her authorized employment representative (which for this process only may include retained counsel).
- c. To the maximum extent possible, privacy will be maintained during the specimen production process, however, should the Department of Public Safety have documented reason to believe the Officer will adulterate the specimen or otherwise compromise the integrity of the test process, the official monitor or his/her designee (of the same gender as the Officer) may directly observe the Officer while he/she

produces the specimen.

- d. In the event an Officer is unable to produce a urine specimen, the Officer may remain under the supervision of the official monitor until he/she is satisfied that the Officer cannot produce a specimen. At such time, the official monitor may allow the Officer to drink fluids in an attempt to induce production of a specimen. An Officer's continued inability to produce a specimen may result in the Officer being examined by a physician of NJIT's choice and at NJIT's expense to determine if the inability to produce the sample is the result of a medical/physical infirmity or a refusal to cooperate with the drug testing process. A determination by the examining physician, that the inability to produce a urine specimen is based upon a refusal to cooperate with the drug testing process shall be cause for termination of the Officer.
- e. Upon successful production and delivery of a required urine sample to the official monitor, he/she shall maintain the chain of custody by submitting the sealed specimen container(s) to the New Jersey State Toxicology Laboratory, Division of Criminal Justice within one (1) working day of collection. In the event the specimen cannot be submitted within one (1) working day, it shall be stored in a controlled access refrigerated storage area until submission to the State Toxicology Laboratory.
- f. Throughout the testing process, the identities of the tested Officers shall remain confidential to the extent practicable. Individual specimens shall be identified by social security numbers only. Officers' names shall not appear on specimen containers or forms submitted to the State Toxicology Laboratory.

## G. **Drug Test Results**

### 1. **Notification**

It is the procedure of the State Toxicology Laboratory to notify the Director of Public Safety, as to the result

of the urinalysis, immediately upon completion of the test. The laboratory will retain only those samples which have been confirmed to be positive for the presence of drugs. All oral notifications will be confirmed by written reports within fifteen (15) working days of submission of the specimen.

2. **Positive Results**

All Officers who are tested, and are confirmed to be positive for the presence of drugs, shall:

- a. Be notified of this fact by the Director of Public Safety as soon as practicable after oral notification is received from the laboratory.
- b. Be provided with a copy of the laboratory report, as soon as practicable after receipt of same.
- c. Be suspended from duty immediately without pay, pursuant to Article VII, Investigation, Due Process, Discipline and Challenge, of the collective bargaining agreement pending a due process hearing for dismissal from employment.
- d. Be terminated from employment, in accordance with Article VII, Investigation, Due Process, Discipline and Challenge, of the collective bargaining agreement.
- e. Be given the opportunity to challenge a termination from employment based upon a confirmed positive result in the same manner as provided in the collective bargaining agreement for challenging disciplinary impositions involving potential termination of employment. The only grievable issues with regard to discipline resulting from a positive drug test are as follows:
  - (i.) a challenge to the testing results or procedure;  
or
  - (ii.) in the case of drug testing based upon “reasonable individualized suspicion”, a claim that reasonable grounds for

testing did not exist.

- f. In addition to the above measures, any department member who produces a confirmed positive result for use of drugs shall also be:
  - (i.) included in a central registry maintained by the Division of State Police, to be accessed only through court order or as part of a confidential investigation related to law enforcement employment;
  - (ii.) reported to the Essex County Prosecutor;
  - (iii.) permanently barred from sworn law enforcement employment in New Jersey.

g. Officers who have produced two (2) simultaneous samples may, upon notification of a positive test result, request that the Director of Public Safety release the second (2<sup>nd</sup>) sample for the sole purpose of having the same independently tested. Under such circumstances, the Officer must designate as the independent testing facility a laboratory licensed to conduct such tests by the New Jersey Department of Health under the New Jersey Criminal Laboratory Improvement Act. If an authorized representative of the designated laboratory does not take possession of the second (2<sup>nd</sup>) sample maintaining an appropriate chain of custody, within sixty (60) days of production, the Department of Public Safety will destroy the sample.

### 3. **Negative Results**

- a. If the test result as determined at any stage of the process is negative, the allegation of drug abuse against the Officer shall be classified as "unfounded".
- b. Any Officer whose specimen is found to be

negative, or who has a verified, lawfully issued, medically valid prescription explaining a positive result, shall receive a letter from the Director of Public Safety stating that no illegal substances were found and no negative inferences may be drawn from the testing itself. A copy of the letter will be provided to the Officer, and at the Officer's election placed in the Officer's personnel file. Records and documents relating to a test based upon asserted reasonable individualized suspicion will be made available to the Officer in accordance with legal mandate, or the terms of their Collective Bargaining Agreement.

- c. Negative specimens shall be destroyed immediately upon completion of urinalysis by the Medical Examiner's Toxicology Laboratory.

## **VI. Record Keeping**

A. The **Office of Human Resources** shall maintain the following records of random and individualized reasonable suspicion testing:

1. the identities of all Officers ordered to submit urine samples;
2. the reason for the order;
3. the date the urine sample was collected;
4. the identity of the official monitor of the collection process;
5. the chain of custody of the urine sample(s) from the time of collection to the time of submission to the State Toxicology Laboratory (or the licensed alternative testing facility set out under provision V.G. above).
6. the results of the testing;
7. copies of notifications to Officers selected or ordered to undergo testing;
8. documentation of disciplinary action taken against any Officer who tests positive or refuses to submit to testing.

B. The **Office of Human Resources** shall also maintain the following

records for all random testing:

1. a description of the process used to randomly select Officers for drug testing;
2. the date selection was made;
3. a copy of the document listing the identities of those selected for drug testing;
4. a list of those who were actually tested; and
5. a roster of NJIT personnel with knowledge of the specific testing process and those identified for testing. (To the extent practicable, this roster will be confined to those with a need to know in accordance within legal parameters, managerial prerogative and public policy.)

**VII. Central Drug Registry**

- A. The Department of Public Safety shall include in its submission to the Division of

State Police for inclusion in its central drug registry, the following information as to each individual:

1. name of the individual who tested positive, or who refused to submit to drug testing;
2. last known address of the individual;
3. date of birth;
4. social security number;
5. SBI number (if applicable);
6. substance the individual tested positive for, or circumstances of the refusal to submit a urine sample;
7. date of dismissal from the agency; and
8. whether the individual was an applicant, trainee, probationary or non-probationary Officer.

B. Information contained in the central registry will be released to those outside of NJIT, by the Division of State Police only under the following circumstances:

1. In response to an inquiry from a law enforcement agency as part of the background investigation process for prospective or newly appointed personnel.
2. In response to a court order.

### **VIII. Responsibilities To Report**

A. **Officers' and Sergeants' Responsibilities**- When an Officer observes a fellow officer or subordinate seemingly in a stupor or receives other information that supports the observing Officer's suspicion that the department member is unfit to perform his/her duties and that use or abuse of drugs is related to the Officer's condition, the Officer shall:

1. Immediately notify their supervisor(s) of the evidence of suspected drug use;
2. A supervisor must also execute an "Administrative Submission" and record observations and other pertinent data.

B. **Lieutenant's Responsibilities** - Upon personally observing or receiving information from a supervisor or other Officer having information that an Officer is involved in drug related activities or is unable to perform his/her assigned function because of the possible use or abuse of drugs, Lieutenants shall:

1. Notify the Director of Public Safety and comply with instructions received.
2. Conduct an investigation to determine whether there are sufficient facts to constitute a reasonable individualized suspicion that a department member is using drugs.
3. Make necessary notifications and scheduling for testing pursuant to this policy.
4. Transport or meet the department member and his/her supervisor at the State of New Jersey Medical Examiner Toxicology Laboratory, Newark, New Jersey.
5. Immediately forward a preliminary report of the drug-related incident to the Director of Public Safety.
6. Forward a final report to the Director of Public Safety with

findings, recommendations and conclusions.

**IX. Responsibility For Compliance**

All personnel are responsible for both the understanding and enforcement of this policy and procedure. Inadequacies on the part of the operating personnel reflect directly on the supervisory and command personnel and generally on the credibility of the entire department.

**ATTACHMENT A**

**CERTIFICATION**

In accordance with controlling university policy and collective agreement,  
I, \_\_\_\_\_(Officer's Name), hereby certify as follows:

(Please Print)

(COMPLETE APPLICABLE SECTION)

1. I am currently employed in active status as a commissioned Police Officer in the Department of Public Safety;

AND

2. I am currently being treated by a licensed health care practitioner with the following duly prescribed, medications:

Medication:	Prescribed by:	Starting date:	End Date:

AND/OR

3. I am currently using, or have used within the last thirty (30) days, the following non-prescription medications or substances for treatment of a health condition:

Medication:	Starting Date:	End Date:

4. I hereby authorize the Chief of Police, Department of Public Safety or his/her designee having the rank of Lieutenant or greater to contact my health care practitioner(s) specified herein solely for the purpose of confirming that the prescribed medication and/or substances to which I have certified herein was duly prescribed by said health care practitioner(s).

Signed to and Certified by:

\_\_\_\_\_  
(Signature)  
on this \_\_\_\_\_ day of \_\_\_\_\_.

## APPENDIX C

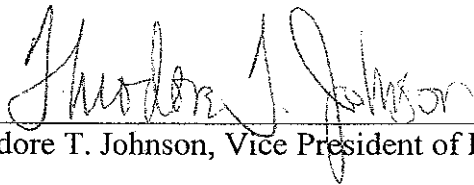
### LETTER OF AGREEMENT

New Jersey Institute of Technology ("NJIT") and Fraternal Order of Police ("FOP") in consideration of the mutual exchange of covenants made and enforceable in the parties' successor collective negotiations agreement with the term July 1, 2007 through June 30, 2010 hereby agree as follows:

1. Tuition Remission – FOP acknowledges that the Tuition Remission Program is currently under review and will be revised. It acknowledges and agrees that such revision will include but not be limited to provisions and procedures to assure that NJIT is reimbursed by the employee for tuition benefits and fees extended where the employee/dependent fails to receive a grade of "C" or better, or a pass in a pass/fail course. It is further agreed that upon adoption of a revised policy, "dependent child(ren)" is (are) to be defined as an unmarried dependent child (ren) under the age of 23 years who is claimed on the employee's federal income tax return
2. Parking - The parties further agree to discuss and/or negotiate as applicable the adoption of a parking policy which incorporates a provision to provide for reserved and/or guaranteed parking at a premium parking rate above the existing contractual scale set forth in the July 1, 2007 through June 30, 2010 Agreement.

Executed this (date) *October 1, 2007*

FOR NJIT:



Theodore T. Johnson, Vice President of Human Resources

FOR FOP:



Kevin Kesselman, President