

STATE OF INDIANA

RETIREMENT MEDICAL BENEFITS ACCOUNT PLAN

(As Amended and Restated Generally Effective as of July 1, 2015)

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ARTICLE I

Introduction

Section 1.1 Purpose of Plan. Section 5-10-8.5-11 of the Indiana Code (“IC”) directs the Indiana State Budget Agency (the “Agency”) of the State of Indiana (the “State”) to establish a retirement medical benefits account as a health reimbursement arrangement for the purpose of funding, on a pre-tax basis, benefits for sickness, accident, hospitalization and medical expenses for certain retired employees of the “Employers” as defined in Section 2.3. The purpose of the Retirement Medical Benefits Account Plan (the “Plan”) is to reimburse eligible retired employees of the Employers for certain qualifying medical expenses they, their spouses and their dependent children incur. The Plan is intended to comply with the requirements of Section 105 of the Internal Revenue Code, as amended (the “Code”), and with the provisions of IC 5-10-8.5-1 *et seq.* and IC 5-10-8-8.5.

Section 1.2 Effective Date and Subsequent Amendments. The “Original Effective Date” of the Plan was August 1, 2007. The Plan was immediately amended and restated to reflect an amendment to the governing statute added by P.L. 124-2008, enacted by the Indiana General Assembly during the 2008 session and made effective retroactive to August 1, 2007. Accordingly, the “Effective Date” of the first amended and restated Plan was also August 1, 2007. Effective May 1, 2009, the Plan was amended and restated for the second time in order to clarify the eligibility of certain individuals who both retired and were immediately reemployed prior to the Original Effective Date. The Plan was amended and restated for the third time to reflect the provisions of IC 5-10-8-8.5, as added by P.L. 182-2009, enacted by the Indiana General Assembly during the 2009 special session and made effective as of the date of enactment, which was June 30, 2009. The Plan was amended and restated for the fourth time to

reflect the provisions of IC 5-10-8.5-1 *et seq*, as amended by P.L. 229-2011, enacted by the Indiana General Assembly during the 2011 session and made effective July 1, 2011. The Plan, by this restatement, is again amended and restated to reflect the provisions of IC 5-10-8.5-9, as amended by P.L. 205-2013, enacted by the Indiana General Assembly during the 2013 session and made effective July 1, 2013, and IC 5-10-8.5-15 & -16, as amended by P.L. 213-2015, enacted by the Indiana General Assembly during the 2015 session and made effective July 1, 2015. Accordingly, the “Effective Date” of the fifth amended and restated Plan is July 1, 2015 and the provisions hereof are generally effective as of such date except as otherwise specifically provided.

Except as otherwise required for the proper administration of the Plan, on or after July 1, 2015, the provisions of this restated Plan only apply to an individual who is an “Eligible Employee,” as defined in Section 2.1, or a “Retired Participant,” as defined in Section 2.5, on or after July 1, 2015, subject to the limitations set forth in Article II.

Section 1.3 Plan Administration; Plan Year. The Plan is administered on the basis of a “Plan Year,” which is the twelve-month period commencing on each July 1 and ending on the next following June 30. The Plan will be under the direction and control of the Agency. The Agency from time to time may adopt any rules or procedures it deems necessary or desirable for the proper and efficient administration of the Plan. The Agency will handle the day-to-day administration of the Plan and may appoint a third party administrator to process benefit claims and to assist in the overall administration of the Plan (the “Claims Administrator”). The Agency may seek the assistance of the State Personnel Department (the “Department”) and the Indiana Public Retirement System (“InPRS”) in the overall administration of the Plan. Any notice or

document required to be given to or filed with the Agency will be properly given or filed if delivered or mailed, by registered mail, postage prepaid, to:

Indiana State Budget Agency
212 State House
Indianapolis, Indiana 46204
Attention: Assistant Director, General Government

Section 1.4 Funding of Benefits. Except as provided in Section 6.3, funds contributed under the Plan will be held in trust (the “Fund”) and invested, until distribution, by the Treasurer of the State, in accordance with IC 5-10-8-8.5 and the provisions of Section 6.1. Payments under the Plan and administrative expenses associated with the Plan and Fund will be paid from the Fund established to hold the contributions and earnings on the Fund.

Section 1.5 Examination of Documents. Copies of the Plan document, including any amendments, will be made available on the Agency’s internet site, www.in.gov/sba, and at its principal office, where they may be examined by any Participant or any person entitled to benefits under the Plan.

Section 1.6 Plan Supplements. The provisions of the Plan may be modified by supplements to the Plan. The terms and provisions of each supplement are a part of the Plan and supersede any other provisions of the Plan to the extent necessary to eliminate any inconsistencies between the supplement and any other Plan provisions.

ARTICLE II

Participation

Section 2.1 Eligible Employees.

- (a) The following individuals are eligible to participate in the Plan (“Eligible Employees”) if they are classified as full-time employees as defined by the Department and are:
- (1) Employees of the executive, legislative, or judicial branch of State government except as otherwise provided in subsection (b) below;
 - (2) State elected officers;
 - (3) Appointed officers who are appointed to fill State elected office vacancies;
 - (4) Members of the Indiana General Assembly;
 - (5) Elected officers paid by the State;
 - (6) Officers paid by the State under IC 33-23-5-10, IC 33-38-5-7, or IC 33-39-6-2;
 - (7) Employees of the State police department who waived coverage under a common and unified plan of self-insurance provided for under IC 5-10-8-6 before July 1, 2011; or
 - (8) Employees of the State police department who make a timely election to participate in this Plan under Section 2.2, as provided for under IC 5-10-8.5-9.5 or IC 5-10-8.5-9.6.
- (b) The following individuals will not be included in the definition of “Eligible Employees” for purposes of Section 2.1(a):
- (1) Conservation officers of the Department of National Resources;
 - (2) Employees of the State excise police; and
 - (3) Employees of the State police department other than those described in Section 2.1(a)(7) and Section 2.1(a)(8) .

Section 2.2 Special Eligibility Provisions for State Police Department Employees.

The following eligibility rules apply to employees of the State police department:

- (a) With respect to an employee of the State police department who waived coverage under a common and unified plan of self-insurance provided for under IC 5-10-8-6 before July 1, 2011, evidence of such waiver satisfactory to the Agency must be provided before such employee may continue as an Eligible Employer under the Plan on or after July 1, 2011.
- (b) With respect to an individual who (1) is a former employee of the executive, legislative, or judicial branch of State government (other than an employee described in Section 2.1(b)). (2) left employment described in (1) above after June 30, 2007 and before July 1, 2011, and was subsequently employed by the State police department in a job classification which precludes eligibility for benefits as defined in IC 10-12-1-3 (related to participation in the State police pension and benefit programs), and (3) remains employed by the State police department on July 1, 2011 in a job classification which precludes his eligibility for benefits as defined in IC 10-12-1-3, such individual will be an Eligible Employee as defined in Section 2.1(a)(8) if the individual makes a one-time irrevocable election to become a Participant in this Plan during the period beginning July 1, 2011 and ending on August 31, 2011. If such individual eligible to make the election under this subsection does not make such election in the time prescribed, such individual will not be an Eligible Employee under the Plan with respect to his service as an employee of the State police department and any service with the State police department after June 30, 2011 will not be included for any purpose under this Plan.
- (c) With respect to an individual who (1) is a former employee of the executive, legislative, or judicial branch of State government (other than an employee described in Section 2.1(b)), (2) left employment described in (1) above after June 30, 2011, and (3) subsequently becomes employed by the State police department in a job classification which precludes eligibility for benefits as defined in IC 10-12-1-3 (related to participation in the State police pension and benefit programs), such individual will be an Eligible Employee as defined in Section 2.1(a)(8) if the individual makes a one-time irrevocable election to remain a Participant in this Plan. An election pursuant to this Section 2.2(c) must be made no later than sixty (60) days after the individual becomes an employee of the State police department in a job classification which precludes eligibility for benefits as defined in IC 10-12-1-3, or the right to make the election under Section 2.1(a)(8) will be forfeited. If such individual eligible to make the election under this subsection does not make such election in the time prescribed, such individual will not be an Eligible Employee under the Plan with respect to his service as an employee of the State police department and any service with the State police department after June 30, 2011 will not be included for any purpose under this Plan.
- (d) An individual electing to participate in this Plan pursuant to Section 2.2(b) or 2.2(c) cannot also be a participant in any retiree medical benefit plan or program maintained by or under the auspices of the State police department.

Section 2.3 Participating Employers. The following are participating Employers (“Employers”) for purposes of the Plan:

- (a) For an elected officer, appointed officer, or employee of the executive branch of state government who is an Eligible Employee as defined in Section 2.1(a) of this Plan, the State, including any board, commission, department, division, authority, institution, establishment, facility, or governmental unit under the supervision of the state, having a payroll in relation to persons it immediately employs.
- (b) For a member of the Indiana General Assembly or an employee of the legislative branch of state government:
 - (1) The President Pro Tempore of the Indiana Senate, for a member or an employee of the State Senate;
 - (2) The Speaker of the House, for a member or an employee of the State House of Representatives; or
 - (3) The personnel subcommittee of the legislative council, for an employee of the State Legislative Services Agency.
- (c) For:
 - (1) A justice;
 - (2) A judge;
 - (3) A prosecuting attorney;
 - (4) An officer described under Section 2.1(a)(6);
 - (5) An employee of the judicial branch of State government, including an employee of any board, commission, department, division, authority, institution, establishment, facility, or governmental unit under the supervision of the judicial branch, having a payroll in relation to persons it immediately employs; or
 - (6) the State Supreme Court.

Section 2.4 Commencement of Participation. Subject to the conditions and limitations of IC 5-10-8.5-1 *et seq.* and this Plan, each Eligible Employee will be eligible to participate in the Plan and will become a “Participant” in the Plan on the later of (a) the Effective Date or (b) the date he becomes an Eligible Employee as described in Section 2.1(a).

Section 2.5 Cessation of Participation. A Participant will cease participation as of the earlier of (a) the date on which the Plan terminates or (b) the date on which he ceases to be an Eligible Employee. In addition, individuals described in Section 2.1(b) who were Participants on June 30, 2011 will cease participation effective as of July 1, 2011 unless such Participants are “Retired Participants” (as defined in this Section 2.5) prior to July 1, 2011. Notwithstanding the foregoing, a Participant who is an Eligible Employee at his termination of employment and who (a) is eligible for and has applied to receive a normal, unreduced or disability retirement benefit (as determined by statutes and codes governing a State public employee retirement fund of which the Participant is a member) on the Participant’s last day of service, or (b) who has completed at least ten (10) years of service as an elected or appointed officer on the Participant’s last day of service as an elected or appointed officer (a “Retired Participant”), will continue as a Participant solely for the purpose of receiving benefits as described in Section 3.1 and, if applicable, the contribution described in Section 3.4, but not for purposes of receiving contributions as described in Section 3.3. Such Retired Participant’s participation will cease when the individual’s Reimbursement Account is depleted or the Retired Participant and his Covered Dependents (as defined in Section 3.8) have died or are no longer classified as Covered Dependents, at which time the Retired Participant’s Reimbursement Account will be forfeited to the Fund. For a Participant whose eligibility as a Retired Participant is based upon at least ten (10) years of service as an elected or appointed officer, (a) if the Participant has years of service with more than one Employer as an Eligible Employee, the Participant’s years of service are the sum of all of the Participant’s years of service as an Eligible Employee with all Employers; and (b) effective July 1, 2013, for purposes of determining whether the Participant has completed at least ten (10) years of service on the Participant's last day of service, any partial year of service

completed by the Participant in the year in which the Participant is appointed to fill a vacant elected office shall be considered to be one (1) complete year of service. Years of service that are purchased by or on behalf of a Participant in order for the Participant to be eligible for a benefit under the State public employees' retirement fund in which the Participant is a member will not be included in determining the Participant's eligibility for benefits or amount of benefits under this Plan.

Section 2.6 Participants Entitled to Benefits. Only a Retired Participant (as defined in Section 2.5, as modified by Sections 2.7 and 2.9) and his Covered Dependents (as defined in Section 3.8) are entitled to receive benefits from the Plan. A Participant who is not a Retired Participant is not entitled to receive benefits from this Plan. Years of service which accrued to an individual during the individual's service as an employee described in Section 2.1(b) will not be included in determining the individual's eligibility for benefits under the Plan regardless of whether the individual is a Retired Participant. When a Participant who is not a Retired Participant separates from service, the amounts credited to his Reimbursement Account will be forfeited to the Fund as of the date of his termination of employment. Notwithstanding this provision, a separation from service as an Eligible Employee of one participating Employer described in Section 2.3 and immediate employment as an Eligible Employee of another participating Employer is not considered a termination of employment for purposes of this Plan, and under such circumstances, the Participant remains a Participant in this Plan and is entitled to receive benefits from this Plan as though no separation from service occurred, as long as the Participant otherwise meets the definition of a Retired Participant on his last day of service as an Eligible Employee of any participating Employer, as provided in Section 2.5. For purposes of the preceding sentence, an individual is treated as having been immediately employed by an

Employer so long as the elections, if necessary, under Sections 2.1(a)(7) and 2.1(a)(8) have been timely made.

Section 2.7 Death of Retirement Eligible Employee. Notwithstanding the provisions of this Article, a Participant who dies while in the employ of an Employer after the date on which the Participant was eligible for a normal, unreduced retirement benefit (as determined by the statutes and codes governing a State public employee retirement fund of which the Participant is a member) and who, on the date of his death, had not yet applied for such benefit, will be treated as a Retired Participant as of the date of his death if he would have otherwise qualified as a Retired Participant on the date of his death if he had applied for such normal, unreduced retirement benefit.

Section 2.8 Reinstatement of Former Participant. A former Participant who terminates his employment and is not immediately hired by another participating Employer as described in Section 2.6 will be treated as a new employee upon his rehire and will again become a Participant in accordance with Section 2.4 if such employee is an Eligible Employee as defined in Section 2.1(a). The balance of the individual's Reimbursement Account upon his rehire will be zero.

Section 2.9 Retirements Prior to July 1, 2007. Notwithstanding any other provision of the Plan to the contrary, a Participant who: (1) separated from the service of a participating Employer prior to July 1, 2007; (2) was eligible for, applied to receive, and prior to July 1, 2007 commenced the interrupted receipt of, a normal, unreduced or disability retirement benefit from a State public employee retirement fund of which the Participant was a member as of such separation from service; and (3) was immediately employed with another participating Employer prior to July 1, 2007, will be deemed a "Retired Participant" for purposes of the Plan and entitled

to receive benefits from this Plan as of his last day of service with another participating Employer.

ARTICLE III

Plan Benefits

Section 3.1 Reimbursements. Subject to the conditions and limitations described in the Plan, a Retired Participant and, upon his death, his Covered Dependents, will be reimbursed from his Reimbursement Account for the Qualifying Expenses (as defined in Section 3.7) incurred by the Retired Participant or his Covered Dependents (as defined in Section 3.8) during the Plan Year, but only to the extent of the Retired Participant's balance in his Reimbursement Account (as determined under Sections 3.2). A claim for reimbursement must be submitted in accordance with Section 4.1 and reimbursements will be made in accordance with Article IV of the Plan. Although a Participant is eligible to receive contributions to his Reimbursement Account as long as he is eligible under Section 2.4 and has not ceased participation under Section 2.5, a Participant is not eligible to receive reimbursement from this Plan until he becomes a Retired Participant as described in Section 2.5, as modified by Sections 2.7 and 2.9.

Section 3.2 Reimbursement Accounts. The Administrator will establish a "Reimbursement Account" for each Participant, which will be maintained by the Claims Administrator under the direction of the Agency. On or before June 30 of each year, the Participant's Employer will make contributions to the Participant's Reimbursement Account under the Fund on behalf of the Participant, based on the contribution schedule defined in Section 3.3, and, on an additional one-time basis, if applicable under Section 3.4. In addition, effective as of June 30 of each subsequent year, each Participant's Reimbursement Account under the Fund will be credited or debited with that Reimbursement Account's share of the earnings or losses on the investments or deposits of all of the Reimbursement Accounts after reduction for the administrative costs of all of the Reimbursement Accounts. The maintenance

of Reimbursement Accounts is only for accounting purposes, and no assets need be segregated to any Reimbursement Account.

Section 3.3 Contribution Schedule.

- (a) A Participant’s Employer will make contributions annually to the Reimbursement Account under the Fund on behalf of the Participant. The amount of the contribution each Plan Year must equal the following, based on the Participant’s attained age on the last day of the calendar year falling within the Plan Year for which the contribution is made:

<u>Participant’s Attained Age in Years</u>	<u>Annual Contribution Amount</u>
Less than 30	\$ 500
At least 30, but less than 40	\$ 800
At least 40, but less than 50	\$1,100
At least 50	\$1,400

- (b) The Agency will determine the date on which the contributions are credited to the Participants’ Reimbursement Accounts, which date will not be later than June 30 of each year.
- (c) Notwithstanding the foregoing, in order to receive a contribution to his Reimbursement Account in any given year, a Participant must be an Eligible Employee as defined in Section 2.1(a) on the preceding December 31 and must be continuously employed by an Employer as an Eligible Employee through the date on which the contribution is made.
- (d) A contribution under this Section 3.3 will not be made after June 30, 2011 for any individual described in Section 2.1(b).
- (e) A contribution under this Section 3.3 will not be made after June 30, 2017 for any employee who, on June 30, 2017, is eligible for a normal, unreduced retirement benefit from the State public employee retirement fund of which the employee is a member and has completed either: (a) 15 years of service with the employee’s Employer; or (b) 10 years of service as an elected or appointed officer.

Section 3.4 Reimbursement Account Additional Contributions.

- (a) If a Retired Participant meets all of the following conditions, the Retired Participant is entitled to receive an additional one-time contribution credited to the Retired Participant's Reimbursement Account under the Fund and computed as described in subsection (b):
 - (1) The Retired Participant is:
 - (A) on the earlier of the Retired Participant's last day of service with the Retired Participant's Employer or July 1, 2017, eligible for a normal, unreduced retirement benefit from the State public employee retirement fund of which the Retired Participant is a member; or
 - (B) an elected or appointed officer.
 - (2) The Retired Participant has terminated service:
 - (A) from the Employer; or
 - (B) as an elected or appointed officer.
 - (3) Except as otherwise provided in Section 2.9, by the earlier of the Retired Participant's last day of service or July 1, 2017, the Retired Participant has completed:
 - (A) at least fifteen (15) years of service as an Eligible Employee of the Employer; or
 - (B) at least ten (10) years of service as an elected or appointed officer.
 - (4) Unless the Retired Participant is an elected or appointed officer and except as provided in Section 2.7 or Section 2.9, the Retired Participant has applied by his last day of service with his Employer to receive a normal, unreduced retirement benefit from the public employee retirement fund of which the Retired Participant is a member.
- (b) The amount of the contribution to a Retired Participant's Reimbursement Account under this Section 3.4 is the product of:
 - (1) The Retired Participant's years of service as an Eligible Employee (rounded down to the nearest whole year):

- (A) with the Retired Participant's Employer, determined on the earlier of the Retired Participant's last day of service with the Retired Participant's Employer or July 1, 2017; or
 - (B) as an elected or appointed officer, determined on the earlier of the Retired Participant's last day of service as an elected or appointed officer or July 1, 2017; multiplied by
- (2) One thousand dollars (\$1,000).
- (c) For a Retired Participant who has continuous service with more than one (1) Employer, the Retired Participant's years of service used in the computation under subsection (b)(1) are the sum of all of the Retired Participant's years of service as an Eligible Employee of all Employers as of the earlier of the Retired Participant's last day of service or July 1, 2017, as determined by the Agency, the Department and InPRS.
 - (d) The Retired Participant's Employer must make the additional contribution described in this Section 3.4 to the Retired Participant's Reimbursement Account no more than sixty (60) days after the Retired Participant's last day of service.
 - (e) A Retired Participant who meets the requirements to receive an additional contribution under this Section 3.4 may receive the additional contribution only once, regardless of the Retired Participant's employment after the payment of the additional contribution.
 - (f) An additional contribution under this Section 3.4 will not be made after June 30, 2011 for any individual described in Section 2.1(b).

Section 3.5 Reimbursement Account Carry-Forward and Limitations. A Participant's Reimbursement Account will not be adjusted or reduced until the Participant becomes a Retired Participant, except as described in Sections 3.2, 3.3 and 3.4. Consequently, the full balance in the Reimbursement Account at the end of a Plan Year will be carried forward from Plan Year to Plan Year until forfeited as described in Section 2.5 or Section 2.6. When a Participant becomes a Retired Participant the full balance of his Reimbursement Account at the end of a Plan Year will be carried forward to the next Plan Year and used for the reimbursement of Qualifying Expenses with respect to a Retired Participant or Covered Dependent incurred in the following Plan Year (and subsequent Plan Years) as provided in this Article.

Section 3.6 Retired Participants. A Retired Participant will be treated as a Participant for all purposes of the Plan, except that a Retired Participant's Reimbursement Account will not be increased after the Participant becomes a Retired Participant, except as provided in Sections 3.2 and 3.4.

Section 3.7 Qualifying Expenses. "Qualifying Expense" means premiums (including amounts paid as premiums under part B of title XVIII of the Social Security Act, relating to supplementary medical insurance for the aged), and contributions under a fully-insured policy or self-funded plan or program providing group or individual coverage of the Retired Participant and/or his Covered Dependents covering medical care as defined in Code Section 213(d)(1)(A) and (B) for medical, dental and vision benefits, and premiums for tax-qualified long-term care insurance (subject to the limitations in Code Section 213(d)(10)). However, any expenses (i) paid, reimbursed or reimbursable by any insurance, accident, health or workers' compensation plan; (ii) paid, reimbursed or reimbursable under a Code Section 125 plan; (iii) incurred while the individual is neither a Retired Participant nor a Covered Dependent; or (iv) the individual is not legally obligated to pay, will not be treated as Qualifying Expenses. Expenses for the purchase of a policy, plan or program providing coverage for expenses in addition to medical care (as defined in Code Section 213(d)), will be Qualifying Expenses only to the extent that such expenses are directly related to the cost of the medical care component of the policy, plan or program. In addition, the cost for the medical care component of the policy, plan or program must be reasonable for the type and amount of coverage purchased, as determined by the Claims Administrator, and must be separately stated in the insurance contract, billing statement or other documentation acceptable to the Claims Administrator.

Section 3.8 Covered Dependent. The term “Covered Dependent” with respect to any Retired Participant means an individual to whom the Retired Participant is legally married (excluding a “common-law” spouse) or who qualifies as a dependent child of the Retired Participant under the State’s health plans at the time the Qualifying Expense is incurred, and the spouse and dependent children of deceased Retired Participants. To the extent Covered Dependents incur Qualifying Expenses after the death of a Retired Participant, those expenses will continue to be eligible for reimbursement until (i) the balance in the Retired Participant’s Reimbursement Account is zero, or (ii) the individual ceases to qualify as a Covered Dependent by remarriage or no longer meeting the definition of dependent child under the State’s health plans, or (iii) the Plan is amended or terminated pursuant to Article VII.

Section 3.9 Changes by the Agency. If the Agency determines, before or during any Plan Year, that the Plan may fail to satisfy for that Plan Year any nondiscrimination requirement imposed by the Code with respect to, or any limitation on benefits provided to, “highly compensated individuals” (as determined under Code Section 105(h)), the Agency may take any action it deems appropriate, under rules uniformly applicable to similarly situated Participants or Retired Participants, to assure compliance with that requirement or limitation.

ARTICLE IV

Benefit Payments

Section 4.1 Payment Procedures. To receive reimbursement for a Qualifying Expense under Article III, the Retired Participant must file a written claim with the Claims Administrator, no later than 90 days after the end of the Plan Year in which the expense was incurred, that contains appropriate supporting documentation (such as bills, receipts, canceled checks, written statements and the like). An expense will be “incurred” when the premium is incurred and paid by the Retired Participant or his Covered Dependent. The Claims Administrator in consultation with the Agency or the Department will determine, in their sole discretion, whether or not the expenses to be reimbursed under the Plan are Qualifying Expenses and whether or not sufficient documentation has been submitted to support the payment of the claim. Claims will normally be paid as soon as practicable following their approval. Any claim paid will reduce the Retired Participant’s Reimbursement Account by the amount of the claim so paid.

Section 4.2 Claim Review. The Claims Administrator, in accordance with the provisions of Article V, will determine the timing and the amount of any payment to be made under the Plan. However, a Retired Participant may seek a review of any benefit determination made by the Claims Administrator upon written request. The Claims Administrator will afford the Retired Participant a full and fair review of such a request in accordance with the claims and review procedures applicable to the Plan established by the Agency, the Department or the Claims Administrator and any claims procedures applicable to the Plan under applicable law.

Section 4.3 Subrogation. If Qualifying Expenses are paid or payable under this Plan to or on behalf of a Retired Participant or Covered Dependent and if the Retired Participant or Covered Dependent (or the Retired Participant’s or Covered Dependent’s guardian or estate) has,

may have, or asserts a lawful claim against any other party or parties (including insurance companies and carriers) for payment of all or part of those expenses, this Plan will be subrogated to all claims and rights of recovery of the Retired Participant or Covered Dependent and will be entitled to reimbursement from any judgment, settlement or payment resulting from the individual's claim or right. The Plan will be reimbursed in full for any Qualifying Expenses paid or payable by the Plan before any amounts (including any legal fees incurred by the Retired Participant, Covered Dependent, guardian or estate) are deducted from the judgment, settlement or payment are paid to any other person (including the Retired Participant or Covered Dependent). If a suit is filed, the Plan may record a notice of payment of benefits which will constitute a lien against any judgment recovered.

The Retired Participant or Covered Dependent (including his or her guardian or estate) must take any action the Plan may reasonably require to secure the Plan's rights under this Section and avoid any action that would prejudice the Plan's rights. If the Covered Dependent is a minor or under any other legal disability, the parent or guardian of the dependent may act on behalf of, and consequently bind, the dependent for purposes of this Section.

If the Retired Participant or Covered Dependent (including his or her guardian or estate) fails to promptly bring suit against the third party, the Plan may take any legal action it deems necessary or desirable against the third party in its own name or in the name of the Retired Participant or Covered Dependent to secure recovery. The Plan may retain the Qualifying Expenses paid or to be paid and its court costs (including attorney fees) from any judgment, settlement or payment, with the balance, if any, to be paid to the Retired Participant or Covered Dependent or as the court may otherwise direct.

Section 4.4 Reimbursement. If the Plan pays any amount in excess of the amount it is required to pay, the Plan will be entitled to be reimbursed for the excess from the payee. If a Retired Participant or Covered Dependent has received a payment from a third party for any Qualifying Expense, the Plan may reduce its required payment by that amount.

ARTICLE V

Administration of Plan

Section 5.1 Administrative Powers. The Agency will have the full power to administer the Plan in all of its details, subject to applicable requirements of law, including but not limited to the provisions of IC 5-10-8.5-1 *et seq.* The Agency will have the power and duty to provide for the day-to-day administration of the Plan and may delegate its duties and powers to review claims to the Claims Administrator. The Agency's powers will include, but will not be limited to, the following, in addition to all other powers provided by this Plan:

- (a) To make and enforce rules and regulations as it deems necessary or proper for the efficient administration of the Plan;
- (b) To interpret the Plan, with its interpretation thereof made in good faith to be final and conclusive on all persons claiming benefits under the Plan;
- (c) To decide all questions concerning the Plan and the eligibility of any person to participate in the Plan;
- (d) To appoint agents, counsel, accountants, consultants, and other persons as may be required to assist in administering the Plan;
- (e) To request from the Internal Revenue Service any rulings or determination letters that the Administrator considers necessary or appropriate in order to implement or administer the Plan; and
- (f) To allocate and delegate its responsibilities under the Plan and to designate other persons to carry out any of its responsibilities under the Plan, including the Department or InPRS.

Section 5.2 Examination of Records. The Claims Administrator will make the Plan records that pertain to a Participant available to that Participant for examination at reasonable times during normal business hours.

Section 5.3 Administrative Decisions. The Agency may adopt rules or procedures as it deems necessary or desirable to provide for the proper administration of the Plan. All rules and decisions of the Agency will be consistent with the terms of the Plan and will be uniformly and consistently applied to all Participants in similar circumstances. When making a determination or calculation, the Agency may consult with the Department; and the Agency or Department may rely upon information furnished by the Participant, another employee or the Agency's legal counsel. The Agency, the Department or the Claims Administrator will make any adjustments it considers equitable and practicable to correct a mistake of fact once the mistake becomes known. Subject to applicable law, and the authority of the Agency, any determination made in good faith by the Agency, the Department or the Claims Administrator will be binding on all persons. Consequently, benefits under this Plan will be paid only if the Agency, the Department or the Claims Administrator decides in its discretion that the applicant is entitled to them.

ARTICLE VI

Funding

Section 6.1 Source of Funding. All costs of providing the benefits available under this Plan from the Fund will be funded by:

- (a) Contributions made by Employers pursuant to Article III;
- (b) All earnings on investments or deposits of the aggregate contributions to all Participants' and Retired Participants' individual Reimbursement Accounts; and
- (c) All contributions or payments made to all Participants' and Retired Participants' individual Reimbursement Accounts in a manner provided by the Indiana General Assembly.

All contributions to the Fund will be irrevocable at any time prior to satisfaction of all liabilities under the Plan. Notwithstanding the foregoing, the earnings of the aggregate contributions to the individual Participants' and Retired Participants' Reimbursement Accounts will be reduced by any investment losses in the Fund and the administrative costs of the Plan before any earnings are credited to the balance of Participants' Reimbursement Accounts.

Section 6.2 The Trust Fund. The Fund established under IC 5-10-8-8.5 is a trust fund providing funding for the benefits provided under the Plan. As provided under IC 5-10-8-8.5, all expenses of administering the Plan will be paid from the Fund. The Treasurer of the State will invest the assets of the Fund in the same manner as other public money may be invested. The Fund will be held for the exclusive benefit of Participants and their Covered Dependents. Because the Fund is a trust fund for purposes of IC 4-9.1-1-7, money in the Fund may not be transferred, assigned or otherwise removed from the Fund by the state board of finance, the Agency or any other state agency and does not revert to the state general fund at the end of any state fiscal year.

ARTICLE VII

Amendment and Termination of Plan

Section 7.1 Amendment and Termination of Plan. Any part or all of the Plan may be amended by the Agency at any time in its sole discretion. While it is expected that the Plan will continue indefinitely, the General Assembly may terminate the Plan at any time pursuant to its statutory authority. Any subsequent changes or amendments to IC 5-10-8.5-1 *et seq.* and IC 5-10-8-8.5 supersede the terms of this Plan document and any rules or procedures adopted pursuant hereto.

ARTICLE VIII

Miscellaneous Provisions

Section 8.1 Information to be Furnished. Participants must provide the Department, the Agency or the Claims Administrator with any information and evidence, and sign any document, as may reasonably be requested from time to time, for the purpose of administering the Plan.

Section 8.2 Limitation of Rights. Neither the establishment of the Plan, nor any amendment of the Plan, nor the payment of any benefits under the Plan, may be construed as giving to any Participant, Retired Participant, Covered Dependent, or other person any legal or equitable right against the Agency, the Department, InPRS or an Employer, except as specifically provided in the Plan.

Section 8.3 Governing Law. This Plan will be construed, administered and enforced according to the laws of the State of Indiana.

Section 8.4 Nonguarantee of Employment. Nothing contained in this Plan may be construed as a contract of employment between an Employer and an employee, or as a right to be engaged or continued in the employment of an Employer, or as a limitation of the right of an Employer to discharge any of its employees, with or without cause.

Section 8.5 Nonalienation of Benefits. Except as may be required by law, benefits payable under this Plan are not subject in any manner to sale, transfer, assignment, pledge, encumbrance, garnishment, or levy of any kind, either voluntary or involuntary, prior to actually being received by the person entitled to the benefit under the terms of the Plan; and any attempt to sell, transfer, assign, pledge, encumber, or otherwise dispose of any right to benefits payable hereunder will be void. Neither the Agency, the Department, InPRS, the State, nor an Employer

will be liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to benefits hereunder.

Section 8.6 Illegal or Invalid Provisions. The State intends that the Plan be legally enforceable and in the event any provision of this Plan is held illegal or invalid for any reason, any illegality or invalidity will not affect the remaining parts of this Plan, and the Plan will be construed and enforced as if the illegal or invalid provision had never been inserted.

Section 8.7 Gender and Number. Words in the masculine gender are to be construed to include the feminine gender in all cases where appropriate and words in the singular or plural are to be construed as being in the plural or singular where appropriate.

Section 8.8 Waiver of Notice. Any notice required under the Plan may be waived by the party entitled to the notice.

Section 8.9 Action by State, Agency, Department or Employers. Any action required or permitted to be taken by the State, the Agency, the Department, InPRS or an Employer under the Plan must be by a person or persons duly authorized by statute.