

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE URBAN REDEVELOPMENT AUTHORITY OF PITTSBURGH AMENDING AND RESTATING THE URBAN REDEVELOPMENT AUTHORITY OF PITTSBURGH RETIREMENT SAVINGS PLAN

WHEREAS, the Urban Redevelopment Authority of Pittsburgh ("Authority") maintains the Urban Redevelopment Authority of Pittsburgh Retirement Savings Plan ("Plan") for the benefit of eligible employees of the Authority; and

WHEREAS, the Authority desires to amend and restate the Plan to incorporate the current provisions in a single document and to conform with current legal and tax requirements.

BE IT RESOLVED by the Board of the Authority, and it is HEREBY RESOLVED AND ENACTED by authority of the same, that the Plan shall be amended and restated in its entirety, effective March 14, 2013, in the form attached hereto.

RESOLVED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2013.

ATTEST:

URBAN REDEVELOPMENT  
AUTHORITY OF PITTSBURGH

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Executive Director

**URBAN REDEVELOPMENT AUTHORITY OF PITTSBURGH**  
**RETIREMENT SAVINGS PLAN**

**Effective March 14, 2013**

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**ARTICLE I**  
**INTRODUCTION**

**1.1 Effective Date**

The Plan as amended and restated in this document shall be effective as of March 14, 2013, except as otherwise specified herein.

**1.2 Amendment and Restatement of Plan**

- (a) Effective January 1, 1985, a retirement plan was established for eligible employees of the Urban Redevelopment Authority of Pittsburgh, which is now known as the Urban Redevelopment Authority of Pittsburgh Retirement Savings Plan and defined herein as Plan.
- (b) The Plan has been amended from time to time by the Authority to make certain benefit changes and for compliance with legal and tax requirements.
- (c) The Plan is being amended and restated in this document effective March 14, 2013 to incorporate all of its current provisions in a single document and to conform to the current tax qualification requirements of the Internal Revenue Code for governmental plans.

**1.3 Type of Plan**

The Plan is a defined contribution plan of the money purchase type.

**ARTICLE II**  
**DEFINITIONS**

For purposes of the Plan, the following terms shall have the meaning given to them in this Article:

- 2.1 **Account** shall mean each account maintained in accordance with Article VI.
- 2.2 **Act 205** shall mean the Municipal Pension Plan Funding Standard and Recovery Act, Act of December 18, 1984, P.L. 1005, No. 205, as amended, 53 P.S. Sec. 895.101 et seq. (as the same may be amended from time to time).
- 2.3 **Active Participant** shall mean an Eligible Employee who becomes and remains an Active Participant pursuant to Article III.
- 2.4 **Authority** shall mean the Urban Redevelopment Authority of Pittsburgh.
- 2.5 **Beneficiary** shall mean the person designated by a Participant in accordance with the Plan to receive any distributions due from the Plan at death.
- 2.6 **Code** shall mean the Internal Revenue Code of 1986, as the same may be amended from time to time.
- 2.7 **Committee** shall mean the committee provided for in Section 12.2.
- 2.8 **Compensation** shall mean and shall be determined as follows:
- (a) Compensation shall mean the base pay or salary paid by the Authority to an Active Participant for active services rendered in Covered Employment, excluding bonuses, overtime, and any extra or additional amount or form of compensation.
  - (b) Compensation shall be determined prior to the reduction thereof for, as applicable,
    - (i) elective deferrals and amounts that are not includible in gross income under Code §§ 125 (including "deemed section 125 compensation"), 132(f)(4), 402(e)(3), 402(h), 402(k), 403(b),
    - (ii) compensation deferred under a Code § 457(b) deferred compensation plan, and
    - (iii) employee pick-up contributions under Code § 414(h).

(c) Notwithstanding the foregoing subsection, in no event shall the Compensation taken into account under the Plan for each Plan Year (beginning on or after January 1, 2002) to determine contributions and allocations exceed \$200,000, with said dollar amount proportionately reduced for any Plan Year shorter than twelve months and adjusted at the same time and in the same manner as provided by Code § 401(a)(17).

2.9 **Covered Employment** shall mean employment with the Authority as an Eligible Employee.

2.10 **Disability or Disabled** shall mean (i) a physical or mental condition for which a Participant receives a benefit under the Authority's long term disability plan, or (ii) if not covered by the Authority's long term disability plan, a physical or mental condition which is expected to permanently and continuously prevent a Participant from satisfactorily performing the Participant's usual duties for the Authority and the duties of such other position or job which may be made available by the Authority, in its discretion, and for which the Participant is suited by reason of training, education or experience, as determined by the Committee on the basis of medical evidence satisfactory to it.

2.11 **Eligible Employee** shall mean an Employee regularly employed by the Authority, but excluding (i) an Employee customary employed by the Authority for 20 or fewer hours in a week, (ii) an Employee customary employed by the Authority for 5 or fewer months in a calendar year, and (iii) an Employee represented by a collective bargaining agent unless an agreement between said collective bargaining agent and the Authority provides for inclusion as an Eligible Employee.

2.12 **Employee** shall mean an individual employed by the Authority as a common law employee (as reflected on the contemporaneous records of the Authority and disregarding any subsequent determination to the contrary).

2.13 **Employee Contributions** shall mean the contributions required to be made by an Active Participant to the Plan as a condition for participation.

2.14 **Employee Contribution Account** shall mean the Account maintained for a Participant and administered pursuant to Article VI with respect to Employee Contributions.

- 2.15 **Employer Contributions** shall mean the employer contributions made by the Authority to the Fund under Article V.
- 2.16 **Employer Contribution Account** shall mean the Account maintained for a Participant and administered pursuant to Article VI with respect to Employer Contributions.
- 2.17 **Employment** shall mean (i) employment as an Employee and (ii) the performance of services for the Authority as a Leased Employee.
- 2.18 **Former Participant** shall mean an Active Participant or Inactive Participant who has terminated Employment and who has a balance in an Account.
- 2.19 **Inactive Participant** shall mean a former Active Participant who has a balance in an Account and who is an Inactive Participant pursuant to Article III.
- 2.20 **Leased Employee** shall mean (for Plan Years beginning on and after August 1, 1997), as determined in accordance with Code § 414(n), any person who is not an employee of the Authority and who, pursuant to an agreement between a leasing organization and the Authority, performs services for the Authority on a substantially full-time basis for a period of at least one year under the primary control or direction of the Authority, but excluding any such person if (i) such person is covered under a money purchase pension plan maintained by the leasing organization that provides for a 10% nonintegrated employer contribution for each of its participants, full and immediate vesting, and immediate participation for each non-excluded employee of the leasing organization, and (ii) leased employees (determined without regard to this exclusion) do not constitute more than 20% of the Authority's nonhighly compensated employee workforce.
- 2.21 **Noncovered Employment** shall mean Employment other than Covered Employment.
- 2.22 **Nonvested Accounts** shall mean the Account, or the portion thereof, in which a Participant is not vested under the applicable terms of the Plan.
- 2.23 **Participant** shall mean an Active Participant, Inactive Participant, or Former Participant.
- 2.24 **Plan** shall mean the Urban Redevelopment Authority of Pittsburgh Retirement Savings Plan, as set forth in this document, as the same may be amended from time to time.

- 2.25 **Plan Year** shall mean each calendar year.
- 2.26 **Retirement Fund** shall mean the assets held in the name of the Plan to provide the benefits payable in accordance with the provisions of the Plan.
- 2.27 **Rollover Contribution** shall mean shall mean the rollover contribution made to the Fund by (or for) an Eligible Employee under Article V.
- 2.28 **Rollover Contribution Account** shall mean the Account maintained for a Participant and administered pursuant to Article VI with respect to Rollover Contribution(s).
- 2.29 **Vested Accounts** shall mean the Account or Accounts, or the portion thereof, in which a Participant is vested under the applicable terms of the Plan.
- 2.30 **Year of Service** shall mean a year of service credited pursuant to Article IV.

**ARTICLE III**  
**PARTICIPATION**

**3.1 Eligibility to Participate**

- (a) Each Eligible Employee shall be eligible to participate in the Plan as an Active Participant on the date credited with one Year of Service.
- (b) To the extent provided for in Section 5.1, an Eligible Employee shall be required to make Employee Contributions in order to participate in the Plan as an Active Participant.

**3.2 Commencement of Participation**

- (a) An Eligible Employee who satisfies the eligibility requirements under Section 3.1 shall participate in the Plan as an Active Participant on the first day of the calendar month following the date on which said eligibility requirements are satisfied; provided that the Eligible Employee files all required enrollment or application forms in accordance with the uniform procedures prescribed by the Committee for the filing of said forms, including those authorizing Employee Contributions as may be required as a condition for participation.
- (b) If an Eligible Employee is not in Covered Employment on the applicable date for participation in the Plan as an Active Participant, the Eligible Employee shall not become an Active Participant. Upon a subsequent return to Covered Employment, the Eligible Employee shall become an Active Participant in accordance with Section 3.3 or 3.5.

**3.3 Transfers in Employment**

- (a) An Active Participant who transfers from Covered Employment to Noncovered Employment shall cease to participate as an Active Participant and shall become an Inactive Participant as of the date of such transfer.
- (b) An Inactive Participant or Employee who transfers from Noncovered Employment to Covered Employment shall participate in the Plan as an Active Participant as of

the date of such transfer; provided that the requirements for participation under Sections 3.1 and 3.2 are satisfied as of said date.

#### **3.4 Termination of Employment**

An Active Participant or Inactive Participant who terminates Employment shall become and remain a Former Participant until such time as there is no balance in any of such Participant's Accounts.

#### **3.5 Reemployment**

(a) An Eligible Employee who returns to Covered Employment after a termination of Employment and who was previously a Participant shall participate in the Plan as an Active Participant on the first day of the calendar month following the date of such return; provided that the Eligible Employee satisfies the requirements for participation under Sections 3.1 and 3.2 as of said date.

(b) An Eligible Employee who returns to Covered Employment after a termination of Employment and who was not previously a Participant shall participate in the Plan in accordance with Sections 3.1 or 3.2.

#### **3.6 No Waiver of Participation**

No Employee or Participant shall have the right to waive participation in the Plan.

## ARTICLE IV

### SERVICE

#### 4.1 Period of Service

- (a) An Employee's Period of Service shall include:
  - (1) each period of the Employee's Employment;
  - (2) each Authorized Leave of Absence included in the Employee's Period of Service under Section 4.2;
  - (3) each period of military service included in the Employee's Period of Service under Section 4.3; and
  - (4) any prior periods of employment with the City of Pittsburgh or with any other Authority of the City of Pittsburgh.
- (b) An Employee's Period of Service shall not include:
  - (1) any period for which Employee Contributions were required as a condition for participation and the Employee failed to make the required Employee Contributions; and
  - (2) any period of service completed before to a termination of Employment if the Employee was not a Participant in the Plan at the termination.
- (c) An Employee's Period of Service shall be calculated to the nearest month by aggregating all the periods required to be taken into account under this Section with less than full years aggregated on the basis that twelve months equals one year and less than full months aggregated on the basis that 30 days equals one month.

#### 4.2 Authorized Leave of Absence

- (a) An Employee's Period of Service under Section 4.1 shall include the first two years of an Authorized Leave of Absence, but only if the Employee returns to

Covered Employment at the end of the Authorized Leave of Absence and in accordance with its terms.

- (b) An Authorized Leave of Absence shall mean any leave expressly granted and authorized in writing by the Authority for reasons such as accident, sickness, pregnancy, temporary disability, education, training or jury duty.

#### 4.3 **Military Service**

An Employee who returns to Employment from a period of qualified military service under Code § 414(u) for which the Employee has reemployment rights under law with respect to the Authority shall have said period of qualified military service included in the Period of Service under Section 4.1; provided that if Employee Contributions would have been required during said period of qualified military service, the Employee elects to make Employee Contributions with respect to the qualified military service in accordance with Section 5.4; and provided further that the period of Service to be credited to such Employee shall be equal to the months in the period of qualified military service for which the payment of such Employee Contributions are made.

#### 4.4 **Years of Service**

An Employee shall be credited with full and partial Years of Service equal to the full and partial years in the Period of Service under Section 4.1.

**ARTICLE V**  
**CONTRIBUTIONS**

**5.1 Employee Contributions**

- (a) An Eligible Employee shall be required to make a contribution to the Plan for each payroll period equal to five percent of Compensation for the payroll period unless such Employee:
  - (1) was first employed by the Authority before January 1, 1985; or
  - (2) was a participant in the Urban Redevelopment Authority of Pittsburgh Employee's Pension Trust on December 31, 1997 and became a participant in this Plan on January 1, 1998.
- (b) Although employee contributions, Employee Contributions shall be "picked-up" (and paid) by the Authority within the meaning of Code § 414(h)(2) for federal income tax purposes.

**5.2 Employer Contributions**

- (a) The Authority shall make an Employer Contribution to the Plan for each payroll period for each Active Participant in the payroll period in an amount equal to ten percent of Compensation for the payroll period if such Participant:
  - (1) was first employed by the Authority before January 1, 1985; or
  - (2) was a participant in the Urban Redevelopment Authority of Pittsburgh Employee's Pension Trust on December 31, 1997 and became a participant in this Plan on January 1, 1998.
- (b) The Authority shall make an Employer Contribution to the Plan for each payroll period for each Active Participant in the payroll period in an amount equal to five percent of Compensation for the payroll period if such Participant:
  - (1) was first employed by the Authority on or after January 1, 1985; and

- (2) was not a participant in the Urban Redevelopment Authority of Pittsburgh Employee's Pension Trust on December 31, 1997.

### 5.3 Rollover Contributions

- (a) A Participant may make a Rollover Contribution in cash (including a direct rollover in accordance with the requirements of Code § 401(a)(31)) to the Plan of (all or part of) a distribution that the Participant has received or is eligible to receive from a qualified plan described in Code § 401(a) or Code § 403(a), or from an individual retirement account or annuity described in Code § 408(a) or Code § 408(b) funded solely by a rollover of a distribution from such a qualified plan, to the extent that such distribution is eligible for rollover to the Plan under the Code, but excluding in all cases any distribution of after-tax employee contributions or any amounts not includible in gross income.
- (b) No Rollover Contribution shall be permitted unless the Participant submits such information, statements and documents as the Committee may require to establish to its satisfaction that the Rollover Contribution to be made qualifies for such under the Code and this Section.

### 5.4 Qualified Military Service

Notwithstanding any contrary provisions, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code § 414(u); provided that if Employee Contributions would have been required during said period of qualified military service, Employer Contributions and service shall be provided with respect to the qualified military service only if the Participant elects and makes Employee Contributions for the qualified military service in accordance with the following:

- (a) An election under this Section shall be made by the Employee following the return to Employment in a written election filed with the Committee in the manner prescribed by it.
- (b) The Employee shall be required to pay the Plan the Employee Contributions that would have been contributed by the Employee during the period of the qualified military service, as determined by the compensation that would have received

during the period of the qualified military service, or if that compensation is not reasonably certain, as determined by the average compensation paid during the 12-month period of Covered Employment preceding the period of the qualified military service.

- (c) A Employee's election under subsection (a) of this Section and the payment of the Employee Contributions required under subsection (b) of this Section shall be made during the period that begins on the date of return to Employment and that is equal in length to the lesser of five years or three times the period of the qualified military service.

## 5.5 **Act 205 Requirements**

- (a) In no event shall the contribution by the Authority be less than the amount determined under and required by Act 205.
- (b) The Authority shall designate, from time to time, a person to be the chief administrative officer for purposes of Act 205. At the times and in the manner required by Act 205:
  - (1) a valuation report shall be prepared by a qualified person under Act 205 and filed under the supervision and direction of the chief administrative officer;
  - (2) the financial requirements of the Plan and minimum obligation of the Authority with respect to the funding of the Plan shall be determined by the chief administrative officer and presented and certified to the Authority; and
  - (3) a cost estimate of any proposed benefit plan modification, as prepared by a qualified person under Act 205 and disclosing the impact of such proposed modification on the future financial requirements of the Plan and minimum obligation of the Authority, shall be provided to the Authority by the chief administrative officer before the adoption of any such proposed modification.

## 5.6 **Return of Contributions**

- (a) Employer Contributions shall not be returned to the Authority, except as may be provided in the Plan with respect to its termination and except that Employer Contributions made by reason of a mistake of fact or law may, as directed by the Committee, be returned to the Authority.
  
- (b) Employee contributions shall not be returned to the Eligible Employee, except as provided in the Plan with respect to the payment of benefits and except that contributions made by reason of a mistake in fact or law may, as directed by the Committee, be returned to the Eligible Employee.

## **ARTICLE VI**

### **ACCOUNTS**

#### **6.1 Accounts**

The Committee shall maintain in the name of each Participant such of the following Accounts as shall be applicable:

- (a) An Employee Contribution Account.
- (b) An Employer Contribution Account.
- (c) A Rollover Contribution Account.

#### **6.2 Adjustment of Accounts**

The value of each Account shall be adjusted in the following manner at the time of the relevant transaction (as determined by the Committee):

- (a) The net income or loss attributable to the investment of each Account, including unrealized gains and losses, shall be credited or charged to that Account. If an investment fund is established under the Plan for the investment of Accounts in which more than Account is invested, the net income or loss of said investment fund, including unrealized gains and losses, shall be credited or charged to each such Account participating in the investment fund in proportion to the ratio that the value of each such Account bears to the value of all such Accounts.
- (b) Employee Contributions made by a Participant shall be credited to the Participant's Employee Contribution Account and invested in accordance with the investment election in effect under the Plan.
- (c) Employer Contributions made on behalf of a Participant shall be credited to the Participant's Employer Contribution Account and invested in accordance with the investment election in effect under the Plan.

- (d) Any Rollover Contribution made by (or for) a Participant shall be credited to the Participant's Rollover Contribution Account and invested in accordance with the investment election in effect under the Plan.
- (e) Any repayments of principal and interest made by a Participant on a loan made to the Participant shall be credited to the Account or Accounts from which made in accordance with the investment election in effect under the Plan.
- (f) Any distribution with respect to a Participant's Vested Account shall be charged against that Account. To the extent such charge is less than the full value of the Account and the Participant has not designated the investments and any investment funds to which the charge is to be allocated (as and when permitted under the Plan), the charge shall be allocated among the investments and any investment funds of the Account in proportion to the balances then credited to each.
- (g) Unless the Participant has designated the investments and any investment funds (as and when permitted under the Plan), the proceeds for a loan to be made from a Participant's Vested Account(s) shall be withdrawn from the investments and any investment funds of each such Vested Account in proportion to the balances then credited to each.
- (h) Any forfeiture of a Participant's Account shall be charged against that Account and shall be used to reduce the next due Employer Contributions under the Plan.
- (i) Any amounts in a Participant's Accounts to be reallocated in accordance with the investment election under the Plan shall be reallocated.

### **6.3 General Accounting Principles**

- (a) The Committee may establish such accounting procedures as it deems necessary or desirable for the purpose of making the allocations to Accounts provided for in this Article. From time to time, the Committee may modify its accounting procedures for the purpose of achieving equitable and nondiscriminatory allocations among the Accounts of Participants in accordance with the provisions of this Article and the applicable provisions of the Code.

- (b) The Accounts provided for in this Article are established and maintained for the sole purpose of accounting for a Participant's interest in the Plan. Balances standing to the credit of an Account shall represent individual interests in the Plan, and no Participant shall have any right or interest in any specific asset of the Plan as a result of the allocations provided for in this Article.

**ARTICLE VII**  
**BENEFITS AND VESTING**

**7.1 Retirement Benefit**

The Accounts of an Active Participant or Inactive Participant shall be 100% vested upon attainment of age 65, and upon subsequent termination of Employment, such Participant shall be eligible to receive a distribution of the Vested Accounts at the time and in the manner provided for in Article VIII.

**7.2 Disability**

The Accounts of an Active Participant or Inactive Participant who becomes Disabled shall be 100% vested, and such Participant shall be eligible to receive a distribution of the Vested Accounts at the time and in the manner provided for in Article VIII.

**7.3 Vesting in Accounts**

- (a) The Employee Contribution Account and Rollover Contribution Account of a Participant shall be 100% vested at all times.
- (b) The Employer Contribution Account of a Participant shall be vested in accordance with the following schedule (except as other vesting is specifically provided for by the Plan):

<u>Years of Service</u>	<u>Vested Percentage</u>
Less than 2	0%
2 but less than 3	25%
3 but less than 4	50%
4 but less than 5	75%
5 or more	100%

**7.4 Termination of Employment**

An Active Participant or Inactive Participant whose Employment terminates prior to attainment of age 65 for a reason other than death or Disability shall be eligible to receive a distribution of Vested Accounts at the time and in the manner provided for in Article VIII.

## 7.5 **Forfeitures of Accounts**

The Nonvested Account of an Active Participant or Inactive Participant whose Employment terminates shall be forfeited at:

- (a) the termination of Employment if zero percent vested in the Nonvested Account (and no balance is credited to the Vested Accounts); or
- (b) the distribution of Vested Accounts.

## **ARTICLE VIII**

### **DISTRIBUTION OF ACCOUNTS TO PARTICIPANTS**

#### **8.1 Application**

- (a) Application for distribution of Vested Accounts shall be made in writing by a Participant in accordance with the Plan's claims procedure and approved by the Committee before distribution is made, except as otherwise specifically provided by the Plan.
- (b) To the extent and in the manner required by the Code, the Participant shall be provided with information on the distribution of Vested Accounts, including the right to a 30-day period to consider the direct rollover election.

#### **8.2 Distribution to Participant**

- (a) Distribution of Vested Accounts to a Participant shall be made in a single payment as soon as practicable after the later of (i) termination of Employment or Disability or (ii) the date application for distribution is filed; provided, however, the Committee may establish a uniform date (no less frequently than quarterly) for the processing of applications for distribution.
- (b) Notwithstanding any contrary provisions, as required by and made in accordance with a reasonable good faith interpretation of Code § 401(a)(9), distribution of Vested Accounts to a Participant shall be made no later than the April 1 of the calendar year following the later of (i) the calendar year in which the Participant attains age 70½ or (ii) the calendar year in which the Participant's retires from Employment, provided that, as and to the extent provided by Code § 401(a)(9)(H) (effective January 1, 2009), no election shall be provided to Participants to waive (or not waive) any distribution that would have been a required minimum distribution for 2009 but for Code § 401(a)(9)(H).

#### **8.3 Valuation for Distribution of Accounts**

- (a) The amount distributed under the Plan shall be determined by the then value of the Vested Accounts.

- (b) If, after the distribution to the Participant, an amount is received by the Plan to which the Participant is entitled, said amount shall be distributed to the Participant in a single payment.

#### **8.4 Distribution Without Consent**

Notwithstanding any contrary provisions (effective March 28, 2005), a Participant's Vested Accounts shall be distributed to the Participant in a single payment as soon as practicable after a termination of Employment if (i) for a Participant who has not attained age 65, the value of the Vested Accounts to be so distributed does not exceed \$1,000, and (ii) for a Participant who has attained age 65, the value of the Vested Accounts to be so distributed does not exceed \$5,000; provided, however, the Committee may establish a uniform date in each case (no less frequently than quarterly) for the processing of such distributions of Vested Accounts.

#### **8.5 Direct Rollover Election**

- (a) A Distributee who is eligible to receive a distribution from the Plan which is an Eligible Rollover Distribution may elect to transfer said distribution to an Eligible Rollover Plan specified by the Distributee in a Direct Rollover.
- (b) Notwithstanding any contrary provisions of this Section (except as otherwise required by Code § 401(a)(31)), (i) a Direct Rollover can be elected for part of an Eligible Rollover Distribution only if the amount so elected is at least \$500, (ii) only one Eligible Rollover Plan may be designated for a Direct Rollover, (iii) a Direct Rollover election made with respect to one payment in a series of payments shall apply to all subsequent payments until another election is made by the Distributee, and (iv) no Direct Rollover election is required to be provided for an Eligible Rollover Distribution of less than \$200 (when aggregated with all other Eligible Rollover Distributions for the taxable year).
- (c) For purposes of this Section, the following terms shall have the meaning given to them in this subsection:
  - (1) "Direct Rollover" shall mean a payment by the Plan to the eligible retirement plan specified by the Distributee.

- (2) "Distributee" shall mean (i) an employee or former employee and (ii) the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is an alternative payee under a qualified domestic relations order, as defined in Code § 414(p), with respect to the interest of the spouse or former spouse.
- (3) "Eligible Retirement Plan" shall mean an individual retirement account described in Code § 408(b), an individual retirement annuity described in Code § 408(b), a qualified trust described in Code § 401(a); an annuity plan described in Code § 403(a), an eligible deferred compensation plan described in Code § 457(b) maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state that will separately account for a Direct Rollover (from this Plan), an annuity contract described in Code § 403(b), provided, however, for an Eligible Rollover Distribution attributable to a distribution from a Roth Contribution Account, Eligible Retirement Plan shall mean another designated Roth account or a Roth IRA (only).
- (4) "Eligible Rollover Distribution" shall mean, any distribution (including a withdrawal) of all or any portion of the balance to the credit of the Distributee under the Plan, but excluding (as applicable) (i) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life or life expectancy of the Distributee and the Distributee's designated beneficiary or for a specified period of ten years or more, (ii) any distribution to the extent such distribution is required under Code § 401(a)(9), (iii) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), and (iv) any hardship distribution.
- (d) In conformance with Code § 402(c)(11) (effective January 1, 2010), a Beneficiary eligible to receive a distribution from the Plan on account of a Participant's death may elect to transfer said distribution in a direct rollover to an individual retirement plan (described in clause (i) or (ii) of Code § 402(c)(8) and including a Roth IRA) established by the Beneficiary for this purpose, provided that (i) the Beneficiary is

not otherwise a Distributee, (ii) the Beneficiary is a designated beneficiary as defined in Code § 401(a)(9)(E), and (iii) the distribution would otherwise be an Eligible Rollover Distribution but for the requirement that the distribution be made to a Distributee.

- (e) As and to the extent provided by Code § 401(a)(9)(H) (effective January 1, 2009), a direct rollover election shall be provided only for an eligible rollover distribution determined without regard to Code § 401(a)(9)(H).
- (f) An election and Direct Rollover under this Section shall be made in accordance with uniform procedures as may be prescribed by the Committee in conformance with Code § 401(a)(31).

## 8.6 **Incompetency**

If a Participant or Beneficiary to whom an amount is distributable under the Plan is legally incompetent or lacks the capacity to receive such amount, the Committee may cause payment of such amount to be made to an attorney-in-fact or agent under a valid power of attorney, a legally appointed guardian or custodian, or other authorized representative of the Participant or Beneficiary under state law. Such payment, to the extent made, shall be a valid and complete discharge of any liability therefor under the Plan.

## **ARTICLE IX**

### **DEATH BENEFITS BEFORE DISTRIBUTION**

#### **9.1 Eligibility for Death Benefits**

- (a) The Accounts of an Active Participant or Inactive Participant shall be 100% vested at death, and said Participant's Beneficiary shall be eligible to receive a distribution of the Vested Accounts at the time and in the manner generally provided for in this Plan and specifically in this Article.
- (b) The Beneficiary of a Former Participant who dies before the Annuity Starting Date shall be eligible to receive a distribution of the balance of the Participant's Vested Accounts at the time and in the manner generally provided for in this Plan and specifically in this Article.
- (c) As and to the extent required by Code § 401(a)(37), if a Participant dies on or after January 1, 2007 while performing qualified military service (within the meaning of Code § 414(u)) and the Participant would have been entitled to reemployment rights under the Plan under the Uniformed Services Employment and Reemployment Rights Act of 1994 at death, for purposes of the death benefits payable under this Article, such Participant shall be treated as if death had occurred during Employment and the period of qualified military service shall be included in the Years of Service used to determine vesting in the Participant's Accounts.

#### **9.2 Distribution to Beneficiary**

- (a) Distribution of Vested Accounts to a Beneficiary on account of the death of a Participant shall be made in a single payment as soon as practicable after the date the Beneficiary files the application for distribution; provided, however, the Committee may establish a uniform date (no less frequently than quarterly) for the processing of applications for distributions.
- (b) A Beneficiary's application for distribution shall be made in writing in accordance with the Plan's claims procedure and approved by the Committee before distribution is made, except as otherwise specifically provided by the Plan.

- (c) Notwithstanding any contrary provisions, as required by and made in accordance with a reasonable good faith interpretation of Code § 401(a)(9), distribution of a Participant's Vested Accounts to a Beneficiary on account of a Participant's death before distribution to the Participant shall be made no later than December 31 of the calendar year in which falls the fifth anniversary of the Participant's death, provided that, as and to the extent provided by Code § 401(a)(9)(H) (effective January 1, 2009), no election shall be provided to Beneficiaries to waive (or not waive) any distribution that would have been a required minimum distribution for 2009 but for Code § 401(a)(9)(H), and said five-year period of Code § 401(a)(9)(B)(ii) shall be determined and applied without regard to 2009.

### **9.3 Valuation for Distribution of Accounts**

- (a) The amount distributed under the Plan shall be determined by the then value of the Vested Accounts.
- (b) If, after the distribution to the Beneficiary, an amount is received by the Plan to which the Participant is entitled, said amount shall be distributed to the Beneficiary in a single payment.

### **9.4 Distribution Without Consent**

Notwithstanding any contrary provisions, a Participant's Vested Accounts shall be distributed to the Participant's Beneficiary in a single payment as soon as practicable after the Participant's death if the value of the Vested Accounts does not exceed \$5,000; provided, however, the Committee may establish a uniform date (no less frequently than quarterly) for the processing of such distributions of Vested Accounts.

### **9.5 Designation of Beneficiary**

- (a) A Participant shall designate a Beneficiary and/or contingent Beneficiary to receive any distributions due from the Plan at death in a written beneficiary designation filed with the Committee in the manner and form prescribed by the Committee.
- (b) A Participant may designate more than one Beneficiary and designate the percentage each is to receive:

- (1) If the Participant does not designate the percentage each Beneficiary is to receive, the Beneficiaries shall share equally in the distribution.
  - (2) If the Participant designates the percentage each Beneficiary is to receive, and a Beneficiary does not survive the Participant, the deceased Beneficiary's share shall be allocated among the surviving Beneficiaries in proportion to the percentages designated by the Participant for the surviving Beneficiaries.
- (c) A Participant may designate more than one contingent Beneficiary and designate the percentage each is to receive:
- (1) If the Participant does not designate the percentage each contingent Beneficiary is to receive, the contingent Beneficiaries shall share equally in the distribution.
  - (2) If the Participant designates the percentage each contingent Beneficiary is to receive, and a contingent Beneficiary does not survive the Participant, the deceased contingent Beneficiary's share shall be allocated among the surviving contingent Beneficiaries in proportion to the percentages designated by the Participant for the surviving contingent Beneficiaries.
- (d) A Participant may change the Beneficiary designation at any time and any number of times in a written beneficiary designation filed with the Committee in the manner and form prescribed by the Committee. A change of Beneficiary designation shall be effective only upon receipt by the Committee.
- (e) If there is no Beneficiary designated by the Participant or surviving at the death of the Participant, the Participant shall be deemed to have designated the following Beneficiaries with priority in the order named: (i) surviving spouse, and if none, (ii) surviving children, and if none, (iii) estate.

## 9.6 **Successor Beneficiary**

- (a) If a Beneficiary eligible for a distribution of the Participant's Vested Accounts on account of the Participant's death dies before distribution of the Vested Accounts is

made, the Vested Accounts shall be paid to a successor beneficiary designated by the Beneficiary in a single payment.

- (b) The Beneficiary of a deceased Participant may designate a successor beneficiary and/or contingent beneficiary in a written beneficiary designation filed with the Committee in the manner and form prescribed by the Committee. A Beneficiary of a deceased Participant may designate more than one primary or contingent successor beneficiaries in the same manner and to the same effect as specified in the Plan with respect to a Participant's designation of a Beneficiary.
- (c) A Beneficiary of a deceased Participant may change the successor beneficiary designation at any time in a written beneficiary designation filed with the Committee in the manner and form prescribed by the Committee. A change of successor beneficiary designation shall be effective only upon receipt by the Committee.
- (d) If there is no successor beneficiary designated by or surviving the originally designated Beneficiary, the designated successor beneficiary shall be the estate of the originally designated Beneficiary.

## ARTICLE X

### LOANS

#### 10.1 Application for Loan

- (a) Effective March 14, 2013 (subject to the establishment of administrative procedures therefore), a Participant may apply for a loan in the manner and form prescribed by the Committee. If such Participant dies before the loan is made, the Participant's application shall be deemed to be void and of no effect.
- (b) A loan shall be made from the Participant's Vested Accounts as determined under the uniform procedures of the Committee, unless the Participant designates the Vested Accounts (as and when permitted under the Plan).
- (c) A reasonable loan application fee may be charged against the Participant's Accounts (or financed as part of the loan).

#### 10.2 Eligibility for Loans

- (a) A Participant shall be eligible for a loan if (i) an Active Participant or Inactive Participant in receipt of compensation from the Authority, (ii) the Participant authorizes repayment of the loan by payroll deduction, (iii) the Participant executes such documents as the Committee shall require to secure the repayment of the loan and to pay any loan fees, and (iv) if married, the spouse executes such documents as the terms of the Plan or the Committee may require.
- (b) Notwithstanding the foregoing, (i) no Participant shall have more than one outstanding loan at any time and (ii) no loan may be refinanced.
- (c) If a loan is deemed distributed to a Participant for income tax purposes under Code § 72(p), until said loan is repaid (through actual repayment or set-off against the Participant's Accounts), in no event shall the Participant be eligible for any additional loans unless repayment of the loan is made by payroll deduction.

### 10.3 Limits on Loans

- (a) A loan from a Participant's Vested Accounts may not be less than \$1,000, nor more than 50% of the balance of the Vested Accounts.
- (b) A loan shall not be made if after the loan is made, the aggregate balance of all loans outstanding to the Participant under this Plan and under all other qualified plans of the Authority (and affiliated companies) as determined under Code § 72 would exceed the lesser of:
  - (1) \$50,000, reduced by the excess, if any, of (i) the highest outstanding balance of such loans during the one year period ending on the day before the date on which the loan is to be made over (ii) the outstanding balance of such loans on the date on which the loan is to be made; or
  - (2) the greater of (i) \$10,000 or (ii) 50% of the present value of the Participant's vested accrued benefit under this Plan and all other qualified plans of the Authority (and affiliated companies).

### 10.4 Loan Terms

- (a) A loan shall bear interest at a rate determined by the Committee to be a reasonable rate of interest taking into account the rate that would be charged by commercial lenders for money lent under similar circumstances. Said rate may be fixed for the term of the loan or adjusted at a fixed frequency during the term of the loan, as determined uniformly by the Committee for all loans made in any specified period.
- (b) The term for repayment of a loan shall be as agreed to by the Committee and the Participant, but such term shall not exceed five years.
- (c) A loan shall be amortized in substantially level payments as agreed to by the Committee and the Participant, but in no event made less frequently than quarterly. For this purpose, a Participant shall authorize the Authority to deduct such payments from the compensation regularly payable to the Participant until the loan is repaid.

- (d) Notwithstanding subsections (b) and (c) of this Section, a Participant may prepay in a single payment the entire unpaid balance of the principal of the loan, along with any unpaid accrued interest thereon, without any fees, penalties, or premiums. In such event, the Participant shall not be entitled to a rebate of any unearned interest.
- (e) Repayment of a Participant's loan shall be secured by a pledge and assignment of that portion of the Vested Accounts borrowed by such Participant. Such pledge and assignment (along with repayment by payroll deduction) shall be the only acceptable security for the loan.
- (f) Events of default with respect to a Participant's loan shall be defined in the documents entered into with respect to the loan, including a failure to repay all or a part of the principal or interest in accordance with the loan documents and a failure to observe the terms and conditions of the loan documents.
- (g) Repayment of the Participant's loan shall be accelerated at the termination of the Plan, provided, however, in lieu of repayment of the loan, the promissory note for said loan may be distributed to the Participant as part of the distribution made on account of the termination of the Plan.
- (h) Except as otherwise provided in the loan documents, repayment of the Participant's loan shall be accelerated at the termination of the Participant's Employment.
- (i) Notwithstanding any contrary provisions, repayment of the Participant's loan shall be suspended and its term extended during a period of qualified military service in accordance with Code § 414(u).

#### **10.5 Accounting for Loans**

- (a) A loan made from a Participant's Vested Accounts shall be accounted for as part of the balance of the Account or Accounts from which made and as an investment solely of that Account or Accounts.
- (b) A reasonable recordkeeping fee may be charged against the Participant's Accounts from which the loan is made.

#### **10.6 Failure to Repay or Default**

In the event a loan is not repaid by the Participant when due, or the loan is otherwise in default, the Committee shall take all steps it believes reasonable and necessary to assure repayment, including foreclosing on the security for the loan, which may include set-off against the security of the Participant's Vested Accounts (to the extent permitted by the Code).

#### **10.7 Restriction on Distributions and Withdrawals**

Notwithstanding any contrary provisions, except as required by Code § 401(a)(9), no distribution shall be paid to a Participant, or to the Participant's Beneficiary, until the balance of the loan is repaid (through actual repayment, or set-off against the Participant's Vested Accounts).

**ARTICLE XI**  
**FUND AND INVESTMENTS**

**11.1 Retirement Fund**

- (a) All assets of the Plan shall be held in the Retirement Fund. Until satisfaction of all fixed and contingent liabilities, said assets shall be held for the exclusive purpose of providing benefits to Participants and Beneficiaries and defraying the reasonable expenses of administering the Plan.
- (b) The assets of the Plan shall consist of any payments made by the Commonwealth of Pennsylvania and allocated to the Plan, contributions to the Plan by the Authority and Participants, any gifts, grants and bequests made to the Plan and all other property properly contributed or allocated to the Plan, together with all investments made therewith and proceeds thereof and all earnings and profits thereon, less any losses thereon and the payments and disbursements made hereunder.
- (c) The Authority may appoint a trustee or trustees to hold the assets of the Plan and enter into a trust agreement with said trustee or trustees. Any said trust agreement shall be deemed to form part of the Plan and shall be incorporated herein by this reference.
- (d) The Authority may enter into such investment management agreements, custodial agreements and other investment agreements with respect to the Retirement Fund as it believes appropriate.

**11.2 Investment Direction by Participants**

- (a) A Participant's Accounts shall be invested at the Participant's direction. For this purpose, the Committee may designate investment funds for the investment of Accounts, which may include, but shall not be limited to accounts or contracts with insurance companies, accounts with banks, trust companies or investment companies, mutual funds, or a common or collective trust fund.

- (b) Upon participation in the Plan, a Participant shall direct how the contributions made by or on the Participant's behalf shall be invested. In the absence of an investment direction from the Participant, the Participant shall be deemed to have 100% of said contributions invested in a default investment fund designated by the Committee.
- (c) A Participant who makes a Rollover Contribution shall make a separate investment direction for its investment, unless the Plan's administrative procedures provide for investment in accordance with the investment election then in effect.
- (d) A Participant's investment election shall continue in effect until changed by the Participant. Such change may be elected at the uniform times prescribed by the Committee for this purpose (but no less frequently than quarterly), and shall be effective for said contributions made from and after the effective date for such change (as determined under uniform procedures of the Committee).
- (e) Subject to the rules applicable to the particular investment or investment fund, each Participant, or a Beneficiary of a deceased Participant (or if there is more than one Beneficiary and separate Accounts have not been established for each, the Beneficiaries acting jointly) may elect to reallocate or transfer the existing investments of the Participant's Accounts at the uniform times prescribed by the Committee for this purpose (but no less frequently than quarterly).
- (f) All investment directions, reallocations and transfers shall be made by following such uniform procedures as the Committee may prescribe.

### 11.3 Limitations on Investments

The Committee may uniformly limit the range of investment alternatives for the investment of Accounts. In no event may an Account be invested in any investment alternative that would:

- (a) be contrary to the terms of the Plan or any agreement with respect to the Retirement Fund;
- (b) jeopardize the qualified status of the Plan under the Code; or

(c) result (or could result) in a loss in excess of the balance of the Accounts.

#### 11.4 **Transaction Fees**

All transaction fees and expenses incurred by reason of the investment of a Participant's Accounts shall be charged to the respective Account.

**ARTICLE XII**  
**PLAN ADMINISTRATION**

**12.1 Administrator**

- (a) The Committee shall be the administrator of the Plan and shall be responsible for and perform the duties imposed on plan administrators. However, the Committee may delegate to any person such administrative duties as it deems appropriate.
- (b) The Committee shall have all the powers necessary to operate, administer and manage the Plan in accordance with its terms, including but not limited to:
  - (1) to make and enforce such rules and regulations as it may deem necessary or desirable for the efficient administration of the Plan;
  - (2) to interpret the Plan, including the right to remedy possible ambiguities, inconsistencies or omissions;
  - (3) to decide all questions, including factual questions, related to participation in the Plan, the allocation of amounts hereunder, and the eligibility for, and amount of, distributions of Accounts hereunder;
  - (4) to prescribe procedures for filing an application for distribution of Accounts (including loans) and to review applications for review of denial thereof;
  - (5) to authorize the distribution of Accounts; and
  - (6) to maintain all necessary records for the administration of the Plan.

**12.2 Committee**

- (a) The Committee shall consist of up to five members appointed by the Executive Director (which may include Employees and Participants).
- (b) A member of the Committee shall serve until death, incapacity, resignation or removal as herein provided.

- (c) The Executive Director may remove an appointed member of the Committee at any time and for any reason by written notice to the member and the other members of the Committee. An appointed member of the Committee may resign at any time and for any reason by written notice to the Executive Director and the other members of the Committee. Said removal or resignation shall be effective upon the delivery of the written notice or at any later date specified therein.
- (d) The Committee shall hold such meetings upon such notice and at such times and places as its members deem appropriate, and may adopt and amend such rules and regulations for the conduct of its business as it deems appropriate.
- (e) A majority of the members of the Committee shall constitute a quorum for the transaction of business. All official actions of the Committee shall be by vote of a majority of its members at the meeting, except that the Committee may also act without a meeting by a written consent signed by a majority of its members. If at any time there is a vacancy on the Committee, the remaining members may continue to act until such vacancy is filled.
- (f) The Committee may allocate among its members such specific duties, powers and responsibilities as it deems advisable and may delegate the same to such representatives and agents as it deems advisable.
- (g) A member of the Committee shall receive compensation and reimbursement for expenses solely as determined by the Authority.

### 12.3 **Authority to Act**

- (a) The Authority or Committee may authorize one or more of its employees or agents to execute on its behalf instructions or directions to any interested party, and any such interested party may rely there upon and the information contained therein.
- (b) Whenever the Authority is required or permitted to take action (except when related to administrative duties), such action shall be taken under authorization of its board, unless otherwise provided by the terms of the Plan or by prior action of the board.

#### 12.4 **Advisors and Counsel**

The Authority or Committee may employ one or more persons to render advice with respect to any duty or responsibility it may have.

#### 12.5 **Duties and Responsibility**

- (a) Each person shall have only those specific powers, duties, and responsibilities specified in the Plan or as otherwise allocated or delegated pursuant to the Plan. The Plan is intended to allocate to each person the individual responsibilities allocated or delegated to that person, and no such responsibilities shall be shared by two or more persons unless such sharing shall be specifically provided by the Plan.
- (b) Any persons who have joint and severable duties and responsibilities under the Plan may allocate such duties and responsibilities to any one or more of them, and any person may delegate to another person such duties and responsibilities the person has with respect to the Plan.
- (c) No person shall be personally liable upon any contract or other instrument made or executed in connection with the administration of the Plan.
- (d) No person shall be liable for the neglect, omission or wrong-doing of an agent, counsel, auditor or other person who has duties and responsibilities under the Plan.
- (e) No fiduciary or other person shall be liable for relying upon information or advice provided by an agent, counsel, auditor, Participant, Employee or other interested party.

#### 12.6 **Indemnification**

To the extent permitted by law, the Authority shall indemnify and hold harmless members of its board, members of the Committee, the chief administrative officer of the Plan and any employee of the Authority from any and all liability, loss, or cost such individuals may incur in the exercise of their duties and powers under the Plan, except as such results from their own gross negligence, willful misconduct, or criminal liability or except as such

results from any settlement of an action, suit, or proceeding without the Authority's prior approval. The Authority shall also, to the extent permitted by law, assume the defense of, or reimburse the expenses reasonably incurred in the defense of, whichever it may choose, any and all actions, suits, or proceedings arising under the Plan and brought and advanced by any person, other than the Authority, against members of its board, members of the Committee, the chief administrative officer of the Plan and any employee of the Authority. However, there shall be no said indemnification to the extent said liability, loss, cost or expenses are covered by insurance purchased by the Authority, and no individual, person, firm or other entity which is independent of the Authority and which renders services to the Plan for a fee shall be so indemnified.

#### **12.7 Expenses**

All expenses incurred in establishing and administering the Plan, including the Retirement Fund, shall be paid by the Authority or paid from the Retirement Fund to the extent permitted by law, as determined by the Authority.

#### **12.8 Finality of Action**

All determinations, actions, and decisions by any persons responsible for the administration of the Plan shall, to the extent not inconsistent with the Plan's claims and appeal procedures be final and conclusive on all parties.

#### **12.9 Information From Participants**

Each Employee, Participant, or Beneficiary shall furnish the Committee in the form prescribed by the Committee and at its request, such personal data, affidavits, authorizations to obtain information, or other information as the Committee deems necessary or desirable for the administration of the Plan.

#### **12.10 Application and Claims Procedure**

- (a) Claims for benefits under the Plan shall be filed in accordance with the procedures established by the Committee and on forms available from the Committee upon request.

- (b) A claim for benefits shall be decided within a reasonable period of time following the Plan's receipt of the claim, but not later than 90 days after receipt. If special circumstances require, the initial 90-day period to consider a claim may be extended for up to an additional 90 days.
- (c) If a claim for benefits is wholly or partially denied:
  - (1) Written (or electronic) notice of the denial shall be provided to the claimant by the date established by subsection (b) of this Section to decide the claim.
  - (2) The denial notice shall set forth (i) the reasons for the denial, (ii) references to the pertinent provisions of the Plan, (iii) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation why it is necessary, and (iv) an explanation of the procedures for review of the denied claim, including the applicable time limits.
- (d) A claimant may appeal a denial of benefits to the Committee for review. Such appeal shall be made in writing no later than 60 days of the date of the denial. An appeal shall set forth all of the reasons the claim should not have been denied and identify and include all of the issues related to the claim for benefits. A claimant shall be entitled to review and to receive copies of all relevant documents and to submit written documents, records and other information related to the claim and have the same taken into account whether or not previously submitted or considered.
- (e) If an appeal is timely filed, the Committee shall conduct a full and fair review of the claim and provide written (or electronic) notice of its decision to the claimant within a reasonable period of time following the receipt of the request for review from the claimant, but not later than 60 days after receipt. If special circumstances require, said initial 60-day period may be extended by an additional 60 days.
- (f) If the decision on the review of an appeal is adverse, the notice of the decision shall set forth (i) the reasons for the decision, (ii) references to the pertinent

provisions of the Plan, and (iii) a statement that the claimant is entitled to review and receive copies of all relevant documents.

- (g) At the claimant's expense, a duly authorized representative of a claimant may act on behalf of the claimant in filing a claim for benefits or requesting a review of any denial thereof. The Committee may establish reasonable procedures for determining whether an individual has been duly authorized to act on behalf of a claimant.

#### **12.11 Qualified Domestic Relations Orders**

- (a) Notwithstanding any contrary provisions, to the extent permitted by law, all or a part of a Participant's Vested Accounts may be assigned and distributed to an alternate payee pursuant to a domestic relations order. Any said distribution may be made prior to the Participant's "earliest retirement age" as said term is defined in Code § 414(p), and the Participant's Accounts shall be appropriately adjusted for any said assignment and distribution.
- (b) The Committee may establish such procedures and rules as it deems necessary or desirable to review domestic relations orders and to administer accounts and distributions thereunder, including with respect to a Participant's eligibility to receive a distribution or loan during the period the Committee is reviewing or has been notified of a domestic relations order with respect to the Participant's Accounts.

## **ARTICLE XIII**

### **AMENDMENT AND TERMINATION**

#### **13.1 Amendment of Plan**

The Authority may amend the Plan at any time and for any reason by an instrument in writing adopted in accordance with applicable law; provided, however, as and in the manner as may be required by law:

- (a) no amendment shall reduce a Participant's benefits;
- (b) no amendment shall divert the Retirement Fund before the satisfaction of all liabilities under the Plan; and
- (c) no amendment shall provide for a benefit modification unless a cost estimate has been presented to the Authority.

#### **13.2 Termination of Plan**

- (a) The Authority may terminate the Plan at any time and for any reason by an instrument in writing adopted in accordance with applicable law.
- (b) Subject to Act 205 covering financially distressed communities, the Authority's liability to make contributions to the Plan shall automatically terminate upon liquidation or dissolution of the Authority, upon adjudication as bankrupt, or upon the making of a general assignment for the benefit of its creditors.
- (c) Upon complete or partial termination of the Plan, or upon the complete discontinuance of contributions by the Authority, as and to the extent required by the Code, each effected Participant's Accounts shall be fully vested.
- (d) Upon termination of the Plan, the assets of the Retirement Fund, after providing for the expenses of the Plan, shall be allocated and distributed in the manner prescribed by the Code and the applicable provisions of the Plan. To the extent that an amount cannot be allocated under Code § 415, said amount shall be returned to the Authority.

## ARTICLE XIV

### LIMITATION ON ANNUAL ADDITIONS

#### 14.1 Definitions

For purposes of this Article, the following terms shall have the meaning given to them in this Section:

- (a) **Code § 415 Affiliated Employer** shall mean any entity required to be included with the Authority in a controlled group under Code § 415(g) and (h).
- (b) **Annual Addition** shall mean Employee Contributions, Employer Contributions and any other amounts required to be treated as an annual addition made to a defined contribution plan under Code § 415.
- (c) **Code § 415 Compensation** shall mean and shall be determined as follows:
  - (1) Code § 415 Compensation shall mean all amounts actually paid or made available to the Employee for services rendered to the Authority or a Code § 415 Affiliated Employer which are wages within the meaning of Code § 3401(a) and all other payments of compensation for which a written statement is required to be furnished to the Employee under Code §§ 6041(d), 6051(a)(3) and 6052 (for purposes of income tax reporting) determined without regard to any rules under Code § 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or services performed, plus any amounts that would otherwise have been wages and/or so reportable but for an election under Code § 125 (including "deemed section 125 compensation"), 132(f)(4), 402(e)(3), 402(h), 402(k), 403(b) or 457(b), and plus after December 31, 2008, differential wage payments within the meaning of Code § 3401(h)(2).
  - (2) Except as otherwise provided in this subsection, Code § 415 Compensation shall include only amounts paid or treated as paid under Code § 415 before a severance of employment with the Authority and Code § 415 Affiliated Employer.

- (3) An amount paid to an Employee after a severance of employment with the Authority and/or Code § 415 Affiliated Employer that would otherwise be Code § 415 Compensation and that is paid by the later of two and one-half months after the severance from employment or the end of the calendar year that includes the date of severance from employment shall be included in Code § 415 Compensation if:
- (A) the amount is regular compensation for services during the Employee's regular working hours, or compensation for services outside of the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and the amount would have been paid to the Employee before a severance from employment if the Employee had continued in employment with Authority and/or Code § 415 Affiliated Employer; or
  - (B) the amount is payment for unused accrued bona fide sick, vacation, or other leave, and the employee would have been able to use the leave if the Employee had continued in employment with the Authority and/or Code § 415 Affiliated Employer; or
  - (C) the amount is received pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if the Employee had continued in employment with the Authority and/or Code § 415 Affiliated Employer, but only to the extent said amount is includible in the Employee's gross income.
- (4) Code § 415 Compensation shall include payments made to an Employee during a period the Employee is not employed by or performing services for the Authority and Code § 415 Affiliated Employer by reason of qualified military service under Section 414(u) of the Code to the extent said payments do not exceed the amounts he would have received from the Authority and/or Code § 415 Affiliated Employer had the Employee continued to perform services.

- (5) Code § 415 Compensation shall include compensation paid after a severance from employment to a Participant who is permanently and totally disabled within the meaning of Section 22(e)(3) of the Code, but only if either (i) the Participant is not a highly compensated employee within the meaning of Code § 414(q) immediately before becoming so disabled or (ii) salary continuation is provided for all participants so disabled for a fixed or determinable period.
- (6) Notwithstanding the foregoing, the Code § 415 Compensation taken into account for each Limitation Year shall not exceed \$200,000, with said dollar amount proportionately reduced for any Limitation Year shorter than twelve months and adjusted at the same time and in the same manner as provided by Code § 401(a)(17).
- (d) **Defined Contribution Plan** shall mean shall mean a qualified plan described in Code § 414(i) of the Authority or a Code § 415 Affiliated Employer.
- (e) **Limitation Year** shall mean the calendar year.

#### 14.2 **Limitation on Annual Additions**

Notwithstanding any contrary provisions, the Annual Additions credited to a Participant's Accounts for a Limitation Year shall not exceed the lesser of:

- (a) \$40,000, provided that as of January 1 of each calendar year and effective for the Limitation Year ending in or with said calendar year, the dollar amount as adjusted for cost-of-living increases by the Commissioner of Internal Revenue pursuant to Code § 415(d)(1) shall be substituted for the dollar amount specified in this subsection, and provided further, that said dollar amount for any Limitation Year shorter than twelve months shall be proportionately reduced; and
- (b) 100% of the Participant's Code § 415 Compensation for the Limitation Year.

#### 14.3 **Aggregation of Plans**

- (a) For the purpose of applying the limitations of this Article, all Defined Contributions Plans shall be treated as one Defined Contribution Plan.

- (b) If this Plan is aggregated with a Defined Contribution Plan subject to the special limitation and/or transitional rules with respect to Code § 415, satisfaction of the requirements of Code § 415 shall be determined by reference to the larger of the limitations set forth in this Article or the limitations applicable to said Defined Contribution Plan in the manner provided for in Code § 415.
- (c) If the limitations imposed by this Article and Code § 415 are exceeded by reason of the aggregation of this Plan with a Defined Contribution Plan not previously required to be aggregated, said limitations may be exceeded, provided that the requirements of Code § 415 for doing so are satisfied.
- (d) If excess Annual Additions under Code § 415 result from the aggregation of the Annual Addition under this Plan and under any other Defined Contribution Plan maintained by the Authority or a Code § 415 Affiliated Employer, the Annual Addition last allocated shall be reduced.

#### 14.4 **Application**

This Article is intended to comply with the limitations of Code § 415 as interpreted by final regulations issued on April 5, 2007 generally effective for Limitation Years beginning on and after July 1, 2007, and the Article shall be applied and interpreted accordingly.

## ARTICLE XV

### MISCELLANEOUS PROVISIONS

#### 15.1 **Headings**

The headings of the Plan have been inserted for convenience of reference only and are to be ignored in the construction of the provisions herein.

#### 15.2 **Plan Not Contract of Employment**

The existence of the Plan shall not create or change any contract, express or implied, between the Authority and its Employees and shall not affect the Authority's right to take any action with respect to its Employees, including terminating their Employment at any time.

#### 15.3 **Vested Rights**

No person shall have any vested rights under the Plan and Retirement Fund except to the extent that such rights may accrue as provided under the Plan. Furthermore, any person with vested rights under the Plan shall look solely to the Plan and Retirement Fund and the assets thereunder for satisfaction of such vested rights.

#### 15.4 **Guaranties**

Each Participant and Beneficiary shall assume the risk in connection with the decrease in the market value of the Retirement Fund, and neither the Authority nor the Committee warrants or guaranties against any loss or diminution in the value of Accounts. Furthermore, neither the Authority nor the Committee shall have any duty or liability to furnish the Retirement Fund with any funds, securities or other assets, except as expressly provided by the Plan.

#### 15.5 **Spendthrift**

Benefits and interests in the Plan shall not be anticipated, assigned, alienated, subject to attachment, garnishment, levy, execution, or other legal or equitable process, or otherwise be subject to the claims of creditors; subject, however, to assignment pursuant to a

domestic relations order provided for in the Plan and permitted by law and to any divestment, forfeiture or disclaimer specifically required by law.

#### **15.6 Merger and Transfer of Assets and Liabilities**

The Plan may be merged with another plan which is qualified under Code § 401(a) or may transfer or accept assets and liabilities to or from such plan, but only in each case at the direction of the Authority and in accordance with such terms and conditions as the Authority shall specify.

#### **15.7 Interpretation of the Plan**

It is the intent of the Authority that the Plan qualify under Code § 401(a) and comply with all applicable state law. Accordingly, within the limits of the law, the Plan shall be construed and interpreted in such manner as to give effect to this intent.

#### **15.8 Number and Gender**

The use of the singular shall be interpreted to include the plural and the plural the singular, as the context shall require. The use of the masculine, feminine or neuter shall be interpreted to include the masculine, feminine or neuter, as the context shall require.

#### **15.9 Plan Provisions Controlling**

In the event of any conflict between the provisions of the Plan and the provisions of a summary or description of the Plan or the terms of any agreement or instrument related to the Plan, the provisions of the Plan shall be controlling.

#### **15.10 Governing Law**

The provisions of the Plan shall be governed and construed under the laws of the Commonwealth of Pennsylvania.