Rent Regulation
Services Unit 2011- 2016

# AGREEMENT

LOCAL 1359

BETWEEN
THE STATE OF NEW YORK
AND
RENT REGULATION SERVICES
UNIT EMPLOYEES
DISTRICT COUNCIL 37
AFSCME, AFL-CIO

# TABLE OF CONTENTS
## Rent Regulation Services Unit

**ARTICLE NUMBER** **PAGE**


**1 Recognition** ..... 6
**2 Statement of Policy and Purpose** ..... 6
**3 Unchallenged Representation** ..... 7
**4 Employee Organization Rights** ..... 7
4.1 Exclusive Negotiations with DC-37 ..... 7
4.2 Payroll Deductions ..... 7
4.3 Bulletin Boards ..... 8
4.4 Meeting Space ..... 8
4.5 Access to Employees ..... 9
4.6 Lists of Employees ..... 9
4.7 Employee Organization Leave ..... 9
4.8 Union Leave ..... 10
4.9 Leave of Absence Information ..... 10
**5 Management Rights** ..... 11
**6 No Strikes** ..... 11
**7 Compensation** ..... 12
7.1 Five and Ten Year Longevity Advances for FY 2011-2012 ..... 12
7.2 Five and Ten Year Longevity Advances for FY 2012-2013 ..... 14
7.3 Five and Ten Year Longevity Advances for FY 2013-2014 ..... 15
7.4 Salary Increase for FY 2014-2015 ..... 17
7.5 Five and Ten Year Longevity Advances for FY 2014-2015 ..... 18
7.6 Salary Increase for FY 2015-2016 ..... 19
7.7 Five and Ten Year Longevity Advances for FY 2015-2016 ..... 20
7.8 Performance Advance System ..... 22
7.9 Promotions ..... 23
7.10 Applicability ..... 23

7.11 Recall and Inconvenience Pay ..... 23
7.12 Downstate Adjustment ..... 24
7.13 Holiday Pay ..... 24
7.14 Lag Payroll, Salary Deferral ..... 24
7.15 Payment above the Job Rate ..... 25
7.16 Deficit Reduction Program/Workforce Reduction Limitation ..... 25
**8. Payroll** ..... 26
8.1 Computation on 10-day Basis ..... 26
8.2 Deductions for Employee Credit Unions ..... 26
8.3 Payroll Statements ..... 27
**9 Health Insurance** ..... 27
9.1 Continuation ..... 27
9.2 Eligibility ..... 27
9.3 Enrollment ..... 30
9.4 Empire Plan Premium ..... 31
9.5 Empire Plan Benefits Management Program ..... 32
9.6 Empire Plan Hospital Program ..... 33
a. Network Hospital ..... 33
b. Non-Network Hospital ..... 34
9.7 Empire Plan Medical Program ..... 34
a. Participating Provider Program/Copayments ..... 34
b. Basic Medical Program ..... 37
c. Basic Medical Provider Discount Program ..... 39
9.8 Empire Plan Home Care Advocacy Program ..... 39
9.9 Empire Plan Managed Physical Medicine Program ..... 40
9.10 Empire Plan Disease Management Programs ..... 40
9.11 Empire Plan Centers of Excellence ..... 41
9.12 Empire Plan Managed Mental Health/ Substance Abuse ..... 42
a. In-Network Benefit ..... 42
b. Non-Network Benefit ..... 43
9.13 Empire Plan Prescription Drug Program ..... 43
9.14 HMO Option ..... 45
9.15 Option Transfer Period ..... 46
9.16 Medical Flexible Spending Account ..... 46
9.17 Joint Committee on Health Benefits ..... 46

9.18 Department of Civil Service Assistance ..... 49
9.19 Workers' Compensation - Health Insurance..... 49
9.20 Confidentiality ..... 49

**10 Employee Benefit Fund**..... 50
**11 Employee Development and Training** ..... 51
**12 Attendance and Leave**..... 52
12.1 Holiday Observance ..... 52
12.2 Holiday Accrual ..... 53
12.3 Additional Vacation Credit ..... 53
12.4 Annual Leave Accumulation..... 54
12.5 Vacation Scheduling..... 54
12.6 Vacation Use ..... 55
12.7 Sick Leave Accumulation ..... 55
12.8 Use of Sick Leave..... 56
12.9 Personal Leave Accumulation..... 56
12.10 Use of Personal Leave..... 56
12.11 Accounting of Time Accruals ..... 57
12.12 Absence - Extraordinary Circumstances ..... 57
12.13 Tardiness for Members of Volunteer Fire Departments, Volunteer Ambulance Services, Enrolled Civil Defense and Civil Air Patrol Volunteers..... 57
12.14 Leave for Bereavement or Family Illness ..... 58
12.15 Part-Time, Per Diem and Hourly Employees..... 58
12.16 Sick Leave at Half-Pay..... 58
12.17 Leave for Professional Meetings..... 60
12.18 Doctor's Certificates ..... 60
12.19 Voluntary Reduction in Work Schedule ..... 61
12.20 Productivity Enhancement Program..... 61
12.21 Maternity and Child Rearing Leave ..... 61
**13 Workers' Compensation Benefit**..... 63
**14 Verification of Doctor's Statement** ..... 66
**15 Travel and Relocation Expenses** ..... 68
15.1 Per Diem Meal and Lodging Expenses..... 68
15.2 Mileage Allowance ..... 69
15.3 Extended Travel..... 69
15.4 Relocation Expenses ..... 69

**16 Overtime Meal Allowances** ..... 70
**17 Staffing** ..... 71
17.1 Eligible Lists ..... 71
17.2 Alternate Examination Dates ..... 71
17.3 Leave-Probationary Employees ..... 71
**18. Out-of-Title Work** ..... 72
**19. Working Conditions – Safety** ..... 74
**20. Review of Personal History Folder** ..... 75
**21. Protection of Employees** ..... 76
**22 Layoffs in Non-Competitive Class** ..... 77
**23 Labor/Management Meetings** ..... 78
**24 Distribution of Directives, Bulletins, or Instructions** ..... 80
**25 Emergency First Aid** ..... 80
**26 No Discrimination** ..... 80
**27 Seniority** ..... 83
27.1 Definition ..... 83
27.2 Application ..... 83
27.3 Seniority Lists ..... 83
**28 Workday and Workweek** ..... 84
**29 Indemnification** ..... 84
**30 Credit Union Space** ..... 86
**31 Grievance and Arbitration Procedure** ..... 87
**32** 31.1 Definition of Grievance ..... 87
31.2 Requirements for Filing Contract Grievances ..... 87
31.3 Representation ..... 88
31.4 Grievance Steps ..... 88
31.5 Procedures Applicable to Grievance Steps ..... 90
**32 Resignation** ..... 92
**32.3 Unauthorized Absence** ..... 93
**33 Discipline** ..... 93
33.1 Applicability ..... 93
33.2 Purpose ..... 94
33.3 Employee Rights ..... 94
33.4 Suspension or Temporary Reassignment Before Notice of Discipline ..... 96
33.5 Disciplinary Procedure ..... 99
33.6 Settlements ..... 102
33.7 Definitions ..... 102

33.8 Timeliness ..... 103
33.9 Time Limits ..... 103
33.10 Time and Attendance Disciplinary Procedures ..... 103
**34 Reimbursement for Property Damages** ..... 108
**35 Accidental Death Benefit** ..... 108
**36 Employee Assistance Program/WLS** ..... 109
**37 Family Benefits/WLS** ..... 109
**38 Job Classifications** ..... 111
**39 Benefits Guaranteed** ..... 111
**40 Severability** ..... 112
**41 Printing of Agreement** ..... 112
**42 Approval of the Legislature** ..... 112
**43 Duration of Agreement** ..... 113

**APPENDICES**

**Appendix A** Salary Schedule April 2, 2011 ..... 114
**Appendix B** Salary Schedule April 2, 2014 ..... 115
**Appendix C** Salary Schedule April 2, 2015 ..... 116
**Appendix D** Article 21-Protection of Employees ..... 117
**(a)** Redeployment Process and Procedures ..... 117
**(b)** Education Stipend ..... 122
**(c)** Severance Option ..... 123
**Appendix E** Leave Donation ..... 129
**Appendix F** Productivity Enhancement Program ..... 132
**Appendix G** Voluntary Reduction in Work Schedule (VRWS) Program Guidelines ..... 136

# RENT REGULATION SERVICES UNIT AGREEMENT

Agreement made by and between the Executive Branch of the State of New York ("State") and District Council 37, American Federation of State, County and Municipal Employees, AFL-CIO ("DC-37").

## ARTICLE 1 Recognition

The State recognizes District Council 37, American Federation of State, County and Municipal Employees, AFL-CIO as the exclusive representative for collective negotiations with respect to salaries, wages, hours and other terms and conditions of employment of employees serving in positions in the Rent Regulation Services Unit. The terms "employee" or "employees" as used in this Agreement shall mean only employees serving in positions in such unit and shall include seasonal employees in such positions where so specified.

## ARTICLE 2 Statement of Policy and Purpose

**§2.1**

It is the policy of the State to continue harmonious and cooperative relationships with its employees and to insure the orderly and uninterrupted operations of government. This policy is effectuated by the provisions of the Public Employees' Fair Employment Act granting public employees the rights of organization and collective representation concerning the determination of the terms and conditions of their employment.

**§2.2**

The State and DC-37 now desire to enter into an agreement reached through collective negotiations which will have for its purposes, among others, the following:

(a) To recognize the legitimate interests of the employees of the State to participate through collective negotiations in the determination of the terms and conditions of their employment.

(b) To promote fair, safe and reasonable working conditions.

(c) To promote individual efficiency and service to the citizens of the State.

(d) To avoid interruption or interference with the efficient operation of the State's business.

(e) To provide a basis for the adjustment of matters of mutual interest by means of amicable discussion.

## ARTICLE 3 Unchallenged Representation

The State and DC-37 agree, pursuant to Section 208 of the Civil Service Law, that DC-37 shall have unchallenged representation status for the maximum period permitted by law on the date of execution of this Agreement.

## ARTICLE 4 Employee Organization Rights

### §4.1 Exclusive Negotiations with DC-37

The State will not negotiate or meet with any other employee organization with reference to terms and conditions of employment of employees. When such organizations, whether organized by the employer or employees, request meetings, they will be advised by the State to transmit their requests concerning terms and conditions of employment to DC-37 and arrangements will be made by DC-37 to fulfill its obligation as a collective negotiating agent to represent these employees and groups of employees.

### §4.2 Payroll Deductions

(a) DC-37 shall have exclusive payroll deduction of membership dues and premiums for group insurance and mass-merchandised automobile and homeowners' and other insurance policies sponsored by DC-37 for employees and no other employee organization shall be accorded any such payroll deduction privilege.

(b) The State shall prepare, secure introduction and recommend passage by the Legislature of such legislation as may be appropriate and necessary to provide to DC-37 exclusive payroll deduction for all unit employees who elect to participate in the AFSCME program known as "Public Employees Organized for Political and Legislative Equality."

### §4.3 Bulletin Boards

(a) The State shall provide a reasonable amount of exclusive bulletin board space in an accessible place in each area occupied by a substantial number of employees for the purpose of posting bulletins, notices and material issued by DC-37, which shall be signed by the designated official of DC-37 or its appropriate division. No such material shall be posted which is profane or obscene, or defamatory of the State or its representatives, or which constitutes election campaign material for or against any person, organization or faction thereof. No other employee organization except employee organizations which have been certified or recognized as the representative for collective negotiations of other State employees employed at such locations shall have the right to post material upon State bulletin boards.

(b) The number and location of bulletin boards as well as arrangements with reference to placing material thereon and removing material therefrom shall be subject to mutual understandings at the departmental or agency level, provided, however, that any understanding reached with respect thereto shall provide for the removal of any bulletin or material objected to by the State which removal may be contested pursuant to the contract grievance procedure provided for herein.

### §4.4 Meeting Space

(a) Where there is appropriate available meeting space in buildings owned or leased by the State, it shall be offered to DC-37 from time to time for specific meetings provided that (1) DC-37 agrees to reimburse the State for any additional expense incurred in the furnishing of such space, and (2) request for the use of such space is made in advance, pursuant to rules of the department or agency concerned.

(b) No other employee organization, except employee organizations which have been certified or recognized as the representative for collective negotiations of other State employees, shall have the right to meeting space in State facilities.

(c) Where appropriate space is available the State shall provide such space at State facilities for the conduct of DC-37 division elections, provided that the conduct of such elections will not interfere with normal State operations. Arrangements for such space shall be subject to mutual understandings at the departmental or agency level.

**§4.5 Access to Employees**

(a) DC-37 representatives shall, on an exclusive basis, have access to employees during working hours to explain DC-37 membership, services and programs under mutually developed arrangements with department or agency heads. Any such arrangements shall insure that such access shall not interfere with work duties or work performance. Such consultations shall be no more than 15 minutes per employee per month, and shall not exceed an average of ten (10) percent per month of the employees in the operating unit (e.g., main office or appropriate facility) where access is sought.

(b) Department and agency heads may make reasonable and appropriate arrangements with DC-37 whereby it may advise employees of the additional availability of DC-37 representatives for consultations during non-working hours concerning DC-37 membership, services and programs.

**§4.6 Lists of Employees**

The State, at its expense, shall furnish the President of DC-37 Local 1359, on at least a quarterly basis, information showing the name, address, unit designation, social security number and payroll agency of all new employees and any current employee whose payroll agency or address has changed during the period covered by the report.

**§4.7 Employee Organization Leave**

(a) Reasonable numbers of DC-37 designees will be granted reasonable amounts of Employee Organization Leave to participate in meetings of joint labor/management committees, the conduct of negotiations for a successor agreement, and the representation of employees in the grievance procedure, with no charge to the employees' leave credits. The use of such leave will be contingent on the submission of requests in advance, and shall be granted to the extent the resulting absences will not unreasonably interfere with an agency's operations. Reasonable and actual travel time in connection with such leave shall also be granted, subject to the same limitation and subject to a maximum of five (5) hours each way for any meeting.

Leave for contract negotiations or for labor/management committees pursuant to this provision shall be granted only to employees in this unit designated in advance by DC-37 and approved by the Director of Employee Relations; leave for grievance representation pursuant to this provision shall be granted only to persons designated for this purpose by DC-37 in a listing of authorized grievance representatives furnished quarterly by DC-37 to the Director of the Governor's Office of Employee Relations.

(b) The State shall grant a total of seven days of Employee Organization Leave during each year of this Agreement for use by designees of DC-37 for attendance at DC-37 board or committee meetings or other internal DC-37 business. Such leave shall be granted to the designee(s) of DC-37 on the dates specified by DC-37 to the extent that resulting absences will not unreasonably interfere with an agency's operations. Procedures for the advance request of such leave and for the recording of such leave shall be as mutually agreed by DC-37 and the Director of the Governor's Office of Employee Relations.

(c) Effective January 1, 2005, the State shall grant Employee Organization Leave for one delegate meeting in each year of this Agreement. Such Employee Organization Leave shall be limited to five (5) days for up to five (5) people.

(d) Under special circumstances, and upon advance request, additional Employee Organization Leave may be granted by the Director of Employee Relations.

### §4.8 Union Leave

Upon the request of the President of DC-37 and the employee(s), and the approval of the Director of the Governor's Office of Employee Relations, an employee or employees may be granted leave of absence with full pay to engage in DC-37 activities in accordance with the provisions of Section 46 of Chapter 283 of the Laws of 1972.

### §4.9 Leave of Absence Information

The State shall provide an employee who is going on an authorized leave of absence with information regarding continuation of coverage under the State's Health and Dental Insurance Programs during such

leave. The State shall also provide to such employee a memorandum prepared by DC-37 regarding necessary payments for DC-37 dues and insurance premiums during such leave.

## ARTICLE 5 Management Rights

Except as expressly limited by other provisions of this Agreement, all of the authority, rights and responsibilities possessed by the State are retained by it, including, but not limited to, the right to determine the mission, purposes, objectives and policies of the State; to determine the facilities, methods, means and number of personnel required for conduct of State programs; to administer the Merit System, including the examination, selection, recruitment, hiring, appraisal, training, retention, promotion, assignment or transfer of employees pursuant to law; to direct, deploy and utilize the work force, to establish specifications for each class of positions and to classify or reclassify and to allocate or reallocate new or existing positions in accordance with law; and to discipline or discharge employees in accordance with law and the provisions of this Agreement.

## ARTICLE 6 No Strikes

**§6.1**

DC-37 shall not engage in a strike, nor cause, instigate, encourage or condone a strike.

**§6.2**

DC-37 shall exert its best efforts to prevent and terminate any strike.

**§6.3**

Nothing contained in this Agreement shall be construed to limit the rights, remedies or duties of the State or the rights, remedies or duties of DC-37 or employees under State law.

## ARTICLE 7 Compensation

The State and DC-37 shall prepare, secure introduction and recommend passage by the Legislature of such legislation as may be appropriate and necessary to provide the benefits described below:

### §7.1 Five and Ten Year Longevity Advances for Fiscal Year 2011-2012

(a) Eligibility

(1) Each employee who as of March 31, 2011, has completed five years or more of continuous service as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive a five year longevity payment in April 2011 or as soon as practicable.

(2) Each employee who completes five years or more of continuous service between April 1, 2011 and September 30, 2011 as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive a five year longevity payment in October 2011 or as soon as practicable.

(3) Each employee who as of March 31, 2011, has completed ten years or more of continuous service as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive both a five year longevity payment and a ten year longevity payment in April 2011 or as soon as practicable.

(4) Each employee who completes ten years or more of continuous service between April 1, 2011 and September 30, 2011 as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive both a five year longevity payment and a ten year longevity in October 2011 or as soon as practicable.

(b) Longevity Payments

(1) Longevity payments shall be lump-sum, non-recurring payments in the amount of $1,250 each for employees in full-time status as of March 31, 2011 or a pro rata share of that amount for employees in part-time employment status on that date, who meet the eligibility requirements as stated in (a) (1) and (3) above, and shall be paid in April 2011 or as soon as practicable. The lump-sum payment for employees eligible to receive both a five year and a ten year longevity payment shall be $2,500.

(2) Longevity payments shall be lump-sum, non-recurring payments in the amount of $1,250 each for employees in full-time status as of September 30, 2011 or a pro rata share of that amount for employees in part-time employment status on that date, who meet the eligibility requirements as stated in (a) (2) and (4) above, and shall be paid in October 2011 or as soon as practicable. The lump-sum payment for employees eligible to receive both a five year and a ten year longevity payment shall be $2,500.

(c) Employees on Leave

(1) Employees otherwise eligible to receive longevity payments who, on the March 31 eligibility date, are on authorized leave of absence without pay (preferred list, military leave, workers. compensation leave, or approved leave of absence) shall, if they return to active payroll status within one year of the March 31 eligibility date, be eligible for such payment in full if in full-time status immediately prior to such leave or shall be eligible for a pro rata share of such payment if in part-time employment status immediately prior to such leave.

(2) Employees otherwise eligible to receive longevity payments who, on the September 30 eligibility date, are on authorized leave of absence without pay (preferred list, military leave, workers. compensation leave, or approved leave of absence) shall, if they return to active payroll status within one year of the September 30 eligibility date, be eligible for such payment in full if in full-time status immediately prior to such leave or shall be eligible for a pro rata share of such payment if in part-time employment status immediately prior to such leave.

## §7.2 Five and Ten Year Longevity Advances for Fiscal Year 2012-2013

(a) Eligibility

(1) Each employee who as of March 31, 2012, has completed five years or more of continuous service as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive a five year longevity payment in April 2012 or as soon as practicable.

(2) Each employee who completes five years or more of continuous service between April 1, 2012 and September 30, 2012 as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive a five year longevity payment in October 2012 or as soon as practicable.

(3) Each employee who as of March 31, 2012, has completed ten years or more of continuous service as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive both a five year longevity payment and a ten year longevity payment in April 2012 or as soon as practicable.

(4) Each employee who completes ten years or more of continuous service between April 1, 2012 and September 30, 2012 as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive both a five year longevity payment and a ten year longevity in October 2012 or as soon as practicable.

(b) Longevity Payments

(1) Longevity payments shall be lump-sum, non-recurring payments in the amount of $1,250 each for employees in full-time status as of March 31, 2012 or a pro rata share of that amount for employees in part-time employment status on that date, who meet the eligibility requirements as stated in (a) (1) and (3) above, and shall be paid in April 2012 or as soon as practicable. The lump-sum payment

for employees eligible to receive both a five year and a ten year longevity payment shall be $2,500.

(2) Longevity payments shall be lump-sum, non-recurring payments in the amount of $1,250 each for employees in full-time status as of September 30, 2012 or a pro rata share of that amount for employees in part-time employment status on that date, who meet the eligibility requirements as stated in (a) (2) and (4) above, and shall be paid in October 2012 or as soon as practicable. The lump-sum payment for employees eligible to receive both a five year and a ten year longevity payment shall be $2,500.

(c) Employees on Leave

(1) Employees otherwise eligible to receive longevity payments who, on the March 31 eligibility date, are on authorized leave of absence without pay (preferred list, military leave, workers. compensation leave, or approved leave of absence) shall, if they return to active payroll status within one year of the March 31 eligibility date, be eligible for such payment in full if in full-time status immediately prior to such leave or shall be eligible for a pro rata share of such payment if in part-time employment status immediately prior to such leave.

(2) Employees otherwise eligible to receive longevity payments who, on the September 30 eligibility date, are on authorized leave of absence without pay (preferred list, military leave, workers. compensation leave, or approved leave of absence) shall, if they return to active payroll status within one year of the September 30 eligibility date, be eligible for such payment in full if in full-time status immediately prior to such leave or shall be eligible for a pro rata share of such payment if in part-time employment status immediately prior to such leave.

### §7.3 Five and Ten Year Longevity Advances for Fiscal Year 2013-2014

(a) Eligibility

(1) Each employee who as of March 31, 2013, has completed five years or more of continuous service as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher

than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive a five year longevity payment in April 2013 or as soon as practicable.

(2) Each employee who completes five years or more of continuous service between April 1, 2013 and September 30, 2013 as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive a five year longevity payment in October 2013 or as soon as practicable.

(3) Each employee who as of March 31, 2013, has completed ten years or more of continuous service as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive both a five year longevity payment and a ten year longevity payment in April 2013 or as soon as practicable.

(4) Each employee who completes ten years or more of continuous service between April 1, 2013 and September 30, 2013 as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive both a five year longevity payment and a ten year longevity in October 2013 or as soon as practicable.

(b) Longevity Payments

(1) Longevity payments shall be lump-sum, non-recurring payments in the amount of $1,250 each for employees in full-time status as of March 31, 2013 or a pro rata share of that amount for employees in part-time employment status on that date, who meet the eligibility requirements as stated in (a) (1) and (3) above, and shall be paid in April 2013 or as soon as practicable. The lump-sum payment for employees eligible to receive both a five year and a ten year longevity payment shall be $2,500.

(2) Longevity payments shall be lump-sum, non-recurring payments in the amount of $1,250 each for employees in full-time status as of September 30, 2013 or a pro rata share of that amount for employees in part-time employment status on that date, who meet the

eligibility requirements as stated in (a) (2) and (4) above, and shall be paid in October 2013 or as soon as practicable. The lump-sum payment for employees eligible to receive both a five year and a ten year longevity payment shall be $2,500.

(c) Employees on Leave

(1) Employees otherwise eligible to receive longevity payments who, on the March 31 eligibility date, are on authorized leave of absence without pay (preferred list, military leave, workers. compensation leave, or approved leave of absence) shall, if they return to active payroll status within one year of the March 31 eligibility date, be eligible for such payment in full if in full-time status immediately prior to such leave or shall be eligible for a pro rata share of such payment if in part-time employment status immediately prior to such leave.

(2) Employees otherwise eligible to receive longevity payments who, on the September 30 eligibility date, are on authorized leave of absence without pay (preferred list, military leave, workers. compensation leave, or approved leave of absence) shall, if they return to active payroll status within one year of the September 30 eligibility date, be eligible for such payment in full if in full-time status immediately prior to such leave or shall be eligible for a pro rata share of such payment if in part-time employment status immediately prior to such leave.

**§7.4 Salary Increase for Fiscal Year 2014-2015**

Effective March 27, 2014 for employees on the Administration payroll, a new salary schedule shall be established which shall consist of a hiring rate and a job rate for grades 1 through 32. The hiring rates shall be the hiring rates of the salary schedule in effect on March 26, 2014 increased by two (2.0) percent. Employees whose salaries were at the hiring rate, any of the six steps, or the job rate immediately prior to the increase in the schedule shall be accorded the benefit of the two (2.0) percent increase by receiving a salary equal to the new hiring rate, corresponding step, or job rate, respectively, as provided on March 27, 2014.

## §7.5 Five and Ten Year Longevity Advances for Fiscal Year 2014-2015

(a) Eligibility

(1) Each employee who as of March 31, 2014, has completed five years or more of continuous service as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive a five year longevity payment in April 2014 or as soon as practicable.

(2) Each employee who completes five years or more of continuous service between April 1, 2014 and September 30, 2014 as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive a five year longevity payment in October 2014 or as soon as practicable.

(3) Each employee who as of March 31, 2014, has completed ten years or more of continuous service as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive both a five year longevity payment and a ten year longevity payment in April 2014 or as soon as practicable.

(4) Each employee who completes ten years or more of continuous service between April 1, 2014 and September 30, 2014 as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive both a five year longevity payment and a ten year longevity in October 2014 or as soon as practicable.

(b) Longevity Payments

(1) Longevity payments shall be lump-sum, non-recurring payments in the amount of $1,250 each for employees in full-time status as of March 31, 2014 or a pro rata share of that amount for employees in part-time employment status on that date, who meet the eligibility requirements as stated in (a) (1) and (3) above, and shall be paid in April 2014 or as soon as practicable. The lump-sum payment

for employees eligible to receive both a five year and a ten year longevity payment shall be $2,500.

(2) Longevity payments shall be lump-sum, non-recurring payments in the amount of $1,250 each for employees in full-time status as of September 30, 2014 or a pro rata share of that amount for employees in part-time employment status on that date, who meet the eligibility requirements as stated in (a) (2) and (4) above, and shall be paid in October 2014 or as soon as practicable. The lump-sum payment for employees eligible to receive both a five year and a ten year longevity payment shall be $2,500.

(c) Employees on Leave

(1) Employees otherwise eligible to receive longevity payments who, on the March 31 eligibility date, are on authorized leave of absence without pay (preferred list, military leave, workers. compensation leave, or approved leave of absence) shall, if they return to active payroll status within one year of the March 31 eligibility date, be eligible for such payment in full if in full-time status immediately prior to such leave or shall be eligible for a pro rata share of such payment if in part-time employment status immediately prior to such leave.

(2) Employees otherwise eligible to receive longevity payments who, on the September 30 eligibility date, are on authorized leave of absence without pay (preferred list, military leave, workers. compensation leave, or approved leave of absence) shall, if they return to active payroll status within one year of the September 30 eligibility date, be eligible for such payment in full if in full-time status immediately prior to such leave or shall be eligible for a pro rata share of such payment if in part-time employment status immediately prior to such leave.

**§7.6 Salary Increase for Fiscal Year 2015-2016**

Effective March 26, 2015 for employees on the Administration payroll, a new salary schedule shall be established which shall consist of a hiring rate and a job rate for grades 1 through 32. The hiring rates shall be the hiring rates of the salary schedule in effect on March 25, 2015 increased by two (2.0) percent. Employees whose salaries were at

the hiring rate, any of the six steps, or the job rate immediately prior to the increase in the schedule shall be accorded the benefit of the two (2.0) percent increase by receiving a salary equal to the new hiring rate, corresponding step, or job rate, respectively, as provided on March 27, 2014.

Employees whose salaries were at the hiring rate, any of the six steps, or the job rate immediately prior to the increase in the schedule shall be accorded the benefit of the two (2.0) percent increase by receiving a salary equal to the new hiring rate, corresponding step, or job rate, respectively, as provided on March 26, 2015.

### §7.7 Five and Ten Year Longevity Advances for Fiscal Year 2015-2016

(a) Eligibility

(1) Each employee who as of March 31, 2015, has completed five years or more of continuous service as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive a five year longevity payment in April 2015 or as soon as practicable.

(2) Each employee who completes five years or more of continuous service between April 1, 2015 and September 30, 2015 as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive a five year longevity payment in October 2015 or as soon as practicable.

(3) Each employee who as of March 31, 2015, has completed ten years or more of continuous service as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and has attained a performance rating of "satisfactory" or its equivalent, shall receive both a five year longevity payment and a ten year longevity payment in April 2015 or as soon as practicable.

(4) Each employee who completes ten years or more of continuous service between April 1, 2015 and September 30, 2015 as defined by Section 130.3(c) of the Civil Service Law at a basic annual salary rate equal to or higher than the job rate of the employee's salary grade, and

has attained a performance rating of "satisfactory" or its equivalent, shall receive both a five year longevity payment and a ten year longevity in October 2015 or as soon as practicable.

(b) Longevity Payments

(1) Longevity payments shall be lump-sum, non-recurring payments in the amount of $1,250 each for employees in full-time status as of March 31, 2015 or a pro rata share of that amount for employees in part-time employment status on that date, who meet the eligibility requirements as stated in (a) (1) and (3) above, and shall be paid in April 2015 or as soon as practicable. The lump-sum payment for employees eligible to receive both a five year and a ten year longevity payment shall be $2,500.

(2) Longevity payments shall be lump-sum, non-recurring payments in the amount of $1,250 each for employees in full-time status as of September 30, 2015 or a pro rata share of that amount for employees in part-time employment status on that date, who meet the eligibility requirements as stated in (a) (2) and (4) above, and shall be paid in October 2015 or as soon as practicable. The lump-sum payment for employees eligible to receive both a five year and a ten year longevity payment shall be $2,500.

(c) Employees on Leave

(1) Employees otherwise eligible to receive longevity payments who, on the March 31 eligibility date, are on authorized leave of absence without pay (preferred list, military leave, workers. compensation leave, or approved leave of absence) shall, if they return to active payroll status within one year of the March 31 eligibility date, be eligible for such payment in full if in full-time status immediately prior to such leave or shall be eligible for a pro rata share of such payment if in part-time employment status immediately prior to such leave.

(2) Employees otherwise eligible to receive longevity payments who, on the September 30 eligibility date, are on authorized leave of absence without pay (preferred list, military leave, workers. compensation leave, or approved leave of absence) shall, if they return to active payroll status within one year of the September 30 eligibility

date, be eligible for such payment in full if in full-time status immediately prior to such leave or shall be eligible for a pro rata share of such payment if in part-time employment status immediately prior to such leave.

**§7.8 Performance Advance System**

(a) The performance advance system in effect on April 1, 2007 shall continue in effect for the term of this Agreement. This performance advance system shall continue to be based on a performance evaluation system developed and administered by the State. The performance advance system shall provide for movement from the hiring rate to the job rate of the grade on the salary schedule at the rate of one performance advance or increment upon completion of each year of service in grade for which the performance was evaluated as higher than "unsatisfactory" or the equivalent.

(b) Performance advances shall be payable only to employees holding annual salaried positions that are allocated to or equated with salary grades. No employee's salary shall be increased above the job rate of the grade to which the employee's position is allocated or equated as a result of a performance advance.

(c) Performance advances will be payable to eligible employees on April 1 of the fiscal year immediately following completion of each year of service in grade. Performance advances for Steps 1 through 6 shall be equal to the step increase as identified in the salary schedule applicable to the grade. Performance advances to the job rate shall be equal to the job rate increase as identified in the salary schedule applicable to the grade.

(d) Effective April 1, 1999, employees hired or promoted on or after April 2 and through October 1 will have an increment anniversary date of October 1. Employees hired or promoted on or after October 2 through April 1 will have an April 1 increment anniversary date. All hired or promoted employees will be required to serve at least one year before receiving their increment. Once the increment is received, subsequent increments will begin on the appropriate anniversary date of either October 1 or April 1. The creation of a second increment anniversary date will continue the practice that all employees will serve at least one year before the increment is paid but no employee will wait longer than one and one-half years.

**§7.9 Promotions**

(a) Employees who are promoted, or otherwise advanced to a higher salary grade will be paid at the hiring rate of the higher grade or will receive a percentage increase in basic annual salary determined as indicated below, whichever results in a higher salary.

| For a Promotion of: | An Increase of: |
|---|---|
| 1 grade | 3.0 % |
| 2 grades | 4.5 % |
| 3 grades | 6.0 % |
| 4 grades | 7.5 % |
| 5 grades | 9.0 % |

(b) Reallocations and Reclassifications

Employees in positions which are reallocated or reclassified to a higher salary grade will receive an increase in pay determined in the same manner as described for promotions except that in the event of reallocation, the new salary shall not exceed the second longevity step.

**§7.10 Applicability**

(a) Sections 7.4 and 7.6 above shall apply on a pro rata basis to employees paid on an hourly or per diem basis or on any basis other than at an annual rate, or to employees paid on a part-time basis. Such sections shall not apply to employees paid on a fee schedule.

(b) Sections 7.1, 7.2, 7.3., 7.5, 7.7, and 7.9 shall apply on a pro rata basis as appropriate to employees paid on an hourly or per diem basis or on any basis other than at an annual rate, or to employees paid on a part-time basis. The above provisions shall not apply to employees paid on a fee schedule.

**§7.11 Recall and Inconvenience Pay**

The present recall and inconvenience pay programs will be continued.

### §7.12 Downstate Adjustment

Eligible employees in New York City, Nassau, Rockland, Suffolk and Westchester Counties will receive a Downstate Adjustment in addition to their basic annual salary. Effective October 1, 2008 the amount of the Downstate Adjustment shall be $3,026.

### §7.13 Holiday Pay

(a) Any employee who is entitled to time off with pay on days observed as holidays by the State as an employer will receive at the employee's option additional compensation for time worked on such days or compensatory time off. Such additional compensation, except as noted below, for each such full day worked will be at the rate of 1/10 of the employee's bi-weekly rate of compensation. Such additional compensation for less than a full day of such work will be prorated. Such rate of compensation will include geographic, location, inconvenience, shift pay and the downstate adjustment as may be appropriate to the place or hours worked. In no event will an employee be entitled to such additional compensation or compensatory time off unless the employee has been scheduled or directed to work.

(b) An employee electing to take compensatory time off in lieu of holiday pay shall notify the appropriate payroll agency in writing between April 1 and June 15 in the first year of the Agreement of the employee's intention to do so with the understanding that such notice constitutes a waiver for the term of this Agreement of the employee's right to receive additional compensation for holidays worked; provided, however, that an employee shall have the opportunity to revoke such waiver or file a waiver, if the employee has not already done so, by notifying the appropriate payroll agency in writing between April 1 and May 15 in the second, third and fourth year of this Agreement of the employee's revocation or waiver, in which event such revocation or waiver shall remain in effect for the remainder of the term of this Agreement.

### §7.14 Lag Payroll, Salary Deferral

(a) Employees in this unit shall continue to be subject to a one payroll period (two week) "lag" payroll. When employees leave State service, their final salary check shall be issued at the end of the payroll

period next following the payroll period in which their service is discontinued. This final salary check shall be paid at the employee's then-current salary rate.

(b) The salary deferral program instituted by legislative action in 1990, and implemented in 1991, shall remain in effect. Employees shall recover monies deferred under this program at the time they leave State service, pursuant to the provisions of Chapter 947 of the Laws of 1990, as amended by Chapter 782 of the Laws of 1991. Employees newly added to the payroll shall have five days of salary deferred pursuant to the provisions of Chapter 947 of the Laws of 1990, as amended by Chapter 782 of the Laws of 1991.

**§7.15 Payment above the Job Rate**

(a) An employee's salary may not exceed the job rate as a result of the application of the provisions of Sections 7.4 and 7.6

(b) For the purpose of the application of Sections 7.1, 7.2, 7.3, 7.4, 7.5, 7.6 and 7.7, each employee whose basic annual salary on March 31, 1985 exceeded the job rate of the grade to which the employee's position was allocated shall, on that date, be considered to have completed five years of continuous service as defined by Section 130.3(c) of the Civil Service Law at an annual salary rate higher than the job rate of the grade of the position held by the employee on March 31, 1985.

**§7.16 Deficit Reduction Program/Workforce Reduction Limitation**

(a) Deficit Reduction Program

As soon as practicable after ratification of the agreement, employees will have their total compensation, less overtime earnings, reduced by the value of nine (9) days' pay. This reduction shall occur over the remainder of the 2014-2015 fiscal year and the first 25 pay periods of the 2015-2016 fiscal year so that at the end of the 2015-2016 fiscal year each employee has had their total compensation, less overtime earnings, reduced by the value of nine (9) days' pay. Such reduction shall occur prior to the application of Sections 7.4 and 7.6.

Beginning on March 24, 2016, employees whose total compensation, less overtime earnings, was reduced pursuant to Section

7.16(a), shall begin to be repaid for the reduction taken pursuant to Section 7.16(a). Commencing with this payroll period, employees shall receive payment in equal amounts over 39 payroll periods until the reduction has been repaid. Employees who separate from service prior to the full repayment for the reduction taken pursuant to Section 7.16(a) shall be paid the balance of money owed at the time of their separation.

(b) Workforce Reduction Limitation

For the term of this agreement, only material or unanticipated changes in the State's fiscal circumstances, financial plan, or revenue will result in potential layoffs. Workforce reductions due to the closure or restructuring of facilities as authorized by legislation or Spending and Government Efficiency Commission determinations are excluded from these limitations.

## ARTICLE 8 Payroll

### §8.1 Computation on 10-Day Basis

Employees' salary payments will continue to be calculated on an appropriate ten (10) working day basis.

### §8.2 Deductions for Employee Credit Unions

(a) The State will deduct from the salary of an employee an amount authorized in writing by such employee, within the minimum and maximum amounts to be specified by the Comptroller, for payments to bona fide credit unions for appropriate purposes and to transmit the sum so deducted to such credit unions. Any such written authorization may be withdrawn by such employee at any time upon filing of written notice of such withdrawal with the Comptroller. Such deductions shall be in accordance with rules and regulations of the Comptroller not inconsistent with the law as may be necessary for the exercise of his/her authority under this Section.

(b) Such rules and regulations may include requirements insuring that computations and other appropriate clerical work shall be performed by the credit union, limiting the frequency of changes in the amount of payroll deductions, indemnifying the State and establishing minimum membership standards so that payroll deductions are practicable and feasible.

### §8.3 Payroll Statements

The State will continue to provide the salary and deduction information on payroll statements to employees paid through the machine payroll procedure as is provided at the time of the execution of this Agreement.

## ARTICLE 9 Health Insurance

### §9.1 Continuation

The State shall continue to provide all the forms and extent of coverage as defined by the contracts in force on April 1, 2011 with the State's health insurance carriers unless specifically modified or replaced pursuant to this Agreement.

### §9.2 Eligibility

The Pre-Tax Contribution Program will continue unless modified or exempted by the Federal Tax Code.

There shall be a waiting period of 42 days after employment before a new employee shall be eligible for enrollment under the State's Health Insurance Program.

a. The State Health Insurance Plans' regulations shall continue to stipulate that the term "employee" means any person in the service of the State as employer whose regular work schedule is at least half-time per biweekly payroll period.

b. Domestic Partners who meet the definition of a partner and can provide acceptable proofs of financial interdependence as outlined in the Affidavit of Domestic Partnership and Affidavit of Financial Interdependence shall be eligible for health care coverage.

c. Seasonal employees who are anticipated to be or who are continuously employed on at least a half-time basis for six (6) months shall be eligible for health insurance coverage subject to the provisions of the Agreement.

d. Where the State establishes a seasonal position for six (6) months or more, the appointee to that position shall not have his/her service intentionally broken solely for the purpose of rendering that employee ineligible for health insurance coverage.

e. Should a seasonal employee who attained health insurance coverage

eligibility leave the payroll and then be rehired subsequently, the employee shall retain eligibility for health insurance coverage upon rehire without application of a six-month waiting period, provided the employee was not off the payroll more than three months. The employee may continue his/her health insurance on a full pay basis for the period of time he/she is off the payroll.

f. Continued health insurance coverage will be provided for the unremarried spouse and other eligible dependents of employees who die in State service under circumstances under which they are eligible for the accidental death benefit or for weekly cash workers' compensation benefits under the same conditions as prescribed in Section 165 of the Civil Service Law for dependents of a deceased employee who was at the time of death an employee at a correctional facility having individual and dependent coverage at the time of death and where death occurred as a result of injuries sustained during the period from September 9 through 13, 1971.

g. If an employee is granted a service-connected disability retirement by a retirement or pension plan or system administered and operated by the State of New York, the State will continue the health insurance of that employee on the same basis as any other retiring employee, regardless of the duration of the employee's service with the State.

h. A permanent full-time employee who loses employment as a result of the abolition of a position on or after April 1, 1977 shall continue to be covered under the State health insurance plan at the same contribution rate as an active employee for one year following such layoff or until re-employment by the State or employment by another employer, whichever first occurs.

i. The unremarried spouse or domestic partner who has not acquired another domestic partner and otherwise eligible dependent children of an employee, who retires after April 1, 1979, with ten (10), or more years of active State service and subsequently dies, shall be permitted to continue coverage in the health insurance program with payment at the same contribution rates as required of active employees for the same coverage.

j. The unremarried spouse or domestic partner who has not acquired another domestic partner and otherwise eligible dependent children of an active employee, who dies after April 1, 1979, and who, at the date of death, was vested in the Employees' Retirement System, had ten

(10) or more years of benefits eligible State service, and who was at least 45 years of age and was within ten (10) years of the minimum retirement age shall be permitted to continue coverage in the health insurance program with payment at the same contribution rates as required of active employees for the same coverage.

k. Employees added to the payroll and covered by the State Health Insurance Plan have the right to retain health insurance coverage after retirement, upon the completion of ten (10) years of State service.

l. The State and DC-37 recognize the need to address the inequity of providing employees who serve the minimum amount of time necessary for health insurance in retirement with the same benefits as career employees and shall, through the Joint Committee process, develop a proposal to modify the manner in which employer contributions to retiree premiums are calculated.

m. An employee retiring from State service may delay commencement or suspend his/her retiree health coverage and the use of the employee's sick leave conversion credits indefinitely provided that the employee applies for the delay or suspension, and furnishes proof of continued coverage under the health care plan of the employee's spouse, or from post retirement employment. The surviving spouse of a retiree who dies while under a delay or suspension as referred to in Article 9.2(k) may transfer back to the State Health Insurance Plan on the first of the month coinciding with or following the retiree's death as described in Article 9.2(i).

(1) Effective January 1, 1992, an employee who is eligible to continue health insurance coverage upon retirement and who is entitled to a sick leave credit to be used to defray any employee contribution toward the cost of the premium, may elect an alternative method of applying the basic monthly value of the sick leave credit. For employees retiring 30 days or less after ratification, the basic monthly value of the sick leave credit shall be calculated according to the procedures in use on April 1, 2011. For employees retiring 30 days or more after ratification, the basic monthly value of sick leave credit shall continue to be calculated in the same manner except that the calculation shall be based on the “1999 Unisex” actuarial table of life expectancy used by the New York State Employees Retirement System. Employees selecting the basic sick leave credit may elect to apply up to 100 percent of the calculated

basic monthly value of the credit toward defraying the required contribution to the monthly premium during their own lifetime. If employees who elect that method predecease their eligible covered dependents, the dependents may, if eligible, continue to be covered, but must pay the applicable dependent survivor share of the premium. Employees selecting the alternative method may elect to apply only up to 70 percent of the calculated basic monthly value of the credit toward the monthly premium during their own lifetime. Upon the death of the employee, however, any eligible surviving dependents may also apply up to 70 percent of the basic monthly value of the sick leave credit toward the dependent survivor share of the monthly premium for the duration of the dependents' eligibility. The State has the right to make prospective changes to the percentage of credit to be available under this alternative method for future retirees as required to maintain the cost neutrality of this feature of the plan. The selection of the method of sick leave credit application must be made at the time of retirement, and is irrevocable. In the absence of a selection by the employee, the basic method shall be applied.

### §9.3 Enrollment

a. Employees eligible to enroll in the State Health Insurance Program may select individual or individual and dependent coverage (family). Those eligible and enrolling for family coverage must provide the names of all eligible dependents to the Plan administrator in order for family coverage to become effective. Employees enrolling without eligible dependents, or those who choose not to enroll their eligible dependents, will be provided individual coverage.

b. Pursuant to the 2010 Federal Patient Protection and Affordable Care Act, dependents up to age 26 shall be eligible for health insurance, including prescription drug benefits.

c. Covered dependents of employees who are activated for military duty as a result of an action declared by the President of the United States or Congress shall continue health insurance coverage with no employee contribution for a period not to exceed 12 months from the date of activation, less any period the employee remains in full pay status. Contribution free health insurance coverage will end at such time as the employee’s active duty is terminated or the employee returns to State employment, whichever occurs first.

### §9.4 Empire Plan Premium

The State agrees to pay 90 percent of the cost of individual coverage and 75 percent of the cost of dependent coverage toward the hospital/medical/mental health and substance abuse/prescription drug components provided under the Empire Plan. Effective October 1, 2011 or as soon as practicable thereafter, for employees in a title Salary Grade 9 or below (or an employee equated to a position title Salary Grade 9 or below), the State agrees to pay 88 percent of the cost of individual coverage and 73 percent of the cost of dependent coverage. Effective October 1, 2011 or as soon as practicable thereafter, for employees in a title Salary Grade 10 and above (or an employee equated to a position title Salary Grade 10 and above) the State agrees to pay 84 percent of the cost of individual coverage and 69 percent of the cost of dependent coverage.

Effective January 1, 2015, NYSHIP enrollees who can demonstrate and attest to having other coverage, provided by an employer other than New York State, may annually elect to opt-out of NYSHIP's Empire Plan or Health Maintenance Organizations. Employees who choose to opt-out of a NYSHIP health insurance plan will receive an annual payment of $1,000 for not electing individual coverage or $3,000 for not electing family coverage. The Opt-out program will allow for re-entry to NYSHIP upon a change in status qualifying event as provided in regulations under Internal Revenue Code § 125 and during the annual option transfer period. The enrollee must be enrolled in NYSHIP prior to April first of the previous plan year in order to be eligible to opt-out, unless newly eligible to enroll. The Opt-out payment will be prorated over the number of payroll cycles for the Plan Year and appear as a credit to the employee's wages for each bi-weekly payroll period the eligible individual is qualified. Participation in the Opt-out shall be considered enrollment in NYSHIP for all purposes, including retiree health insurance coverage, use of sick leave credits toward health insurance, and participation in the DC-37 Employee Benefit Fund.

### §9.5 Empire Plan Benefits Management Program

The Benefits Management Program will continue. Precertification will be required for all inpatient confinements and prior to certain specified surgical or medical procedures regardless of proposed inpatient or outpatient setting.

a. To provide an opportunity for a review of surgical and diagnostic procedures for appropriateness of setting and effectiveness of treatment alternative, precertification will be required for all inpatient elective admissions.

b. Precertification will be required prior to maternity admissions in order to highlight appropriate pre-natal services and reduce costly and traumatic birthing complications.

c. A call to the Benefits Management Program will be required within 48 hours of admission for all emergency or urgent admissions to permit early identification of potential "case management" situations.

d. Precertification will be required prior to an admission to a skilled nursing facility.

e. The hospital deductible amount imposed for noncompliance with Program requirements will be $200. Also, this deductible will be fully waived in instances where the medical record indicates that the patient was unable to make the call. In instances of noncompliance, a retroactive review of the necessity of services received shall be performed. The hospital portion of the Empire Plan will only cover those inpatient days determined by the Benefits Management Program to be medically necessary and/or appropriate for the inpatient setting.

f. The Prospective Procedure Review Program will continue. This Program will screen for the medical necessity of certain listed surgical or diagnostic medical procedures which, based on Empire Plan experience, have been identified as potentially unnecessary or over-utilized. The list of procedures will undergo annual evaluation by the Benefits Management Program vendor. As revised and approved by the Joint Committee on Health Benefits, the list will be published and distributed to enrollees prior to implementation.

g. The Prospective Procedure Review requirement will include only Magnetic Resonance Imaging (MRI), Computerized Axial Tomography (CAT Scans), Positron Emission Tomography (PET scans), Magnetic Resonance Angiography (MRAs) and Nuclear Medicine.

h. Enrollees will be required to call the Benefits Management Program for precertification when a listed procedure is recommended, regardless of setting. Enrollees will be requested to call two weeks before the date of the procedure.
i. The Empire Plan's Prospective Procedure Review penalties will apply for failure to comply with the requirements of the Prospective Procedure Review Program, regardless of whether the expense is an outpatient hospital or medical program expense.

### §9.6 Empire Plan Hospital Program

(a) Network Hospital

1. Charges for outpatient services covered by the hospital contract will be subject to a $40 copayment per outpatient visit. The copayment for emergency room services covered by the hospital contract is $70. The copayment for outpatient hospital surgery is $60. Services provided in a hospital owned or operated extension clinic will be paid by the hospital carrier, subject to appropriate copayment. The copayment for covered services for treatment of alcohol/substance abuse will be the participating provider copayment. The hospital outpatient copayment will be waived for persons admitted to the hospital as an inpatient directly from the outpatient setting, for pre-admission testing/pre-surgical testing prior to an inpatient admission, or for the following covered chronic care outpatient services: chemotherapy, radiation therapy, and hemodialysis. Hospital outpatient physical therapy visits are subject to the same copayment in effect for physical therapy visits under the Managed Physical Medicine Program.
2. Charges for Private Duty Nursing service in a hospital will not be reimbursed under the Basic Medical component of the Empire Plan.
3. The Empire Plan Hospital Program includes a voluntary "Centers of Excellence Program" for organ and tissue transplants. The Centers will provide pre-transplant evaluation, hospital and physician service (inpatient and outpatient), transplant procedures, follow-up care for transplant related services, as determined by the Centers, and any other services as identified during implementation as part of an all-inclusive global rate. A travel allowance for transportation and lodging is included as part of the Centers of Excellence Program. The Joint Committee on Health Benefits will work with the State and Empire

Plan carriers in the ongoing oversight of this benefit.
4. The Empire Plan hospital carrier will manage a hospital network for the Empire Plan. Covered services at a network hospital will remain a paid-in-full benefit under the hospital component of the Plan. Inpatient anesthesiology, pathology and radiology services received at a network hospital are a paid-in-full (less any appropriate copayment) benefit.

(b) Non-Network Hospital

1. Covered inpatient services received at a non-network hospital will be reimbursed at 90% of charges. There will be a separate $1,500 annual hospital coinsurance maximum per enrollee, enrolled dependent spouse/domestic partner and all dependent children combined established for non-network hospital out-of-pocket expenses. Emergency room services rendered at a non-network hospital and covered by the hospital contract will be reimbursed at the billed charges minus the emergency room copayment. Other covered outpatient services received at a non-network hospital will be reimbursed at 90% of charges or a $75 copayment, whichever is greater. The non-network hospital outpatient coinsurance will be applied toward the $1,500 annual coinsurance maximum.
2. Services received at a non-network hospital will be reimbursed at the network level of benefits under the following situations:

- Emergency outpatient/inpatient treatment;
- Inpatient/outpatient treatment only offered by a non-network hospital;
- Inpatient/outpatient treatment in geographic areas where access to a network hospital exceeds 30 miles;
- Care received outside of the United States; and
- When another carrier, including Medicare, is providing primary coverage.

3. Once the annual coinsurance maximum has been met, non-network hospital coverage for inpatient services are paid in full and coverage for non-network hospital outpatient services shall be subject to the same copayments as those in effect under the network level of benefits.

**§9.7 Empire Plan Medical Program**

(a) Participating Provider Program/Copayments

The Empire Plan shall include medical/surgical coverage through

use of participating providers who will accept the Plan's schedule of allowances as payment in full for covered services. Except as noted below, benefits will be paid directly to the provider at 100 percent of the Plan's schedule, not subject to deductible, coinsurance, or annual and lifetime maximums.

1. Office visit charges by participating providers are subject to a $20 copayment by the enrollee.
2. All covered surgical procedures rendered during any visit by participating providers are subject to a $20 copayment by the enrollee.
3. All covered outpatient radiology services rendered during any visit by participating providers are subject to a $20 copayment by the enrollee.
4. All covered outpatient laboratory services rendered during any visit by participating providers are subject to a $20 copayment by the enrollee.
5. All covered services provided at a participating ambulatory surgical center are subject to a $30 copayment by the enrollee. All anesthesiology, radiology and laboratory tests performed on-site on the same day of the surgery shall be included in this single copayment.
6. The office visit, office surgery, outpatient radiology and laboratory copayment amounts may be applied against the basic medical coinsurance out-of-pocket maximum, however they will not be considered covered expenses for basic medical payment.
7. The State shall require the insurance carriers to continue to actively seek new participating providers in regions that are deficient in the number of participating providers, as determined by the Joint Committee on Health Benefits.
8. In the event that there is both an office visit charge and office surgery charge by a participating provider in any single visit, the covered individual will be subject to a single copayment.
9. Outpatient radiology services and laboratory services rendered during a single visit by the same participating provider will be subject to a single copayment.
10. Charges by participating providers for professional services for allergen immunotherapy in the prescribing physician's office or institution, chemotherapy, radiation therapy, or hemodialysis, will be excluded from the office visit copayment.

11. Routine pediatric care, including the cost of all oral and injectable substances for routine, preventive, and pediatric immunizations, including influenza vaccine, subject to appropriate protocols, shall be a covered benefit under the Empire Plan participating provider component and the basic medical component. Effective July 1, 2014 or as soon as practicable thereafter, as established by the 2010 Federal Patient Protection and Affordable Care Act, no copayment shall be required.
12. The medical component of the Empire Plan shall include a voluntary 24 hour day/7 day week nurse-line feature to provide both clinical and benefit information through a toll-free phone number. The Joint Committee on Health Benefits will work with the State and Empire Plan carriers in the ongoing oversight of this benefit.
13. The cost of certain injectable adult immunizations shall be a covered expense, subject to copayment(s), under the participating provider portion of the Empire Plan. Effective July 1, 2014 or as soon as practicable thereafter, as established by the 2010 Federal Patient Protection and Affordable Care Act, no copayment shall be required. The list of immunizations shall include Influenza, Pneumococcal, Measles, Mumps, Rubella, Varicella and Tetanus Toxoid, Human Papilloma Virus (HPV), Meningococcal Meningitis, and Herpes Zoster. All adult immunizations shall be subject to protocols developed by the medical program insurer.
14. Effective July 1, 2014 or as soon as practicable thereafter, covered preventive care services defined in the 2010 Federal Patient Protection and Affordable Care Act are paid in full (i.e./ not subject to copayment) when received from a participating provider.
15. The Empire Plan medical carrier will maintain a network of prosthetic and orthotic providers (HCAP). Prostheses or orthotics obtained through an approved prosthetic/orthotic network provider will be paid under the participating provider component of the Empire Plan, not subject to copayment. For prostheses or orthotics obtained other than through an approved prosthetic/orthotic network provider, reimbursement will be made under the basic medical component of the Empire Plan, subject to deductible and coinsurance.
16. Effective July 1, 2014 or as soon as practicable thereafter, the Joint Committee on Health Benefits will establish Geo-Access standards for primary care physicians and core provider specialties including but not

limited to: allergy, anesthesia, cardiology, dermatology, laboratory, neurology, ophthalmology, orthopedic surgery, otolaryngology, pathology, pulmonary medicine, radiology, and urology. Effective July 1, 2014 or as soon as practicable thereafter, if there are no participating providers available within the established access standards, enrollees will receive paid-in-full benefits (less any appropriate participating provider copayment). Access standards for other specialties may be added pursuant to Article 9.17.

17. Effective July 1, 2014 or as soon as practicable thereafter, licensed and certified nurse practitioners and convenience care clinics (also commonly referred to as "minute clinics" or "retail clinics") will be available as participating providers in the Empire Plan subject to the applicable participating provider copayment(s).

(b) Basic Medical Program

The Empire Plan shall also include basic medical coverage to provide benefits when nonparticipating providers are used. These benefits will be paid directly to enrollees according to reasonable and customary charges and will be subject to deductible, coinsurance, and calendar year and lifetime maximums.

Periodic evaluation and adjustment of basic medical Reasonable & Customary (R&C) charges will be performed according to guidelines established by the Basic Medical Plan insurer.

The basic medical component annual and lifetime maximum payments per covered person shall be unlimited.

1. Effective July 1, 2014 or as soon as practicable thereafter, the annual basic medical component deductible shall equal $1,000 per enrollee, $1,000 per spouse/domestic partner and $1,000 for one or all dependent children. Effective July 1, 2014 or as soon as practicable thereafter, the annual basic medical component deductible for employees in a title Salary Grade 6 (or below or an employee equated to a position title Salary Grade 6 or below), shall equal $500 per enrollee, $500 per covered spouse/domestic partner and $500 for one or all dependent children. Coincident with the implementation of the January 1, 2012 Federal Mental Health Parity requirements, covered expenses for basic medical services, mental health and/or substance abuse treatments and home care advocacy services will be included in

determining the basic medical component deductible. As set forth in Section 9.9 of this Agreement, a separate deductible for managed physical medicine services will continue on and after July 1, 2014 or as soon as practicable thereafter.

2. Effective July 1, 2014 or as soon as practicable thereafter, with the implementation of the Federal Mental Health Parity requirements, the annual maximum enrollee coinsurance out-of-pocket expense under the basic medical component shall equal $3,000 for the enrollee, $3,000 for the covered spouse/domestic partner and $3,000 for one or all dependent children. Effective July 1, 2014 or as soon as practicable thereafter, for employees in a title Salary Grade 6 or below (or an employee equated to a position title Salary Grade 6 or below), the annual maximum coinsurance out-of-pocket expense shall equal $1,500 for the enrollee, $1,500 for the covered spouse/domestic partner and $1,500 for one or all dependent children. Effective July 1, 2014 or as soon as practicable thereafter, the coinsurance maximums will include out-of-pocket expenses for covered hospital, medical, mental health and substance abuse services. The coinsurance maximums will not include out-of-pocket expenses for covered home care advocacy program services as set forth in section 9.8 of this Agreement nor covered managed physical medicine services as set forth in section 9.9 of this Agreement.

3. Covered charges for medically appropriate local professional/commercial ambulance transportation will be a covered basic medical expense subject only to a $35 copayment. Volunteer ambulance transportation will continue to be reimbursed for donations at the current rate of $50 for fewer than 50 miles and $75 for 50 miles or over. These amounts are not subject to deductible or coinsurance.

4. Routine newborn child care under the basic medical component shall not be subject to deductible or coinsurance.

5. Services for examinations and/or purchase of hearing aids shall be a covered major medical benefit. The hearing aid reimbursement will be up to a maximum of $1,500 per hearing aid, per ear, once every four years, not subject to deductible or coinsurance. For children 12 and under the same benefit can be available after 24 months, when it is demonstrated that a covered child's hearing has changed significantly and the existing hearing aid(s) can no longer compensate for the child's hearing impairment.

6. Employees 50 years of age or older and their covered spouses/domestic partners 50 years of age or older will be eligible for reimbursement of up to 100% of the reasonable and customary charge annually toward the cost of a routine physical examination. These benefits shall not be subject to deductible or coinsurance.
7. Mastectomy brassieres prescribed by a physician, including replacements when it is functionally necessary to do so, shall be a covered benefit under the Empire Plan.
External mastectomy prostheses are a covered-in-full benefit, not subject to deductible or coinsurance. Coverage will be provided by the medical carrier as follows: Benefits are available for one single/double mastectomy prosthesis in a calendar year. Pre certification through the Home Care Advocacy Program is required for any single prosthesis costing $1,000 or more. If a less expensive prosthesis can meet the individual's functional needs, benefits will be available for the most cost-effective alternative.
8. The basic medical program will provide paid-in-full benefits for prosthetic wigs subject to a lifetime maximum benefit of $1,500.

(c) Basic Medical Provider Discount Program

The Empire Plan Basic Medical component will include a Basic Medical Provider Discount Program. This benefit is provided as a pilot program which will expire on December 31, 2014, unless extended by agreement of both parties.

### §9.8 Empire Plan Home Care Advocacy Program

The current Home Care Advocacy Program (HCAP) for DC-37 employees enrolled in the Empire Plan shall remain in effect unless modified by the Joint Committee on Health Benefits. Individuals who fail to have medically necessary designated HCAP services and supplies pre-certified by calling HCAP and/or individuals who use a non-network provider will receive reimbursement at 50 percent of the HCAP allowance for all services, equipment and supplies upon satisfying the basic medical annual deductible. In addition, the basic medical out-of-pocket maximum will not apply to HCAP designated services, equipment and supplies. All other HCAP non-network benefit provisions will remain.

An annual diabetic shoe benefit is available through the Home Care Advocacy Program. In-network benefits will be paid at 100% with no out-of-pocket cost up to a $500 maximum. For diabetic shoes obtained other than through the Home Care Advocacy Program, reimbursement will be made under the basic medical component of the Empire Plan, subject to deductible, and the remainder pad at 75% of the network allowance, up to a maximum allowance of $500.

### §9.9 Empire Plan Managed Physical Medicine Program

The Empire Plan's medical care component will continue to offer a comprehensive managed care network benefit for the provision of medically necessary physical medicine services, including physical therapy and chiropractic treatments. Authorized network care will be available, subject only to the Plan's participating provider office visit copayment(s). Unauthorized medically necessary care, at enrollee choice, will also be available, subject however, to a $250 annual deductible and a maximum payment of 50 percent of the network allowance for the service(s) provided. Deductible/coinsurance payments will not be applicable to the Plan's annual basic medical deductible/coinsurance maximums. The Joint Committee on Health Benefits will work with the State on the ongoing administration of this benefit. The participating provider office visit copayment(s) shall apply to covered physical therapy visits received at the outpatient department of the hospital.

### §9.10 Empire Plan Disease Management Programs

The Empire Plan medical component shall include a voluntary disease management program. Disease Management covers those illnesses identified to be chronic, high cost, impact quality of life, and rely considerably on the patient’s compliance with treatment protocols. The current Disease Management Programs for Cardiovascular Disease Risk Reduction, Asthma, Congestive Heart Failure, Sleep Apnea, Depression, Chronic Obstructive Pulmonary Disease, Chronic Kidney Disease, Eating Disorders, Attention Deficit Hyperactivity Disorder and Diabetes will continue. The Disease Management Programs will provide benefits for nutritional services where clinically

appropriate. The Joint Committee on Health Benefits will work with the State and Empire Plan carriers in the ongoing oversight of this benefit.

The Empire Plan medical carrier shall contract with Diabetes Education Centers accredited by the American Diabetes Education Recognition Program.

The Joint Committee on Health Benefits will work with the State and the Empire Plan carriers in the ongoing oversight of this benefit.

### §9.11 Empire Plan Centers of Excellence

(a) Infertility Services: Empire Plan participating provider and basic medical coverage for the treatment of infertility is as follows:

- access to designated "Centers of Excellence" including a travel benefit;
- enhanced benefit to include the treatment of "couples" as long as both partners are covered either as enrollee or dependent under the Empire Plan;
- lifetime coverage limit per individual of $50,000;
- prior authorization required for certain procedures;
- covered services: patient education counseling, diagnostic testing, ovulation induction/hormonal therapy, surgery to enhance reproductive capability, artificial insemination and Assisted Reproductive Technology procedures;
- Exclusions: experimental procedures, fertility drugs dispensed at a licensed pharmacy, medical and other charges for surrogacy, donor services/compensation in connection with pregnancy, storage of sperm, eggs and/or embryo for longer than six months and high risk patients with no reasonable expectation for pregnancy.

The Joint Committee on Health Benefits will work with the State and Empire Plan carriers on the design and implementation of this benefit. Ongoing Program oversight and evaluation of the lifetime coverage will enable future modification if warranted.

(b) Cancer Resource Services: The Empire Plan Centers of Excellence program shall include Centers of Excellence for Cancer Resource

Services. The Centers of Excellence for Cancer Resource Services (CRS) program will provide direct nurse consultations, information and assistance in locating appropriate care centers, connection with cancer experts at CRS Cancer Centers, and paid-in-full reimbursement for all services provided at a CRS Cancer Center. A travel allowance for transportation and lodging will be included as part of the Centers of Excellence Program.

(c) Solid Organ Transplants are covered through a Center of Excellence Program managed by the Empire Plan Hospital Carrier. Refer to Article 9.6(a.3).

### §9.12 Empire Plan Managed Mental Health and Substance Abuse

The program for managed care of psychiatric services and alcohol and other substance abuse treatment shall continue. The Joint Committee on Health Benefits will work with the State on the ongoing review of the program.

The Empire Plan shall continue to provide comprehensive coverage for medically necessary mental health and substance abuse treatment services through a managed care network of preferred mental health and substance abuse care providers. In addition to the in-network care, limited non-network care will be available. Benefits shall be as follows:

(a) In-Network Benefit

Mental Health Coverage

- Paid-in-full medically necessary hospitalization services and inpatient physician charges when provided by or arranged through the network;
- Outpatient care provided by or arranged through the network will be covered subject to a $20 per visit copay.
- Up to three (3) visits for crisis intervention provided by or arranged through the network will be covered without a copayment.

Alcohol and Other Substance Abuse Coverage

- Paid-in-full medically necessary care for hospitalization or alcohol/substance abuse facilities when provided by or arranged through the network;

- Outpatient care provided by or arranged through the network will be subject to the participating provider office visit copay.

Benefit Maximums

Annual and lifetime dollar maximums for covered expenses will be at the same level as the major medical annual and lifetime dollar maximums;

(b) Non-Network Benefit

Medically necessary care rendered outside of the network will be subject to the following provisions:

- Non-network coverage for mental health and substance abuse treatment is subject to the same deductibles and coinsurance maximums as the non-network Hospital and Basic Medical coverage.
- Expenses applied against the deductible, coinsurance and/or copay levels indicated above will not apply against any deductible, coinsurance, copay levels or maximums under the basic medical portion of the Plan. Effective January 1,2012, with the implementation of the Federal Mental Health Parity requirements, covered expenses for non-network mental health and substance abuse treatment will be included in the combined deductible and combined coinsurance maximum as set forth in section 9.7(b1) and (b2) of this Article.

**§9.13 Empire Plan Prescription Drug Program**

Eligible employees enrolled in the New York State Health Insurance Program (NYSHIP) will be provided with prescription drug coverage either through the Empire Plan or a Health Maintenance Organization. The State agrees to pay 90 percent of the cost of individual coverage and 75 percent of the cost of dependent prescription drug coverage under the Empire Plan and Health Maintenance Organizations. Effective October 1, 2011 for employees in a title Salary Grade 9 or below (or an employee equated to a position title Salary Grade 9 or below), the State agrees to pay 88 percent of the cost of individual coverage and 73 percent of the cost of dependent coverage. Effective October 1, 2011 for employees in a title Salary

Grade 10 and above (or an employee equated to a position title Salary Grade 10 and above) the State agrees to pay 84 percent of the cost of individual coverage and 69 percent of the cost of dependent coverage.

The Empire Plan Prescription Drug Program benefits shall consist of the following: The Prescription Drug Program will cover medically necessary drugs, including vitamins, contraceptive drugs, and contraceptive devices requiring a physician's prescription and dispensed by a licensed pharmacist. Mandatory Generic Substitution will be required for all brand-name multi-source prescription drugs (a brand-name drug with a generic equivalent) covered by the Prescription Drug Program, except those brand-name drugs that are specifically excluded. When a brand-name multi-source drug is dispensed, the Program will reimburse the pharmacy (or enrollee) for the cost of the drug's generic equivalent. The enrollee will be responsible for the cost difference between the non-preferred brand-name drug and its generic equivalent, plus the copayment for the non-preferred brand name drug.

Effective July 1, 2014 or as soon as practicable thereafter, “new-to-you” prescriptions will require two 30 day fills at a retail pharmacy prior to being able to obtain a 90 day fill through either a retail or mail pharmacy.

Effective July 1, 2014 or as soon as practicable thereafter, when deemed appropriate the Empire Plan Prescription Drug Program Insurer/Pharmacy Benefit Manager shall be permitted additional flexibility in the management of the formulary, including the following:

- Place a brand name drug on Level One and exclude or place a generic drug on Level Three subject to the 1, appropriate copayment. This placement may be revised mid-year when such revision is advantageous to the Plan. Enrollees will be notified in advance of such changes.

Effective July 1, 2014;

- the copayment for up to a 30-day supply at either the retail or mail service pharmacy will be $5 for generic/Level 1 drugs, $25 for preferred brand-name/Level 2 drugs, and $45 for non-preferred brand-name/Level 3 drugs.
- the copayment for a 31 to 90-day supply at the retail pharmacy will be $10 for generic/Level 1 drugs, $50 for preferred brand-

name/Level 2 drugs, and $90 for non-preferred brand-name/Level 3 drugs.

- the copayment for a 31 to 90-day supply at the mail service pharmacy will be $5 for generic/Level 1 drugs, $50 for preferred brand-name/Level 2 drugs, and $90 for non-preferred brand-name/Level 3 drugs.

### §9.14 Health Maintenance Organization (HMO) Option

Eligible employees in the State Health Insurance Plan may elect to participate in a federally qualified or state certified Health Maintenance Organization which has been approved to participate in the State Health Insurance Program by the Joint Committee on Health Benefits. If more than one HMO services the same geographic area, the Joint Committee on Health Benefits reserves the right to approve a contract with only such organization(s) deemed to be a quality, cost effective option(s). The Joint Committee on Health Benefits will work with the State through the HMO Workgroup to continue to identify and mutually agree upon appropriate incentives for HMO alternatives to become more competitive in quality of care provided and efficient in cost to payers. Enrollees may change their health insurance option each year during the Option Transfer Period unless another period is mutually agreed upon by the State and the Joint Committee on Health Benefits.

The State agrees to continue to provide alternative Health Maintenance Organization (HMO) coverage and agrees to pay 90 percent of the cost of individual coverage and 75 percent of the cost of dependent coverage toward the hospital/medical/Mental Health and Substance Abuse components of each HMO, however, not to exceed 100 percent of its dollar contribution for those components under the Empire Plan. Effective October 1, 2011 for employees in a title Salary Grade 9 or below (or an employee equated to a position title Salary Grade 9 or below), the State agrees to pay 88 percent of the cost of individual coverage and 73 percent of the cost of dependent coverage toward the hospital/medical/mental health and substance abuse component of each HMO, not to exceed 100 percent of its dollar contribution for those components under the Empire Plan and the State agrees to pay 88 percent of the cost of individual prescription drug

coverage and 73 percent of dependent prescription drug coverage under each participating HMO. Effective October 1, 2011 for employees in a title Salary Grade 10 and above (or an employee equated to a position title Salary Grade 10 and above) the State agrees to pay 84 percent of the cost of individual coverage and 69 percent of the cost of dependent coverage toward the hospital/medical/mental health and substance abuse component of each HMO, not to exceed 100 percent of its dollar contribution for those components under the Empire Plan and the State agrees to pay 84 percent of the cost of individual prescription drug coverage and 69 percent of dependent prescription drug coverage under each participating HMO.

### §9.15 Option Transfer Period

Employees may change their health insurance option each year throughout the month of November, unless another period is mutually agreed upon by the State and the Joint Committee on Health Benefits.

The State shall provide health insurance comparison information to employees, through State agencies, prior to the beginning of an open transfer period. If the comparison information is delayed for any reason, the transfer period shall be extended for a minimum of 30 calendar days beyond the date the information is distributed to the agencies. Employees transferring plans during a scheduled period, but prior to the provision of the comparison data, may elect to further alter or rescind their health plan transfer during the remainder of the open transfer period.

If the rate renewals are not available by the time of the open transfer period, then the open transfer period shall be extended to assure ample time for employees to transfer.

### §9.16 Medical Flexible Spending Account

A Medical Flexible Spending Account (MFSA) is established. Eligible expenses under the Medical Flexible Spending Account include over-the-counter medications according to guidelines developed by the Medical Flexible Spending Account Administrator.

### §9.17 Joint Committee on Health Benefits

a. The State and DC-37 agree to continue the Joint Committee on Health Benefits.

b. The Joint Committee on Health Benefits shall meet within 14 days after a request to meet has been made by either side.
c. The Joint Committee shall work with appropriate State agencies to review and oversee the various health plans available to employees represented by DC-37.
d. The Joint Committee on Health Benefits shall work with appropriate State agencies to monitor future employer and employee health plan cost adjustments.
e. The Joint Committee shall be provided with each carrier rate renewal request upon submission and be briefed in detail periodically on the status of the development of each rate renewal.
f. The State shall require that the insurance carriers for the State Health Insurance Plan submit claims and experience data reports directly to the Joint Committee on Health Benefits in the format and with such frequency as the Committee shall determine.
g. The Joint Committee on Health Benefits shall work with appropriate State agencies to make mutually agreed upon changes in the Plan benefit structure through such initiatives as:
1. The annual HMO Review Process;
2. The ongoing review of the Managed Mental Health and Substance Abuse Care Program;
3. The ongoing review of the Benefits Management Program and the annual review of the list of procedures requiring Prospective Procedure Review;
4. Evaluating the current pre-notification of radiology services and reviewing the viability of pre-authorizing non-urgent/non-emergent cardiologic procedures and testing;
5. Ongoing review of the Managed Physical Medicine Program;
6. The ongoing review of the "One-Stop Shopping" concept that will consolidate the various telephone requirements enrollees must adhere to and other plan resources;
7. The continuation of the ambulatory surgery benefit and monitoring of participating centers;
8. The continuation of the Home Care Advocacy Program and the ongoing review of services offered;
9. The Joint Committee will review the impact of Domestic Partner coverage under the New York State Health Insurance Program

(NYSHIP), including the appropriateness of the existing waiting periods;
10. The ongoing review of a Section 125 Medical Flexible Spending Account;
11. Review of the application of deductibles for non-compliance with the Benefits Management Program requirements and for non-medically necessary services; Review the Centers of Excellence Program as utilization information becomes available from the medical component vendor; and
12. In cooperation with the New York State Health Insurance Program (NYSHIP) management, attempt to develop a "report card" which will include objective quality data to assist employees in selecting the health benefit plan that best meets the needs for the employees and their dependents.
13. The Joint Committee will review the utilization of durable medical equipment provided by the Home Care Advocacy Program.
14. The Joint Committee will work with the State and medical carrier to determine the feasibility of developing a network of hearing aid providers.
15. The Joint Committee will work with the State to explore the implementation of additional Centers of Excellence to include, but not be limited to Centers of Excellence for Bariatric Surgery. Nutritional counseling will be available when clinically appropriate.
16. The Joint Committee will explore the possibility of a copayment waiver for office visits and prescription drugs when related to chronic conditions.
17. The Joint Committee on Health Benefits will work with the State and Empire Plan carriers to establish two additional disease management programs: Healthy Back and Bariatric Surgery.
18. The State shall seek the appropriation of funds by the Legislature to support Committee initiatives and to carry out the administrative responsibilities of the Joint Committee as follows:

| | |
|---|---|
| 4/01/11-3/31/12 | $5,000.00 |
| 4/01/12-3/31/13 | $5,000.00 |
| 4/01/13-3/31/14 | $5,000.00 |

| | |
|---|---|
| 4/01/14-3/31/15 | $5,100.00 |
| 4/01/15-3/31/16 | $5,202.00 |

**§9.18 Department of Civil Service Assistance**

The State shall provide toll-free telephone service at the Department of Civil Service Health Insurance Section for information and assistance to employees and dependents on health insurance matters.

**§9.19 Workers' Compensation - Health Insurance**

a. A permanent full-time employee who is removed from the payroll due to an accepted work-related injury or occupational condition shall remain covered under the State Health Insurance Plan and shall be treated the same as an employee on a preferred list.

b. A permanent full-time employee who is removed from the payroll due to an assault, and is granted workers compensation for up to 24 months, shall remain covered under the State Health Insurance Plan for the same duration and will be responsible for the employee share of the premium.

c. A permanent full-time employee who is removed from the payroll due to a controverted work-related injury or occupational condition will have the right to apply for a health insurance premium waiver. The appropriate agency will be responsible to inform the employee of his or her right to apply for the waiver prior to the employee meeting the eligibility requirements for the waiver of premium.

**§9.20 Confidentiality**

The confidentiality of individual subscriber claims shall not be violated. Except as required to conduct financial and claims processing audits of carriers and coordination of benefit provisions, specific individual claims data, reports or summaries shall not be released by the carrier to any party without the written consent of the individual, insured employee or covered dependent.

## ARTICLE 10 Employee Benefit Fund

**§10.1**

The State and the Union agree that they shall hereinafter enter into a contract to provide for the implementation of an employee benefit fund, in accordance with such terms as shall be jointly agreed upon by the parties and subject to the approval of the Comptroller to be established by the union to provide certain health and welfare benefits for employees and retirees.

**§10.2**

For purposes of this Article, the term "employee" shall mean any person holding a position in this negotiating unit who is eligible for enrollment in the State Health Insurance Plan in accordance with the provisions contained in Part 73 of the Rules and Regulations of the Department of Civil Service (4 NYCRR Part 73), except that it shall not mean seasonal employees whose employment is expected to last less than six months, employees in temporary positions of less than six months duration, or employees holding appointments otherwise expected to last less than six months. For purposes of this Article, the term "retiree" shall mean any person who held such a position on or after April 1, 1984 and who immediately upon termination of employment in such position is eligible to receive a service retirement benefit from either the New York State Employee Retirement System or the New York City Employees Retirement System.

**§10.3**

For the purpose of determining the amount to be deposited in accordance with sub-paragraph 10.4, the number of employees shall be determined to be the number of employees on the payroll on the payroll date closest to 21 days before the first day of the quarter for which the deposit is to be made and the number of retirees as of that same date.

**§10.4**

The State shall deposit in the employee benefit fund the amount set forth below per employee and retiree who continues to receive a

service retirement benefit for each year of this Agreement, such amount to be deposited as soon as practicable after the first day of each quarter.

Effective 4/02/2011 – 4/01/2012 $220.00 per quarter
Effective 4/02/2012 – 4/01/2013 $220.00 per quarter
Effective 4/02/2013 – 4/01/2014 $220.00 per quarter
Effective 4/02/2014 – 4/01/2015 $232.50 per quarter
Effective 4/02/2015 – and thereafter $245.00 per quarter

## ARTICLE 11 Employee Development and Training

**§11.1**

There shall be established an Employee Development and Training Committee comprised of two designees of the State and two designees of DC-37. This Committee shall meet periodically to determine the training and development needs of employees and recommend means of meeting these needs.

**§11.2**

The Employee Development and Training Committee shall approve payment from the Employee Development and Training Fund in the amount of $107.00 effective April 2, 2011, $107.00 effective April 2, 2012, $107.00 effective April 2, 2013, $109.14 effective April 2, 2014, and $111.32 effective April 2, 2015 per employee and retiree as defined in Article 10, Section 10.2, per year to the District Council 37 Benefits Fund Trust in payment for training and development programs provided to employees by the fund.

## ARTICLE 12 Attendance and Leave

### §12.1 Holiday Observance

(a) An employee who is entitled to time off with pay on days observed as holidays by the State as an employer shall be granted compensatory time off when any such holiday falls on a Saturday, provided, however, that employees scheduled or directed to work on any such Saturday may receive additional compensation in lieu of such compensatory time off in accordance with Section 7.15 of this Agreement. The State may designate a day to be observed as a holiday in lieu of such holiday which falls on Saturday.

(b) The following holidays will be observed by all employees within this unit eligible to observe holidays unless otherwise specified by mutual agreement between the parties:

1. New Year's Day
2. Martin Luther King Day
3. Lincoln's Birthday
4. Washington's Birthday
5. Memorial Day
6. Independence Day
7. Labor Day
8. Columbus Day
9. Election Day
10. Veterans' Day
11. Thanksgiving Day
12. Christmas Day

(c)(1) The State, at its option, may designate up to two floating holidays in each year of this Agreement in lieu of two of the holidays set forth in paragraph (b) above, such that employees shall have the opportunity to select, on an individual basis, the dates upon which such floating holidays will be observed by them, consistent with reasonable operating needs of the State. The State's designation of the holidays to be floated shall be announced in April of the contract year.

(c)(2) Floating holiday leave credits may be used in such units of time as the appointing authority may approve, but the appointing authority shall not require that floating holiday leave credits be used in minimum units greater than one-quarter hour. This provision shall not supersede any local arrangements which provide for liquidation in smaller units of time.

(d) Holiday Leave for Part-Time Employees

In the event a holiday falls on a Saturday and another day is not designated to be observed as the holiday, part-time employees covered

by the New York State Attendance Rules who are compensated on an annual salary basis, and who are eligible to observe holidays, and who are employed on a fixed schedule of at least half time, and for whom Saturday is not a regular workday but who are scheduled to work on the Friday immediately preceding such Saturday holiday, shall be granted holiday leave. The amount of holiday leave granted shall be equivalent to the number of hours the employee is regularly scheduled to work on the Friday immediately preceding the Saturday holiday but not to exceed one-fifth (1/5) the number of hours in the normal workweek of full-time State employees.

**§12.2 Holiday Accrual**

Compensatory time off in lieu of holidays earned after the effective date of this Agreement shall be recorded in a leave category to be known as Holiday Leave.

**§12.3 Additional Vacation Credit**

(a) The State agrees to grant employees having 20 or more years of continuous State service and who are entitled to earn and accumulate vacation credits additional vacation credit as follows:

| Completed Years of Continuous Service | Additional Vacation Credit |
|---|---|
| 20 to 24 | 1 day |
| 25 to 29 | 2 days |
| Completed Years of Continuous Service | Additional Vacation Credit |
| 30 to 34 | 3 days |
| 35 or more | 4 days |

(b) Eligible employees shall receive additional vacation credit on the date on which they would normally be credited with additional vacation in accordance with the above schedule and shall thereafter be eligible for additional vacation credit upon the completion of each

additional 12 months of continuous State service. Continuous State service for the purpose of this section shall mean uninterrupted State service, in pay status, as an employee. A leave of absence without pay, or a resignation followed by reinstatement or reemployment in State service within one year following such resignation, shall not constitute an interruption of continuous State service for the purposes of this section; provided, however, that leave without pay for more than six months or a period of more than six months between resignation and reinstatement or reappointment, during which the employee is not in State service, shall not be counted in determining eligibility for additional vacation credits under this provision.

(c) Nothing contained herein shall be construed to provide for the granting of additional vacation retroactively for periods of service prior to the effective date of this Agreement.

**§12.4 Annual Leave Accumulation**

(a) Annual leave shall be credited in accordance with the New York State Attendance Rules.

(b) Annual leave credits may be accumulated up to 40 days; provided, however, that in the event of death, retirement or separation from service, an employee compensated in cash for the accrued and unused accumulation may only be so compensated for a maximum of 30 days. An employee's annual leave accumulation may exceed the maximum of 40 days during a fiscal year, provided, however, that the accumulation of annual leave credits may not exceed 40 days on April 1 of any year.

**§12.5 Vacation Scheduling**

(a) Assignment of vacation time off shall be made at the times desired by an employee to the extent practicable in the light of needs of the department or institution involved to provide the service it is charged to provide. In the event that more employees request the same vacation time off than can be reasonably spared for operating reasons, vacation time off will be granted in accordance with Article 27.

(b) In lieu of scheduling vacation in order of seniority as provided above, the Division of Homes and Community Renewal and DC-37 may, by mutual agreement, provide that in the event some employees have accumulated vacation credits in excess of 35 days, these

employees shall be given preference on requested assignment of vacation time off.

(c) To assist in the scheduling of such vacation time off, the Division of Homes and Community Renewal may establish an annual date or dates or period or periods by which or within which employees must request a block of time in order to have their seniority considered.

(d) Establishment of such dates or periods shall be worked out in understandings between the Division of Homes and Community Renewal and the appropriate designee of DC-37 unless they mutually agree that such dates or periods are unnecessary or undesirable.

**§12.6 Vacation Use**

(a) Vacation credits may be used in such units of time as the appointing authority may approve, but the appointing authority shall not require that vacation credits be used in units greater than one quarter hour. This provision shall not supersede any local arrangements which provide for liquidation in smaller units of time.

(b) An employee's properly submitted written request for use of accrued vacation credits shall be answered within a reasonable period of time. If an employee's properly submitted request for use of accrued vacation credits is denied or cancelled, the employee shall receive, upon written request, a written statement of the reasons for such denial or cancellation. Such written statement of the reasons for such denial or cancellation shall be provided within five (5) days of receipt of the written request for it.

**§12.7 Sick Leave Accumulation**

(a) Sick Leave shall be credited in accordance with the New York State Attendance Rules except that employees first appointed on or after April 1, 1982 and prior to October 1, 1987 shall earn sick leave at the rate of 13 days per year.

Employees first appointed on or after October 1, 1987, and those appointed prior to that date who elected to participate in the Income Protection Plan, and who remain participants in such plan, shall earn sick leave at the rate of eight (8) days per year.

Employees who transferred to New York State on April 1, 1984 in accordance with the provisions of Section 45 or Section 70 of the Civil

Service Law shall, if they were in the continuous employment of the employer from which they so transferred for the period March 31, 1982 through March 31, 1984, be considered for this purpose to have been hired by the State prior to April 1, 1982 and if they were not in such continuous employment for such period, shall be considered for this purpose to have been hired by the State after April 1, 1982.

(b) Employees who are entitled to earn and accumulate sick leave credits may accumulate such credits up to a total of 200 days. Employees shall have the ability to use up to 200 days of such credits for retirement service credit and to pay for health insurance in retirement.

**§12.8 Use of Sick Leave**

(a) Sick leave credits may be used for scheduled medical or dental appointments with the advance approval of the appointing authority or the authority's designee.

(b) Sick leave credits may be used in such units of time as the appointing authority may approve, but the appointing authority shall not require that sick leave credits be used in units greater than one-quarter hour.

(c) Local labor/management arrangements may be developed to require the designation of one person in a particular work location or area to receive, on a confidential basis, medical information provided by an employee in support of the use of sick leave credits and to transmit the authorization for the use of such credits back to the employee's immediate supervisor.

(d) Medical certification forms shall not require an employee's physician, in describing the cause of the employee's absence, to provide more than a brief diagnosis.

**§12.9 Personal Leave Accumulation**

Personal leave shall be credited in accordance with the New York State Attendance Rules.

**§12.10 Use of Personal Leave**

(a) The State shall not require an employee to give a reason as a condition for approving the use of personal leave credits, provided, however, that prior approval for the requested leave must be obtained,

that the resulting absence will not interfere with the proper conduct of governmental functions, and that an employee who has exhausted personal leave credits shall charge approved absences from work necessitated by personal business or religious observance to accumulated vacation or overtime credits.

(b) Personal leave credits may be used in such units of time as the appointing authority may approve, but the appointing authority shall not require that personal leave credits be used in units greater than one-quarter hour. This provision shall not supersede any local arrangements which provide for liquidation in smaller units of time.

### §12.11 Accounting of Time Accruals

The State shall prepare and distribute to employees forms for maintaining leave records on a self-accounting basis. Employees shall be advised of the leave accruals to their credit on official records at least once each year.

### §12.12 Absence - Extraordinary Circumstances

(a) Employees who have reported for duty and, because of extraordinary circumstances beyond their control, are directed to leave work, shall not be required to charge such directed absence during such day to leave credits.

(b) In those instances in which the Governor declares a state of emergency in a specified geographic area, based on circumstances which affect travel, and directs that employees whose official stations are within the specified geographic area not report to work, such absences shall be excused with no charge to leave credits.

### §12.13 Tardiness for Members of Volunteer Fire Departments, Volunteer Ambulance Services, Enrolled Civil Defense and Civil Air Patrol Volunteers

An appointing authority shall excuse a reasonable amount of tardiness caused by direct emergency duties of duly authorized volunteer firefighters, members of volunteer ambulance services and enrolled civil defense and civil air patrol volunteers. In such cases, the appointing authority may require the employee to submit satisfactory evidence that the lateness was due to such emergency duties.

### §12.14 Leave for Bereavement or Family Illness

(a) Employees shall be allowed to charge absences from work in the event of death or illness in the employee's immediate family against accrued sick leave credits up to a maximum of 15 days in any one calendar year.

(b) For this purpose, family is defined as any relative or relative-in-law, or any person with whom the employee has been making his or her home. Family sick leave is available to employees who are providing direct care to a family member who is ill. Requests for leave for family illness shall be subject to approval of the appointing authority; such approval shall not be unreasonably withheld.

### §12.15 Part-Time, Per Diem and Hourly Employees

(a) Part-time employees covered by the New York State Attendance Rules who are compensated on an annual salary basis shall be eligible to earn and accumulate, or be credited with vacation, sick or personal leave credits on a prorated basis if they are employed on a fixed schedule of at least half time. For the purpose of crediting vacation and personal leave for such employees in State service on the effective date of this section, their anniversary dates shall be determined in a manner consistent with their total State service.

(b) Employees covered by the New York State Attendance Rules who are compensated on a per diem or hourly basis shall be eligible for vacation, sick and personal leave benefits on a prorated basis if they are employed on a fixed schedule of at least half time and are so employed continuously for nine (9) months without a break in service exceeding one full payroll period.

(c) Nothing contained herein shall be construed to provide for the granting of paid leave benefits retroactively for periods of service prior to the effective date of this Agreement.

### §12.16 Sick Leave at Half-Pay

(a) An appointing authority may grant sick leave at half-pay in accordance with the New York State Attendance Rules and shall grant such sick leave at half-pay for personal illness to a permanent employee eligible for such leave and subject to the following conditions:

(1) The employee shall not have less than one cumulative year of State service;

(2) The employee's sick leave, vacation credit, overtime credits, compensatory credits and other accrued credits shall have been exhausted; the employee shall be deemed to have exhausted his/her accrued credits when the sum of the employee's remaining credits, in the aggregate, is less than the number of hours in the employee's normal workday; such credits as are remaining shall be retained by the employee;

(3) The cumulative total of all sick leave at half-pay granted to an employee during his/her State service shall not exceed one payroll period for each completed six (6) months of State service;

(4)(a) Sick leave at half-pay shall be granted immediately following exhaustion of leave credits except to employees who have been formally disciplined for leave abuse within the preceding year;

(b) Employees who have been formally disciplined for leave abuse within the preceding year shall be granted sick leave at half-pay following ten consecutive workdays of absence, unless such waiting period is waived by the appointing authority;

(c) For purposes of this subsection, an employee is deemed to have been formally disciplined for leave abuse if any of the following conditions occurred: a time and attendance notice of discipline was settled within one year preceding the request for sick leave at half pay, or the employee has been found guilty of the time and attendance charges within one year preceding the request for sick leave at one half-pay or the employee did not contest the time and attendance notice of discipline served within one year preceding the request for sick leave at half-pay. It does not include notices of discipline regarding issues other than time and attendance or those dismissed by an arbitrator or umpire or withdrawn by the appointing authority;

(5) Satisfactory medical documentation shall be furnished and continue to be periodically furnished at the request of the appointing authority; and

(6)(a) Such leave shall not extend a period of appointment or employment beyond such date as it would otherwise have terminated pursuant to law or have expired upon completion of a specified period of service.

(b) Employees who receive sick leave at half-pay under the provisions of subsection (a) above shall have that number of days of such sick leave at half-pay deducted from the number of days of sick leave at half-pay they are otherwise eligible to receive at the discretion of their appointing authority under the provisions of Section 21.5 of the New York State Attendance Rules.

**§12.17 Leave for Professional Meetings**

Subject to prior approval by the appointing authority, each employee will be allowed a maximum of three (3) days per year without charge to leave credits to attend:

(a) conferences or seminars of recognized professional organizations, such conferences or seminars to be directly related to the employee's profession or professional duties; and/or,

(b) programs which are necessary for the employee to maintain or obtain licensure or accreditation in the employee’s position with the State.

Absences under this provision may be restricted to 10 percent of the profession in the operating unit (e.g., main office or field office). Requests for such leave shall be approved to the extent that such absence would not interfere with the proper conduct of governmental functions. Such leave shall not be cumulative and if not used shall be cancelled at the end of each year of this Agreement. Unused leave shall not be liquidated in cash at the time of separation, retirement or death.

**§12.18 Doctor's Certificates**

(a) The normal procedure for authorizing the use of sick leave credits is for the employee to make a request directly to the immediate supervisor and, if requested, also to submit a doctor's certificate that provides proof of illness and fitness for duty.

(b) A doctor’s certificate will not be routinely required for absences of four (4) days or less; provided, however, the appointing authority shall have the right to substantiate an employee’s illness in accordance with the provisions of the Attendance Rules. When the appointing authority determines that the employee shall be required to provide medical documentation solely as a result of a review of the employee’s attendance record, such requirement shall follow counseling and

written notice to the employee. The requirement shall commence subsequent to such notice, shall be of a reasonable duration, and the employee shall be properly notified of the conditions that the requirement imposes.

(c) A brief diagnosis will not be required as part of any required medical documentation unless the employee has been absent from work due to illness or injury for greater than thirty (30) consecutive calendar days.

(d) The State and DC-37 recognize that there may be occasions when the employee wishes to keep the requested doctor's certificate confidential. In order to provide for such a situation and maintain strict confidentiality, procedures shall be developed at the labor/management forum that would designate one person in a particular department, agency or facility to receive the medical information and transmit the authorization for use of sick leave credits back to the employee's immediate supervisor.

**§12.19 Voluntary Reduction in Work Schedule**

There shall be a Voluntary Reduction in Work Schedule (VRWS) program, as described in the Program Guidelines reproduced in Appendix H. Disputes arising from the denial of VRWS requests shall be reviewed only in accordance with the procedures established in paragraph 12 of the Guidelines, and not under Article 31. Other disputes arising in connection with this provision shall be subject to review through the procedure established in Article 31, section 31.1(b) of this Agreement.

**§12.20 Productivity Enhancement Program**

There shall be a Productivity Enhancement Program as described in Appendix G. Disputes arising from this program are not subject to the grievance procedure contained in this Agreement. This is a pilot program that will sunset on December 31, 2016 unless extended by mutual agreement by the parties.

**§12.21 Maternity and Child Rearing Leave**

(a) Maternity and child rearing leave shall be as provided in the New York State Attendance Rules and the guidelines for

administration of those rules, dated January 28, 1982. However, where the child is required to remain in the hospital following birth, the seven-month mandatory child care leave shall, upon employee request, commence when the child is released from the hospital. If a child is required to be admitted to a hospital for treatment after child care leave has commenced, upon employee request, child care leave shall be suspended during a single continuous period of such hospitalization and that period shall not count toward calculation of the seven-month period. In such cases, any entitlement to mandatory child care leave expires one year from the date of birth of the child.

(b) In cases of legal adoption under Article 7 of the Domestic Relations Law, leave for child-rearing purposes shall be granted as provided in the New York State Attendance Rules and the guidelines for administration of those rules, dated March 11, 1982. However, if a child is required to be admitted to a hospital for treatment after child care leave has commenced, upon employee request, child care leave shall be suspended during a single continuous period of such hospitalization and that period shall not count toward calculation of the seven-month period. In such cases, any entitlement to mandatory child care leave expires one year from the date the child care leave originally commenced.

## ARTICLE 13 Workers' Compensation Benefit

**§13.1**

(a) Effective on the date of execution of this Agreement, employees necessarily absent from duty because of an occupational injury, disease or condition as defined in the Workers' Compensation Law, shall be eligible for a Workers' Compensation Benefit as modified in this Article. Determinations of the Workers' Compensation Board regarding compensability of claims shall be binding upon the parties.

(b) A workers' compensation injury shall mean any occupational injury, disease or condition found compensable as defined in the Workers' Compensation Law.

**§13.2**

(a) An employee who suffers a compensable occupational injury shall be placed on leave of absence without pay for all absences necessitated by such injury and shall receive the benefit provided by the Workers' Compensation Law except as modified in this Article.

(b) Effective July 1, 2005, eligible employees who suffer a disabling incident on or after this date, may be entitled to a supplemental wage payment not to exceed nine (9) months per injury, in addition to the statutory wage benefit pursuant to the Workers' Compensation Law. Supplemental payments will be paid to employees whose disability is classified by the evaluating physician as "total" or "marked" and where a Workers' Compensation Law wage payment is less than sixty (60) percent of pre-disability wages, so that the total of the statutory payment and the supplemental payment provided by this Article equals sixty (60) percent of their pre-disability gross wages. The pre-disability gross wages are defined as the sum of base annual salary, location pay, geographic differential, shift differential and inconvenience pay, received as of the date of the disability.

(c) An employee necessarily absent for less than a full day in connection with a workers' compensation injury as defined in 13.1(b) above due to therapy, a doctor's appointment, or other required continuing treatment, may charge accrued leave for said absences.

(d) The State will make previously authorized payroll deductions

for periods the employee is in pay status receiving salary sufficient to permit such deductions. The employee is responsible for making payment for any such deductions during periods of leave without pay, such as those provided in 13.2(a) above.

**§13.3**

An employee required to serve a waiting period pursuant to the Workers' Compensation Law shall have the option of using accrued leave credits or being placed on leave without pay. Where an employee charged credits and it is subsequently determined that no waiting period is required, the employee shall be entitled to restoration of credits charged proportional to the net monetary award credited to New York State by the Workers' Compensation Board.

**§13.4**

When vacation credits are restored pursuant to this Article and such restoration causes the total vacation credits to exceed 40 days, a period of one year from the date of the return of the credits or the date of return to work, whichever is later, is allowed to reduce the total accumulation to forty (40) days.

**§13.5**

(a) An employee receiving workers' compensation payments for a period of disability found compensable by the Workers'

Compensation Board shall be treated as though on the payroll for the length of the disability not to exceed twelve (12) months per injury for the sole purposes of accruing seniority, continuous service, health insurance and Employee Benefit Fund contributions normally made by the State, accrual of vacation and sick leave, and personal leave. Additionally, such employee shall be treated as though on payroll for the period of disability not to exceed twelve (12) months per injury for the purposes of retirement credit and contributions normally made by the State and/or the employee.

(b) Additionally, an employee receiving workers’ compensation payments for a period of disability found compensable by the Workers’ Compensation Board, which is caused by an assault, shall be treated as though on the payroll for the length of the disability not to exceed twenty-four (24) months per injury for the sole purpose of health

insurance and Employee Benefit Fund contributions normally made by the State.

**§13.6**

(a) Where an employee's workers' compensation claim is controverted by the State Insurance Fund upon the ground that the disability did not arise out of or in the course of employment, the employee may utilize leave credits (including sick leave at half pay, as appropriate) pending a determination by the Workers' Compensation Board.

(b) If the employee's controverted or contested claim is decided in the employee's favor, any leave credits charged (and sick leave at half pay eligibility) shall be restored proportional to the net monetary award credited to New York State by the Workers' Compensation Board.

(c) If the employee was in leave without pay status pending determination of a controverted or contested claim, and the claim is decided in the employee's favor, the employee shall receive the benefits in paragraph 13.5 above for the period covered by the award not to exceed twelve months per injury.

(d) Where a claim for workers' compensation is controverted or contested by the State Insurance Fund, the parties will abide by the determination of the Workers‟ Compensation Board.

**§13.7**

(a) If the date of the disabling incident is prior to April 1, 1986, the benefits available shall be as provided in the 1984-85 State/DC-37 Agreement.

(b) If the date of the disabling incident is on or after April 1, 1986, and prior to July 1, 1992, the benefits available shall be as provided in the 1988-91 State/DC-37 Agreement.

(c) If the date of the disabling incident is on or after July 1, 1992, and prior to July 1, 2005, the benefits available shall be as provided in the 1999-03 State/DC-37 Agreement.

(d) If the date of the disabling incident is on or after July 1, 2005, the benefits available shall be as provided herein.

**§13.8 Mandatory Alternate Duty**

The State shall develop, as soon as possible, a mandatory alternate duty policy for employees who request or are directed to return to work after suffering an occupational injury or disease. The mandatory alternate duty policy will allow management to recall an employee to duty and will allow an eligible employee to request to return to duty subject to the eligibility criteria in the policy. The State will meet and confer with DC-37 in the development of this policy.

**§13.9**

The State and DC-37 shall establish a committee whose purpose shall include, but not be limited to, reviewing and making recommendations on the following: the exploration and development of a program that provides that Preferred Provider Organizations treat workers' compensation disabilities; and the exploration and development of a program that allows the use of leave accruals.

## ARTICLE 14 Verification of Doctor's Statement

(a) When the State requires that an employee who has been absent due to illness or injury be medically examined by a physician selected by the appointing authority before such employee is allowed to return to work, the appointing authority shall make a reasonable effort to complete a medical examination within 20 working days as hereinafter provided.

(b) If, no more than ten (10) working days prior to the date specified by his or her own physician as the date upon which he or she may return to work, the employee provides the appointing authority with his or her physician's statement indicating that he or she is able to return to work and specifying the date, the appointing authority shall have a total of 20 working days from the date of such advance notice, which shall include the ten (10) working days' advance notice and the ten (10) working days following the specified return-to-work date, to complete a medical examination. For each working day of advance notice from the employee less than ten (10), the appointing authority shall have an additional working day beyond the return-to-work date to complete a medical examination.

(c) If, upon the completion of the 20 working day period provided

for in subdivision (b), the appointing authority's physician has not completed his or her examination of the employee or reached a decision concerning the employee's return to work, the employee shall be placed on leave with pay without charge to leave credits until the examination is completed and a decision made. The employee may not return to work, however, until he or she has been examined by the appointing authority's physician and given approval to work. The leave with pay provision of this subdivision shall not apply where the failure of the appointing authority's physician to complete the medical examination is attributable to the employee's failure to appear for the examination or his or her refusal to allow it to be held.

(d) If, following his or her examination, the appointing authority's physician does not approve the employee's return to work, the employee shall be placed in the appropriate leave status in accordance with the Attendance Rules. Once a determination has been made that an employee may not return to work, further examinations pursuant to this Article shall not be required more often than once a month; provided, however, where the appointing authority's physician has specified a date for a further examination or a date when the employee may return to work, the State shall not be required to conduct an examination prior to such date. Where the appointing authority's physician has not set either a date for further examination or a date upon which the employee may return to work, the employee may submit a further statement from his or her physician and the provisions of this Article shall again be applicable. The provisions of this Article shall not be construed to limit or otherwise affect the applicability of Section 73 of the Civil Service Law.

(e) When, in accordance with the provisions of this Article, the State exercises its right to require an employee to be examined by a physician selected by the appointing authority, the employee shall be entitled to reimbursement for actual and necessary expenses incurred as a result of travel in connection with such examination, including transportation costs, meals and lodging, in accordance with the Comptroller's Rules and Regulations pertaining to travel expenses.

## ARTICLE 15 Travel and Relocation Expenses

### §15.1 Per Diem Meal and Lodging Expenses

The State agrees to reimburse, on a per diem basis as established by rules and regulations of the Comptroller, employees who are eligible for travel expenses, for their expenses incurred while in travel status in the performance of their official duties for a full day at either of the following schedules and the rates set out therein at their option:

(a) Unreceipted Expenses - Effective April 1, 1999

(1) In the City of New York and the counties of Nassau, Suffolk, Rockland and Westchester, not to exceed $50, except as specified by the Comptroller in accordance with law.

(2) In the cities of Albany, Rochester, Buffalo, Syracuse and Binghamton and their respective surrounding metropolitan areas, not to exceed $40, except as specified by the Comptroller in accordance with law.

(3) In places elsewhere within the State of New York, not to exceed $35, except as specified by the Comptroller in accordance with law.

(4) In places outside the State of New York, at least $50 per day except as specified by the Comptroller in accordance with law.

(b) Receipted Expenses - Effective April 1, 1999

(1) Receipted lodging and meal expenses for authorized overnight travel in locations within and outside of New York State shall be reimbursed to a maximum of published per diem rates as specified by the Comptroller. Said rates shall be equal to the combined per diem lodging and meal reimbursement rate provided by the Federal government to its employees in such locations, except that in Rockland County receipted lodging and meal expenses shall be reimbursed according to the Comptroller's rates in effect on March 31, 1988 until the combined per diem lodging and meal reimbursement rate provided by the Federal government to its employees equals or exceeds that rate. At that time, the Federal rate will apply.

(2) In locations for which no specific rate is published, receipted lodging and meal expenses for authorized overnight travel in locations within and outside of New York State shall be reimbursed to a maximum of the combined per diem lodging and meal reimbursement rate provided by the Federal government to its employees for such

locations.

(3) The rates in (1) and (2) above shall be revised prospectively in accordance with any revision made in the per diem rates provided by the Federal government to its employees.

(4) In recognition of the fact that meals and lodging which are fully accessible to employees with disabilities may not be reasonably available within the specified rates, reimbursement for reasonable and necessary expenses will be allowed as specified by the Comptroller.

(c) When the employee is in travel status for less than a full day, and incurs no lodging charges, reasonable and necessary receipted expenses will be allowed for breakfast and dinner as determined by the Comptroller.

**§15.2 Mileage Allowance**

Effective on the date of execution of this Agreement, the State agrees to provide, subject to rules and regulations of the Comptroller, a maximum mileage allowance rate equal to the amount established by the Internal Revenue Service (IRS) as the maximum amount that can be reimbursed by an employer without qualifying as taxable income. If such IRS rate changes during the term of this Agreement, the State shall also change its rate in the same amount. Such mileage allowance shall be reimbursable to eligible employees for the use of personal vehicles for official travel.

**§15.3 Extended Travel**

The State agrees to provide $20 additional travel expense reimbursement for each weekend to employees who are in overnight travel status provided they are in overnight travel status at least 300 miles from their home and their official station.

**§15.4 Relocation Expenses**

During the term of this Agreement, employees in this unit who qualify for reimbursement for travel and moving expenses upon transfer, reassignment or promotion (under Section 202 of the State Finance Law and the regulations thereunder), or for reimbursement for travel and moving expenses upon initial appointment to State service (under Section 204 of the State Finance Law and the regulations

thereunder), shall be entitled to payment at the rates provided in the rules of the Director of the Budget.

## ARTICLE 16 Overtime Meal Allowances

**§16.1**

Overtime meal allowances shall be paid, subject to rules and regulations of the Comptroller, to employees when it is necessary and in the best interest of the State for such employees to work at least three (3) hours overtime on a regular working day or at least six hours overtime on other than a regular working day. Employees working at least six hours overtime on a regular working day or at least nine (9) hours overtime on other than a regular working day shall receive two overtime meal allowances.

**§16.2**

The overtime meal allowance for employees in this unit shall be $6.00.

**§16.3**

When the employer provides a meal for an employee working in an overtime capacity described above, such meal shall be in lieu of an overtime meal allowance.

**§16.4**

The State shall process overtime meal allowances for payment at the same time as the overtime work payment is processed.

**§16.5**

Overtime meal allowances shall also be paid, subject to rules and regulations of the Comptroller, to employees ineligible to receive overtime compensation when it is necessary and in the best interest of the State for such employees to work at least three (3) hours overtime on a regular working day or at least six hours overtime on other than a regular working day.

# ARTICLE 17 Staffing

## §17.1 Eligible Lists

In the event the use of an eligible list is stayed pursuant to court order, upon the removal of such stay such eligible list shall continue in existence for a period not less than 60 days and for such additional period as may be determined by the Department of Civil Service, except that in no event shall such 60-day period extend the life of any eligible list beyond the statutory limit of four (4) years.

## §17.2 Alternate Examination Dates

In the event an employee in this unit is unable to participate in an examination because of the death, within seven (7) days immediately preceding the scheduled date of an examination, of any relative or relative-in-law, or any person with whom the employee has been making his or her home, such employee shall be given an opportunity to take such examination at a later date, but in no event shall such examination be rescheduled sooner than seven (7) days following the date of death. The Department of Civil Service shall prescribe appropriate procedures for reporting the death and applying for the examination. Appropriate arrangements shall be made in circumstances where there is a protracted period between the death and the burial.

## §17.3 Leave - Probationary Employees

(a) A permanent employee holding a position in the competitive or non-competitive class who accepts an appointment to a State position from an open-competitive eligible list shall be granted a leave of absence from his/her former position for the period of his/her actual probation.

(b) A permanent employee holding a position in the competitive or non-competitive class who accepts an appointment to a State position in the non-competitive class shall be granted a leave of absence from his/her former position for a period not to exceed fifty-two (52) weeks or the period of actual probation, whichever is less. Both positions, the one to which the appointment is being made, and the one from which the leave is granted, must be under the jurisdiction of the same appointing authority.

## ARTICLE 18 Out-of-Title Work

**§18.1**

No employee shall be employed under any title not appropriate to the duties to be performed, and except upon assignment by proper authority during the continuance of a temporary emergency situation, no person shall be assigned to perform the duties of any position unless he or she has been duly appointed, promoted, transferred or reinstated to such position in accordance with the provisions of the Civil Service Law, Rules and Regulations.

**§18.2**

The term "temporary emergency" as used in this Article shall mean an unscheduled situation or circumstance which is expected to be of limited duration and either (a) presents a clear and imminent danger to person or property, or (b) is likely to interfere with the conduct of the agency's or institution's statutory mandates or programs.

**§18.3**

(a) A grievance alleging violations of this Article shall be filed directly at Step 2 by the employee, in writing on forms to be provided by the State, to the Agency Head or a designee of that Agency Head, and a copy of the grievance shall be simultaneously filed with the facility or institution head or a designee. A determination shall be issued at Step 2 as promptly as possible, but no later than ten (10) working days after receipt of the grievance unless DC-37 or the employee agrees to an extension of such time limit.

(b) An appeal from an unsatisfactory decision at Step 2 may be filed by DC-37 through its President or the President's designee with the Director of the Governor's Office of Employee Relations or the Director's designee within 10 working days of receipt of the Step 2 decision. Such appeal shall include a copy of the original grievance and the Step 2 reply.

(c) After receipt of such grievance, the Director of the Governor's Office of Employee Relations or the Director's designee will promptly forward it to the Director of Classification and Compensation for a review and determination as to whether the duties at issue are out-of-title.

(d) The Director of Classification and Compensation will make every reasonable effort to complete such review promptly, and will send to the Director of the Governor's Office of Employee Relations the findings as to whether the duties at issue are out-of-title.

(e) The Director of the Governor's Office of Employee Relations, or the Director's designee, shall issue a Step 3 determination forthwith upon receipt of the determination of the Director of Classification and Compensation based on the following:

(1) The findings of the Director of Classification and Compensation as to whether the duties at issue are out-of-title.

(2) If the Director of Classification and Compensation has determined the duties at issue to be out-of-title, a review by the Director of the Governor's Office of Employee Relations, or the Director's designee, of whether temporary emergency circumstances exist which make the assignment of such out-of-title duties appropriate.

(f) If the Director of Classification and Compensation finds the duties at issue to be out-of-title, and the Director of the Governor's Office of Employee Relations, or the Director's designee, finds that no temporary emergency circumstances exist, the Step 3 determination shall direct that out-of-title assignment be discontinued.

**§18.4**

(a) If such out-of-title duties are found to be appropriate to a lower salary grade or to the same salary grade as that held by the affected employees, no monetary award may be issued.

(b) If, however, such out-of-title duties are found to be appropriate to a higher salary grade than that held by the affected employee, the Director of the Governor's Office of Employee Relations, or the Director's designee, shall issue an award of monetary relief, provided that (a) the assignment to perform such duties was made on or after April 1, 1984, and (b) the affected employee has performed work in the out-of-title assignment for a period of one or more days. And, in such event, the amount of such monetary relief shall be the difference between what the affected employee was earning at the time he/she performed such work and what he or she would have earned at that time in the higher salary grade title, but in no event shall such

monetary award be retroactive to a date earlier than fifteen (15) calendar days prior to the date the grievance was filed in accordance with this Article.

(c) If such out-of-title duties were assigned by proper authority during the continuance of a temporary emergency situation, the Director of the Governor's Office of Employee Relations, or the Director's designee, shall dismiss the grievance.

(d) After receipt of the Step 3 decision, DC-37 may, where it alleges additional facts or existence of a dispute of fact, within thirty (30) calendar days of the date of the decision, file an appeal with the Director of the Governor's Office of Employee Relations. Such appeal shall include documentation to support the factual allegations. The appeal shall then be forwarded by the Director of the Governor's Office of Employee Relations to the Director of Classification and Compensation for reconsideration. The Director of Classification and Compensation shall reconsider the matter and shall, within thirty (30) calendar days, forward an opinion to the Director of the Governor's Office of Employee Relations. The latter shall act upon such opinion in accordance with the provisions of Sections 18.3(e) and (f), and Sections 18.4(a), (b), and (c) above.

(e) Grievances hereunder may be processed only in accordance with this Article and shall not be arbitrable.

## ARTICLE 19 Working Conditions - Safety

**§19.1**

A Joint State/DC-37 Safety and Health Committee shall be established to identify and review safety-related issues affecting employees and to recommend plans for the correction of such matters. Specific subjects to be studied by this Committee may include, but are not limited to, the following:

(a) Fire alarm systems;
(b) Emergency evacuation of employees from work areas;
(c) Availability and adequacy of first aid kits;
(d) Provision of special safety equipment and clothing;
(e) Transportation of sick or injured employees;
(f) Workplace temperatures/air quality;

(g) Imminent danger situations;
(h) Minimizing/eliminating hazards;
(i) Ergonomics; and
(j) Workplace safety.

**§19.2**

All matters relating to safety and health, including but not limited to those listed above, shall be considered appropriate matters for discussion and recommended resolution by local and department level labor/management committees. A labor/management committee or the State/DC-37 Safety and Health Committee considering a safety issue may refer the matter in whole or in part to a labor/management committee at any level or the State/DC-37 Safety and Health Committee for assistance in resolving the matter and for advice on implementing recommendations.

## ARTICLE 20 Review of Personal History Folder

**§20.1**

There shall be only one official personal history file maintained for any employee.

**§20.2**

An employee shall have the opportunity to review his/her personal history folder in the presence of an appropriate official of the department or agency within five working days' notice; provided, however, where the employee's personal history folder is kept at a location other than the employee's place of work, eight (8) working days' notice shall be required, and to place in such file a response of reasonable length to anything contained therein which such employee deems to be adverse. Where such review is requested in connection with a pending disciplinary action or a pending grievance, every reasonable effort should be made to schedule the review within a time period that will permit adherence to the time requirements of the grievance or discipline procedure. The personal history folder shall contain all memoranda or documents relating to such employee's job performance which contain criticism, commendation, appraisal or

rating of such employee's performance on the job. Copies of such memoranda or documents shall be sent to such employee simultaneously with their being placed in the personal history folder.

**§20.3**

An employee shall be permitted to be accompanied by a DC-37 Steward or other DC-37 representative during the review of the personal folder pursuant to this Article.

**§20.4**

Upon an employee's written request, material over three (3) years old shall be removed from the personal history folder, except work performance evaluations, personnel transactions, pre-employment materials and notices of discipline and all related records, provided, however, that notices of discipline wherein the final determination is that the employee is completely absolved of guilt shall be removed after three (3) years upon the employee's written request.

## ARTICLE 21 Protection of Employees

**§21.1**

(a) There shall be no loss of present employment by permanent employees as a result of the State's exercise of its right to contract out for goods and services.

(b) Notwithstanding the provision of Article 21.1(a), permanent employees affected by the State's exercise of its right to contract out for goods and services will receive 60 days written notice of intended separation and will be offered a redeployment option as provided for in Appendix E(a), but where such redeployment option is not able to be offered and where no displacement rights as provided for in Civil Service Law Sections 80 and 80-a are available, the affected permanent employee shall be offered the opportunity to elect one of the following transition benefits:

(i) a financial stipend for an identified retraining or educational opportunity as provided for in Appendix E(b); or

(ii) severance pay as provided for in Appendix E(c); or

(iii) the employee opts for and obtains preferential employment with the contractor at the contractor's terms and conditions, if available.

(c)(1) The transition benefits set forth above shall not apply to an affected permanent employee, and the State's obligation under this Article to said employee shall cease, if an affected permanent employee declines a primary redeployment opportunity as provided for in Appendix C(a), or if the affected permanent employee declines a displacement opportunity pursuant to his/her displacement rights as provided for in Civil Service Law Sections 80 and 80-a, in his/her county of residence or county of current work location.

(2) An affected permanent employee who elects a transition benefit as provided for in Section 21.1(b) above shall be eligible for placement on preferred lists and reemployment rosters as provided for in Civil Service Law Sections 81 and 81-a and other applicable Civil Service Laws, Rules and Regulations.

**§21.2**

No permanent employee will suffer reduction in existing salary as a result of reclassification or reallocation of the position the employee holds by permanent appointment.

**§21.3**

A State/DC-37 Employment Security Committee shall jointly study and attempt to resolve matters of mutual concern regarding work force planning, which may include the joint recommendation of demonstration projects to address identified issues, and to review matters relative to redeployment of employees affected by the State's exercise of its right to contract out. The Committee is not intended to be policy-making or regulatory in nature; rather, it is intended to be advisory on matters of work force planning.

The parties recognize that work force planning is a workplace issue. As such, a cooperative working relationship will be encouraged between all State employee negotiating units and the State.

## ARTICLE 22 Layoffs in Non-Competitive Class

**§22.1**

Permanent non-competitive class employees in this negotiating

unit, if laid off, will be laid off within title on the basis of seniority, provided, however, that such employees shall not gain greater rights than they would have if they were covered by the provisions of Sections 80 and 81 of the Civil Service Law, and provided, further, however, that this provision does not extend to these employees coverage under Civil Service Law Section 75 or Article 33 of the Agreement with DC-37.

**§22.2**

Where under current layoff law and procedures permanent employees are to be laid off within a given layoff unit and there are provisional or temporary employees in the same title in another layoff unit not projected for layoff, such provisional or temporary employees will be displaced in order to provide continued employment for those affected permanent employees. The State will manage centrally the placement of the affected permanent employees.

**§22.3**

Permanent non-competitive class employees with one year of continuous non-competitive service immediately prior to layoff shall be accorded the same rights at layoff as well as placement roster, preferred list and reemployment roster rights, as employees covered by State Civil Service Law Sections 75.1(c), 80-a, 81, 81-a and 81-b.

## ARTICLE 23 Labor/Management Meetings

**§23.1**

The Director of Employee Relations or the Director's designees shall meet with the President of DC-37 or the President's designees at mutually agreed upon times to discuss and attempt to resolve matters of mutual concern. At the request of the other party, each party shall submit a written agenda at least seven (7) days in advance of the meeting.

**§23.2**

The Commissioner of Homes and Community Renewal, or the Commissioner's designees, shall meet with DC-37 representatives periodically to discuss and attempt to resolve matters of mutual

concern. Such meetings shall be held at times mutually agreed to, but shall be held no less frequently than bi-annually. Subjects which may be discussed at such meetings may include questions concerning implementation and administration of this Agreement which are department- or agency-wide in nature, and distribution and posting of civil service examination announcements. The issues of alternate work schedules and flex-time shall be appropriate subjects of discussion in such meetings. Written agenda shall be exchanged by the parties no less than seven (7) days before the scheduled date of each meeting. At the time of the meeting additional subjects for discussion may be placed on the agenda by mutual agreement.

**§23.3**

The results of a labor-management meeting held pursuant to this Article shall not contravene any term or provision of this Agreement or exceed the authority of the management at the level at which the meeting occurs. The results of such meetings may, by mutual agreement, be placed in writing in the form of memoranda or correspondence between the parties, but such results shall not be subject to the provisions of Article 31, Grievance and Arbitration.

**§23.4**

The Director of Employee Relations and the President of DC-37, or their designees, shall provide assistance to facilitate resolution of matters which are the subject of discussion and/or implementation of agreed to matters in labor-management meetings held under this Article and which remain unresolved.

**§23.5**

The State and DC-37 agree to cooperatively explore, develop, and, where appropriate, implement jointly the principles and philosophy of total quality management, as embodied in the State's Quality through Participation initiative, and/or other such initiatives.

## ARTICLE 24 Distribution of Directives, Bulletins or Instructions

A copy of any directive, bulletin or instruction that is issued or published by an agency for the information or compliance of all employees will be supplied to the local DC-37 designee.

## ARTICLE 25 Emergency First Aid

At a facility where appropriate medical staff and facilities are normally available, when a medical emergency resulting from an injury or sudden illness occurs to an employee while on the premises, the injured or ill employee should be given emergency first aid by any qualified staff member who is on duty and reasonably available for medical duties. The employee will be assisted in arranging transportation as necessary to a general hospital, clinic, doctor or other location for more complete treatment, as appropriate.

## ARTICLE 26 No Discrimination

**§26.1**

DC-37 agrees to continue to admit all employees to membership and to represent all employees without regard to race, creed, color, national origin, age, sex or handicap.

**§26.2**

The State agrees to continue its established policy against all forms of illegal discrimination with regard to race, creed, color, national origin, sex, age or handicap, or the proper exercise by an employee of the rights guaranteed by the Public Employees' Fair Employment Act.

**§26.3**

The State and DC-37 shall form a Joint Affirmative Action Advisory Committee which shall develop appropriate recommendations on matters of mutual interest in the areas of equal employment and affirmative action.

## ARTICLE 27 Seniority

### §27.1 Definition

For purposes of this Agreement, seniority shall be defined as the length of an employee's continuous State service, whether part-time or full-time, from the date of original appointment in the classified service on a permanent basis. An employee who has resigned and who has been reinstated or reappointed in the service within one year thereafter shall be deemed to have continuous service for purposes of determining seniority. A period of employment on a temporary or provisional basis or in the unclassified service, immediately preceded and followed by permanent service in the classified service shall not constitute an interruption of continuous service for determining seniority nor shall a period of authorized leave without pay or any period during which employees suspended from their position pursuant to Section 80 or Section 80(a) of the Civil Service Law.

### §27.2 Application

(a) In the event that more employees request the same vacation time off than can be reasonably spared for operating reasons, vacation time off will be granted to such employees who can reasonably be spared, in order of seniority.

(b) When the qualifications, training or any other factors which best serve the interests of the service to be rendered (including the subspecialties within the services to be rendered) are equal, seniority will be a factor in the assignment of overtime and voluntary transfers.

### §27.3 Seniority Lists

As soon as practicable in advance of the abolishment of any positions filled by permanent competitive class appointments, the State shall provide DC-37 with seniority lists of employees in the title(s) and agency(s) affected. It is understood by the parties that failure to comply with this provision shall not constitute a basis for preventing or delaying the job abolishment, nor shall failure to comply entitle displaced employees to any compensation or other monetary benefits they would otherwise not have been entitled to receive.

## ARTICLE 28 Workday and Workweek

**§28.1**

The standard workday of full-time employees in this unit shall be 7 1/2 hours, exclusive of a meal break. Such days shall commence between 6:00 AM and 10:00 AM.

**§28.2**

The standard workweek of full-time employees in this unit shall be 37 1/2 hours, consisting of five (5) consecutive working days.

**§28.3**

With written notice to DC-37 at the appropriate level, the State shall be able to change the workday and/or workweek, established pursuant to Sections 28.1 and 28.2 of this Article, with the consent of the employees affected, or in an emergency. Such changes and/or the establishment of new shifts may also be made with advance written notice and consultation with DC-37. This consultation shall occur at the appropriate level and shall include the local DC-37 President and/or the recognized DC-37 designee for the agency. Employees affected by the change, except in emergencies, shall be provided with a minimum of 30-days' written notice prior to the effective date of the change.

**§28.4**

There shall be no rescheduling of days off or tours of duty to avoid the payment of overtime compensation except upon two-weeks‟ notice.

## ARTICLE 29 Indemnification

**§29.1**

The Employer acknowledges its obligation to provide for the defense of its employees, and to save harmless and indemnify such employees from financial loss as hereinafter provided, to the broadest extent possible consistent with the provisions of Section 17 of the Public Officers Law in effect upon the date of the execution of this Agreement.

**§29.2**

The Employer agrees to provide for the defense of employees as set forth in subdivision two of Section 17 of the Public Officers Law in any civil action or proceeding in any State or Federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while employees were acting within the scope of their public employment or duties, or which is brought to enforce a provision of section 1981 or 1983 of title 42 of the United States Code. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the State, provided further, that the duty to defend or indemnify and save harmless shall be conditioned upon:

(i) delivery to the Attorney General or an assistant attorney general at an office of the Department of Law in the State by the employees of the original or a copy of any summons, complaint, process, notice, demand or pleading within five (5) days after they are served with such document, and

(ii) the full cooperation of such employees in the defense of such action or proceeding and in defense of any action or proceeding against the State based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by such employees that the State provide for their defense pursuant to this section.

**§29.3**

The Employer agrees to indemnify and save harmless its employees as set forth in subdivision three (3) of Section 17 of the Public Officers Law in the amount of any judgment obtained against such employees in any State or Federal court, or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or settlement arose, occurred while the employees were acting within the scope of their public employment or duties; the duty to indemnify and save harmless prescribed by this Section shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employees, provided further, that nothing contained herein shall authorize the State to indemnify or save harmless an employee with respect to punitive or exemplary damages,

fines or penalties, or money recovered from an employee pursuant to Article 7(a) of the State Finance Law.

**§29.4**

Employees shall inform their supervisor when they inform the Attorney General of the services they have received under paragraphs 29.1, 29.2 or 29.3 above.

**§29.5**

The State shall prepare, secure introduction and recommend passage by the Legislature of appropriate and necessary legislation to continue the provisions of Section 19 of the Public Officers Law, to amend Section 19 to provide coverage for reimbursement of costs of employees for reasonable attorneys' fees for appearances before a grand jury arising out of any act which occurred while such employee was acting within the scope of his or her employment or duties and to amend Section 17 of the Public Officers Law to provide that the State shall provide a defense for employees in any civil action or proceeding brought pursuant to Section 1981 or Section 1983 of Title 42 of the United States Code arising out of an act or omission which occurred or is alleged to have occurred while the employee was acting within the scope of his or her public employment or duties.

## ARTICLE 30 Credit Union Space

The State agrees to grant to credit unions of State employees occupying space in office buildings of the State on April 1, 1973 the use of their existing space without rental or other charge during the continuance of their services as such credit union and during the State's occupancy of the building, subject to their compliance with all appropriate rules and requirements of the building operation and maintenance. In consideration of said continuance of existing occupancy by credit unions, DC-37 expressly agrees that no claim by any credit union or other organization of State employees for any additional space under the jurisdiction or control of the State, except relocations of such credit unions to equivalent space in other state-

owned buildings, shall hereafter constitute a term or condition of employment under any agreement between DC-37 and the State pursuant to Article 14 of the Civil Service Law.

## ARTICLE 31 Grievance and Arbitration Procedure

### §31.1 Definition of Grievance

(a) A contract grievance is a dispute concerning the interpretation, application or claimed violation of a specific term or provision of this Agreement. Other disputes which do not involve the interpretation, application, or claimed violation of a specific term or provision of this Agreement including matters as to which other means of resolution are provided or foreclosed by this Agreement, or by statute or administrative procedures applicable to the State, shall not be considered contract grievances. A contract grievance does not include matters involving the interpretation, application or claimed violation of an agreement reached pursuant to any previously authorized departmental negotiations.

(b) Any other dispute or grievance concerning a term or condition of employment which may arise between the parties or which may arise out of an action within the scope of authority of a department or agency head and which is not covered by this Agreement shall be processed up to and including Step 3 of the grievance procedure, except those issues for which there is a review procedure established by law or pursuant to rules or regulations filed with the Secretary of State.

### §31.2 Requirements for Filing Contract Grievances

(a) A contract grievance shall be submitted, in writing, on forms to be provided by the State.

(b) Each contract grievance shall identify the specific provision of the Agreement alleged to have been violated and shall contain a short plain statement of the grievance, the facts surrounding it, and the remedy sought.

(c) Upon agreement of the State and DC-37, DC-37 shall have the right to initiate at Step 2 a grievance involving more than one employee.

(d) If the contract grievance identifies Article 39, Benefits Guaranteed, as the provision allegedly violated the particular law, rule or regulation at issue shall be specified.

**§31.3 Representation**

DC-37 shall have the exclusive right to represent any employee or employees, upon their request, at any Step of the grievance procedure, provided, however, individual employees may represent themselves in processing grievances at Steps 1 through 2.

**§31.4 Grievance Steps**

Prior to initiating a formal written grievance pursuant to this Article, an employee or DC-37 is encouraged to resolve disputes subject to this Article informally with the appropriate immediate supervisor.

(a) Step One: The employee or DC-37 shall present the grievance to the division head or a designated representative not later than 30 calendar days after the date on which the act or omission giving rise to the grievance occurred. The division head or designated representative shall meet with the employee or DC-37, and shall issue a short plain written statement of reasons for the decision to the employee or DC-37, not later than 20 working days following the receipt of the grievance.

(b) Step Two: An appeal from an unsatisfactory decision at Step 1 shall be filed by the employee or DC-37, on forms to be provided by the State, with the agency head or the designee within ten (10) working days of the receipt of the Step 1 decision. Such appeal shall be in writing and shall include a copy of the grievance filed at Step 1, a copy of the Step 1 decision and a short plain written statement of the reasons for disagreement with the Step 1 decision. The agency head or a designee shall meet with the employee or DC-37 for a review of the grievance and shall issue a short, plain written statement of reasons for the decision to the employee or DC-37, as appropriate no later than 20 working days following receipt of the Step 1 appeal.

(c) Step Three: An appeal from an unsatisfactory decision at Step 2 shall be filed by DC-37 through its President or the President's designee, on forms to be provided by the State with the Director of the Governor's Office of Employee Relations, or the Director's designee,

within 15 working days of the receipt of the Step 2 decision. Such appeal shall be in writing, and shall include a copy of the grievance filed at Step 1, and a copy of all prior decisions and appeals, and a short, plain written statement of the reasons for disagreement with the Step 2 decision. The Director of the Governor's Office of Employee Relations, or the Director's designee, shall issue a short, plain written statement of reasons for the decision within 15 working days after receipt of the appeal. A copy of said written decision shall be forwarded to the President of DC-37, or the President's designee.

(d) Step Four Arbitration:

(1) Contract grievances which are appealable to arbitration pursuant to the terms of this Article may be appealed to arbitration by DC-37, by its President, or the President's designee by filing a demand for arbitration upon the Director of the Governor's Office of Employee Relations within 15 working days of the receipt of the Step 3 decision.

(2) The demand for arbitration shall identify the grievance, the department or agency involved, the employee or employees involved, and the specific term or provision of the Agreement alleged to have been violated.

(3) The panel of arbitrators agreed to by the State and DC-37 during the term of the 2007-2011 Agreement shall continue to serve for the term of this Agreement. After receipt of the demand for arbitration, the parties shall meet to select an arbitrator from this panel. The essential method of selection of the arbitrator for a particular case shall be by agreement and, if the parties are unable to agree, the arbitrator shall be assigned from this panel on a rotating basis. Initial assignment for rotation shall be determined by lot.

(4) Arbitrators shall have no power to add to, subtract from or modify the terms or provisions of this Agreement. They shall confine their decision and award solely to the application and/or interpretation of this Agreement. The decision and award of the arbitrator shall be final and binding consistent with the provisions of CPLR Article 75.

(5) Arbitrators shall confine themselves to the precise issue or issues submitted for arbitration and shall have no authority to determine any other issues not so submitted to them nor shall they make observations or declarations of opinion which are not essential in reaching the determination.

(6) In the event that the demand for arbitration filed by DC-37 specifies a different term or provision of the Agreement alleged to have been violated than specified at the submission of the grievance at Step 1, the grievance shall be remanded to Step 3 for processing in accordance with this Article.

(7) All fees and expenses of the arbitrator shall be divided equally between the parties. Each party shall bear the cost of preparing and presenting its own case.

(8) Any party requesting a transcript at an arbitration hearing may provide for one at its expense and, in such event, shall provide a copy to the arbitrator and the other party without cost.

(9)(a) The arbitration hearing shall be held within 60 working days after receipt of the demand for arbitration except, on a case-by-case basis, when the Director of the Governor's Office of Employee Relations or the Director's designee notifies the President of DC-37 or the President's designee that circumstances preclude such scheduling.

(b) The arbitration decision and award shall be issued within 30 calendar days after the hearing is closed by the arbitrator.

**§31.5 Procedures Applicable to Grievance Steps**

(a) Steps 1 and 2 shall be informal and the grievant and/or DC-37 shall meet with the appropriate step representative for the purpose of discussing the grievance, and attempting to reach a resolution.

(b) No transcript is required at any Step. However, either party may request that the review at Step 2 only be tape-recorded at its expense and shall provide a copy of such tape-recording to the other party.

(c) Step 3 is intended primarily to be a review of the existing grievance file; provided, however, that additional exhibits and evidence may be submitted in writing.

(d) Any meeting required by this Article may be mutually waived.

(e) All of the time limits contained in this Article may be extended by mutual agreement. Extensions shall be confirmed in writing by the party requesting them. Upon failure of the State, or its representatives, to provide a decision within the time limits provided in this Article, the grievant or DC-37 may appeal to the next step. Upon failure of the grievant, or grievant's representative, to file an appeal within the time limits provided in this Article, the grievance shall be deemed withdrawn.

(f) A settlement of or an award upon a contract grievance may or may not be retroactive as the equities of each case demand, but in no event shall such a resolution be retroactive to a date earlier than 30 days prior to the date the contract grievance was first presented in accordance with this Article, or the date the contract grievance occurred, whichever is the later date.

(g) A settlement of a contract grievance in Steps 1 through 3 shall constitute precedent in other and future cases only if the Director of the Governor's Office of Employee Relations and the President of DC-37 agree, in writing, that such settlement shall have such effect.

(h) The State shall supply in writing, with each copy of each step response, the name and address of the person to whom any appeal must be sent, and a statement of the applicable time limits for filing such an appeal.

(i) All contract grievances, appeals, responses and demands for arbitration shall be submitted by certified mail, return receipt requested, or by personal service. All time limits set forth in this Article shall be measured from the date of certified mailing or of receipt by personal service. Where submission is by certified mail, the date of mailing shall be that date appearing on the postal receipt.

(j) Working days shall mean Monday through Friday, excluding holidays.

(k) The State and DC-37 shall prepare, secure introduction and recommend passage by the legislature of such legislation as may be appropriate and necessary to establish a special appropriation fund to be administered by the Department of Audit and Control to provide for prompt payments of settlements reached or arbitration awards issued pursuant to this Article.

(l) The purpose of this Article is to provide a prompt, equitable and efficient procedure to review grievances filed by an employee or DC-37. Both the State and DC-37 recognize the importance of the reasonable use of and resort to the procedure provided by this Article and the timely issuance of decisions to filed grievances among other aspects of the procedure provided by this Article. Representatives of the Governor's Office of Employee Relations and DC-37 shall meet at

mutually agreed upon times to discuss and take the necessary steps to resolve matters of mutual concern in the implementation and administration of this procedure.

(m) A claimed failure to follow the procedural provisions of Article 33, Discipline Procedure, shall be reviewable in accordance with the provisions contained in that Article.

(n) The State shall initiate contract grievances against DC-37 directly at Step Four.

## ARTICLE 32 Resignation

**§32.1**

Employees who are advised that they are alleged to have been guilty of misconduct or incompetency and who are therefore requested to resign shall be given a statement written on the resignation form that:

(1) They have a right to consult a representative of DC-37 or an attorney or the right to decline such representation before executing the resignation, and a reasonable period of time to obtain such representation, if requested, will be afforded for such purpose;

(2) They may decline the request to resign and that in lieu thereof, a notice of discipline must be served upon them before any disciplinary action or penalty may be imposed pursuant to the procedure provided in Article 33 of the Agreement between the State and DC-37;

(3) In the event a notice of discipline is served, they have the right to object to such notice by filing a grievance;

(4) The disciplinary grievance procedure terminates in binding arbitration;

(5) They would have the right to representation by DC-37 or an attorney at every step of the procedure; and,

(6) They have the right to refuse to sign the resignation and their refusal in this regard cannot be used against them in any subsequent proceeding.

**§32.2**

A resignation which is requested and secured in a manner which fails to comply with this procedure shall be null and void.

### §32.3 Unauthorized Absence

(a) Any employee absent from work without authorization for 14 consecutive calendar days shall be deemed to have resigned from his or her position if he or she has not provided a satisfactory explanation for such absence on or before the 15th calendar day following the commencement of such unauthorized absence.

(b) Prior to the conclusion of this 15-day period, the appointing authority shall notify the employee and the DC-37 Local President by certified mail, return receipt requested, that his or her absence is considered unauthorized and would be deemed to constitute resignation pursuant to Article 32.

(c) Within 15 calendar days commencing from the 15th consecutive day of absence from work without authorization, an employee may submit an explanation concerning his or her absence, to the appointing authority. The burden of proof shall be upon the employee to establish that it was not possible for him or her to report to work or notify the appointing authority, or the appointing authority's designee, of the reason for his or her absence. The appointing authority shall issue a short response within five (5) calendar days after receipt of such explanation. If the employee is not satisfied with the response, DC-37, upon the employee's request, may appeal the appointing authority's response to the Governor's Office of Employee Relations within five (5) calendar days after receipt of the appointing authority's response. The Director of the Governor's Office of Employee Relations, or the Director's designee, shall issue a written response within five (5) calendar days after receiving such appeal. Determinations made pursuant to this subsection shall not be arbitrable.

## ARTICLE 33 Discipline

### §33.1 Applicability

The disciplinary procedure set forth in this Article shall be in lieu of the procedure specified in Sections 75 and 76 of the Civil Service Law and shall apply to all persons currently subject to Sections 75 and 76 of the Civil Service Law. In addition, it shall apply to those non-competitive class employees described in Section 75(1)(c) of the Civil

Service Law who, since last entry into State service, have completed at least two (2) years of continuous service in the non-competitive class, or who were appointed to a non-competitive class position as described in Section 75(1)(c) of the Civil Service Law on or after April 1, 1979 and have completed at least one year of continuous service in such position.

**§33.2 Purpose**

The purpose of this Article is to provide a prompt, equitable and efficient procedure for the imposition of discipline for just cause. Both parties to this Agreement recognize the importance of counseling and the principle of corrective discipline. Prior to initiating formal disciplinary action pursuant to this Article, the appointing authority, or the authority's designee, is encouraged to resolve matters informally; provided, however, such informal action shall not be construed to be a part of the disciplinary procedure contained in this Article and shall not restrict the right of the appointing authority, or the designee, to consult with or otherwise counsel employees regarding their conduct or to initiate disciplinary action.

**§33.3 Employee Rights**

(a) Employees may represent themselves or be accompanied for purposes of representation by DC-37 or an attorney, at meetings or hearings held pursuant to the disciplinary procedure set forth in Section 33.5, and when, as provided in subdivision (b) or (c) below, the employee is required to submit to an interrogation or requested to sign a statement. Unless the employee declines representation, a reasonable period of time shall be given to obtain a representative. If the employee requests representation and the employee or DC-37 fails to provide a representative within a reasonable period of time, the meetings or hearings under the disciplinary procedure may proceed, an interrogation as provided in subdivision (b) below may proceed, or, the employee may be requested to sign a statement as provided in subdivision (c) below. An arbitrator under this Article shall have the power to find that a delay in providing a representative may have been unreasonable. Where an employee elects to be represented by DC-37 exclusively, the DC-37 representative assigned by DC-37, if a State employee, shall not suffer any loss of earnings or be required to charge

leave credits for absence from work as a result of accompanying an employee for purposes of representation as provided in this subdivision.

(b) An “interrogation” shall be defined to mean the questioning of an employee who, at the time of the questioning, has been determined to be a likely subject for disciplinary action. The routine questioning of an employee by a supervisor or other representative of management to obtain factual information about an occurrence, incident or situation or the requirement that an employee submit an oral or written report describing an occurrence, incident or situation, shall not be considered an interrogation. If during the course of such routine questioning or review of such oral or written report, the questioner or reviewer determines that the employee is a likely subject for disciplinary action, the employee shall be so advised. An employee shall be required to submit to an interrogation by a department or agency (1) if the information sought is for use against such employee in a disciplinary proceeding pursuant to this Article, or (2) after a notice of discipline has been served on such employee, only if the employee has been notified, in advance of the interrogation, of the rights to representation as provided in subdivision (a) above. If an employee is improperly subjected to interrogation in violation of the provisions of this subdivision (b), no information obtained solely through such interrogation shall be used against the employee in any disciplinary action. No recording device shall be used nor shall any stenographic record be taken during an interrogation unless the employee is advised in advance that a record is being made. A copy of any formal record shall be supplied to the employee upon request.

(c) No employee who has been served with a notice of discipline pursuant to Section 33.5, or who has been determined to be a likely subject for disciplinary action, shall be requested to sign any statement regarding a matter which is the subject of a disciplinary action under Section 33.5 of this Article unless offered the right to have a representative of DC-37 or an attorney present and, if he or she requests such representation, is afforded a reasonable period of time to obtain a representative. A copy of any statement signed by an employee shall be supplied to him or to her. Any statements signed by an employee without having been so supplied to him or her may not

subsequently be used in a disciplinary proceeding.

(d) In all disciplinary proceedings under Section 33.5, the burden of proof that discipline is for just cause shall rest with the employer. Such burden of proof, even in serious matters which might constitute a crime, shall be preponderance of the evidence on the record and shall in no case be proof beyond a reasonable doubt.

(e) An employee shall not be coerced, intimidated or caused to suffer any reprisals, either directly or indirectly, that may adversely affect wages or working conditions as the result of the exercise of the rights under this Article.

### §33.4 Suspension or Temporary Reassignment Before Notice of Discipline

(a) Prior to the service of a notice of discipline or the completion of the disciplinary procedure set forth in Section 33.5, an employee may be suspended without pay or temporarily reassigned by the appointing authority, or the authority's designee, in his or her discretion, only pursuant to paragraphs (1) and (2) of this subdivision.

(1) The appointing authority or his or her designee may, in his or her discretion, suspend an employee without pay or temporarily reassign him or her when a determination is made that there is probable cause that such employee's continued presence on the job represents a potential danger to persons or property or would interfere with operations. A notice of discipline shall be served no later than five (5) calendar days following any such suspension or temporary reassignment.

(2) The appointing authority or his or her designee, in his or her discretion, may suspend without pay or temporarily reassign an employee charged with the commission of a crime. Such employee shall notify the appointing authority in writing that there has been a disposition of a criminal charge within seven (7) calendar days thereof. Within 30 calendar days following such suspension under this paragraph, or within five (5) calendar days from receipt by the appointing authority of notice of disposition of the charge from the employee, whichever occurs first, a notice of discipline shall be served on such employee or such employee shall be reinstated with back pay. Where the employee who is charged with the commission of a crime is temporarily reassigned, the notice of discipline shall be served on such

employee within seven (7) days after the disposition of the criminal charges or the employee shall be returned to his or her regular assignment. Nothing in this paragraph shall limit the right of the appointing authority or the authority's designee to take disciplinary action during the pendency of criminal proceedings. Nothing in this paragraph shall preclude the application of the provisions in Section 33.4(b).

(b) Temporary Reassignment

(1) Where the appointing authority has determined that an employee is to be temporarily reassigned pursuant to this Article, the employee shall be notified in writing of the location of such temporary reassignment and the fact that such reassignment may involve the performance of out-of-title work. The employee may elect in writing to refuse such temporary reassignment and be suspended without pay. Such election must be made in writing before the commencement of the temporary assignment. An election by the employee to be placed on a suspension without pay is final and may not thereafter be withdrawn. Once the employee commences the temporary assignment, no election is permitted.

(2) The fact that the State has temporarily reassigned an employee rather than suspending him or her without pay or the election by an employee to be suspended without pay rather than be temporarily reassigned shall not be considered by the disciplinary arbitrator for any purpose.

(3) Temporary reassignments under this Section shall not involve a change in the employee's rate of pay.

(c)(1) Suspensions without pay and temporary reassignments made pursuant to this Section shall be reviewable by a disciplinary arbitrator in accordance with provisions of Section 33.5 to determine whether the appointing authority had probable cause.

(2) Where an employee has been suspended without pay or temporarily reassigned he or she may, in writing, waive the agency level meeting at the time of filing a disciplinary grievance. In the event of such waiver, the employee shall file the grievance form within the prescribed time limits for filing an agency-level grievance directly with the Governor's Office of Employee Relations, Disciplinary Panel

Administration, Corporate Plaza East, Suite 502, 240 Washington Avenue Extension, Albany, NY 12203, ATTN: Panel Administrator in accordance with Section 33.5. The Disciplinary Panel Administrator shall give the case priority assignment and shall forthwith set the matter down for hearing to be held within 14 calendar days of the filing of the demand for arbitration. The time limits may not be extended.

(3) In the instance where an employee is suspended without pay or temporarily reassigned, and the hearing will extend beyond one day, the parties may jointly authorize the arbitrator to issue an interim decision and award solely with respect to the issue of whether there was probable cause for the suspension or temporary reassignment.

(4) Within five (5) calendar days of any suspension without pay or temporary reassignment pursuant to this section, the designee of the President of DC-37 shall be sent a notice advising him or her, in writing, of such suspension without pay or temporary reassignment. Such notice shall be sent by certified mail, return receipt requested.

(d) In the event of a failure to serve a notice of discipline within the time limits established in Section 33.4(a), the employee shall be deemed to have been suspended without pay as of the date of service of the notice of discipline or, in the event of a temporary reassignment, may return to his or her actual assignment until such notice is served. In the event of failure to notify the designee of the President of DC-37 of the suspension within the time period established in Section 33.4(c)(4), the employee shall be deemed to have been suspended without pay as of the date the notice is sent to the designee of the President of DC-37.

(e) During a period of suspension without pay pursuant to the provisions of Sections 33.4(a)(1) or 33.4(a)(2), the State shall continue to pay its share of the cost of the employee's health coverage under Article 9 which was in effect on the day prior to the suspension provided that the suspended employee pays his or her share. In addition, any employee suspended pursuant to the provisions of Sections 33.4(a)(1) or 33.4(a)(2) shall be counted for the purpose of calculating the amount of any periodic deposit to the employee benefit fund.

**§33.5 Disciplinary Procedure**

(a) Where the appointing authority or the authority's designee seeks to impose discipline, notice of such discipline shall be made in writing and served upon the employee. Discipline shall be imposed only for just cause. Disciplinary penalties may include a written reprimand, a fine not to exceed two weeks' pay, suspension without pay, demotion, restitution, dismissal from service, loss of leave credits or other privileges, or such other penalties as may be appropriate. The specific acts for which discipline is being imposed and the penalty or penalties proposed shall be specified in the notice. The notice shall contain a description of the alleged acts and conduct, including reference to dates, times and places. Two copies of the notice shall be served on the employee. Service of the notice of discipline shall be made by personal service or by certified mail, return receipt requested.

(b) In those cases where such acts are alleged to constitute a crime, a notice of discipline must be served no later than the period set forth for the commencement of a criminal proceeding against a public employee in the Criminal Procedure Law of the State of New York.

(c) The designee of the President of DC-37 shall be advised by certified mail, return receipt requested, of the name and work location of an employee against whom a notice of discipline has been served.

(d) The notice of discipline served on the employee shall be accompanied by a copy of this Article and a written statement[1] that:

(1) the employee has a right to object by filing a disciplinary grievance within 14 calendar days;

(2) he/she has the right to have the disciplinary action reviewed by an independent arbitrator;

(3) the employee is entitled to be accompanied for the purposes of representation by DC-37 or an attorney at every step of the disciplinary proceeding; and

(4) If a disciplinary grievance is filed, no penalty can be implemented unless the employee fails to follow the procedural requirements, or until the matter is settled, or until the arbitration procedure specified in subdivision (g) below, is completed.

---

[1] In the case of an employee who speaks only Spanish, the written statements required shall also be given in a Spanish translation.

(e) The penalty proposed by the appointing authority may not be implemented until (1) the employee fails to file a disciplinary grievance within 14 calendar days of the service of the notice of discipline, or (2) having filed a grievance, the employee fails to file a timely appeal as provided in subdivision (g) below or (3) the penalty is upheld or a different penalty is determined by the arbitrator to be appropriate, or (4) the matter is settled.

(f) If not settled or otherwise resolved, the notice of discipline may be the subject of a grievance before the agency head, or a designee, and shall be filed either in person or by certified mail, return receipt requested, by the employee or by the representative with the employee's written consent, within 14 calendar days of service of the notice of discipline. The employee shall be entitled to a meeting with the agency head, or a designee. The meeting shall include an informal presentation by the agency head, or a designee, and by the employee, or a union representative, of relevant information concerning the acts or omissions specified in the notice of discipline, a general review of the evidence and defenses that will be presented if the matter proceeds to the next level, and a discussion of the appropriateness of the proposed penalty. The meeting need not involve the identification or presentation of prospective witnesses, the identification or specific description of documents, or other formal disclosure of evidence by either party. The meeting provided for herein may be waived, in writing, on the grievance form, only in accordance with Section 33.4(c)(2). A written response shall be rendered in person, or by certified mail, return receipt requested, no later than seven (7) calendar days after such meeting. If possible, the department or agency head, or a designee, should render the written response at the close of such meeting. When the agency head, or a designee, fails to issue a written response within seven (7) calendar days from such meeting, the grievant has the right to proceed directly to the next appropriate level by filing an appeal in accordance with subdivision (g).

(g) Disciplinary Arbitration

(1) If a disciplinary grievance is not settled or otherwise resolved, it may be appealed to independent arbitration. Such appeal must be filed with the Governor's Office of Employee Relations, Disciplinary Panel Administration, Corporate Plaza East, Suite 502, 240 Washington Avenue Extension, Albany, NY 12203, ATTN: Panel Administrator by

certified mail, return receipt requested, on a disciplinary grievance form, with a copy to the appointing authority, within 14 calendar days of service of the department or agency response. If there is no department or agency response received within ten (10) calendar days after the agency meeting, the appeal to arbitration must be filed within 24 calendar days of such meeting.

(2) The disciplinary arbitrator shall hold a hearing within 14 calendar days after his/her selection. A decision shall be rendered within seven (7) calendar days of the close of the hearing or within seven (7) calendar days after receipt of the transcript, if either party elects a transcript as provided in paragraph eight (8), or within such other period of time as may have been mutually agreed to by the agency and the grievant or his or her representative.

(3) Disciplinary arbitrators shall render determinations of guilt or innocence and the appropriateness of proposed penalties, and shall have the authority to resolve a claimed failure to follow the procedural provisions of this Article. Disciplinary arbitrators shall neither add to, subtract from nor modify the provisions of this Agreement.

(4) The disciplinary arbitrator's decision with respect to guilt or innocence, penalty, probable cause for suspension, or temporary reassignment, if any, and a claimed failure to follow the procedural provisions of this Article, shall be final and binding on the parties. If the arbitrator, upon review, finds probable cause for suspension without pay, he or she may consider such suspension in determining the penalty to be imposed. Upon a finding of guilt the disciplinary arbitrator has full authority, if he or she finds the penalty or penalties proposed by the State to be inappropriate, to devise an appropriate penalty including, but not limited to, ordering reinstatement and back pay for all or part of any period of suspension.

(5) Where an employee is suspended without pay or temporarily reassigned pursuant to Section 33.4, and it appears that the hearing will extend beyond one day, the parties may jointly authorize the arbitrator to issue an interim decision and award solely with respect to the issue of whether there was probable cause for the suspension without pay or the temporary reassignment.

(6) The panel of arbitrators agreed to by the State of New York and DC-37 during the term of the 2007-2011 Agreement shall continue to

serve for the term of this Agreement. The composition of the panel of arbitrators may be changed by the mutual agreement of the State and DC-37.

(7) All fees and expenses of the arbitrator, if any, shall be divided equally between the appointing authority and DC-37 or the employee if not represented by DC-37. Each party shall bear the costs of preparing and presenting its own case. The estimated arbitrator's fees and estimated expenses may be collected in advance of the hearing. When such request for payment is made and not satisfied as required, the grievance shall be deemed withdrawn.

(8) Either party wishing a transcript at a disciplinary arbitration hearing may provide for one at its own expense and shall provide a copy to the arbitrator and the other party without cost.

(h) The agency head or a designee has full authority, at any time before or after the notice of discipline is served by an appointing authority or a designee, to review such notice and the proposed penalty and to take such action as he or she deems appropriate under the circumstances in accordance with this Article including, but not limited to, determining whether a notice should be issued, amendment of the notice no later than the issuance of the agency response, withdrawal of the notice or a reduction of the proposed penalty.

(i) An employee shall not be disciplined for acts, except those which would constitute a crime, which occurred more than one year prior to the notice of discipline. The employee's entire record of employment, however, may be considered with respect to the appropriateness of the penalty to be imposed, if any.

(j) The disciplinary arbitrator is not restricted by the contractual limits on penalties which may be proposed by the State. He or she has full authority, if the remedy proposed by the State is found to be inappropriate, to devise an appropriate remedy, but shall not increase the penalty sought by the State except that the arbitrator may direct referral to a rehabilitative program in addition to the penalty.

**§33.6 Settlements**

A disciplinary matter may be settled at any time following the service of the notice of discipline. The terms of the settlement shall be agreed to in writing. Before executing such settlement, an employee shall be advised of the right to have a DC-37 representative or an

attorney present and, if such representation is requested, shall be afforded a reasonable period of time to obtain representation. A settlement entered into by an employee, the DC-37 representative or an attorney, on behalf of the employee, shall be final and binding on all parties. Within five (5) calendar days of any settlement, the Staff Director shall be sent a notice advising him or her, in writing, of the settlement. Such notice shall be sent by certified mail, return receipt requested.

**§33.7 Definitions**

(a) As used in this section, "days" shall mean calendar days unless otherwise specified.

(b) "Service" shall be complete upon personal delivery or, if it is made by certified mail, return receipt requested, it shall be complete upon the date the employee or any other person accepting delivery has signed the return receipt or when the letter is returned to the appointing authority undelivered.

(c) "Filing" shall be complete upon actual receipt.

**§33.8 Timeliness**

In the event of a question of timeliness of any disciplinary grievance or appeal to arbitration, the date of mailing appearing on the postal receipt shall be determinative.

**§33.9 Time Limits**

Except as provided in Section 33.4(c)(2), time limits contained in this Article may be waived by mutual agreement of the parties. Any such agreement must be in writing.

Changes in shift, pass day, job assignment, or transfer or reassignment to another facility, work location or job station may not be made for the sole purpose of imposing discipline unless imposed pursuant to the provisions of Section 33.5, provided, however, that temporary reassignments may be made pursuant to Section 33.4.

**§33.10 Time and Attendance Disciplinary Procedures**

(a) All notices of discipline based solely on time and attendance, including tardiness, which have not been settled or otherwise resolved,

shall be reviewed by a permanent umpire in accordance with the attached schedule except as otherwise provided in paragraph (g) below.

(b) The determinations of the permanent umpire shall be confined to the guilt or innocence of the grievant and the appropriateness of the proposed penalty. The employee's entire record of employment may be considered by the permanent umpire with respect to the appropriateness of the penalty to be imposed. The permanent umpire shall have the authority to resolve a claimed failure to follow the procedural provisions of this Article.

(c) The decision and award of the permanent umpire with respect to guilt or innocence and penalty, if any, shall be final and binding on the parties and not subject to appeal to any other forum except that, in the case of a decision and award of the permanent umpire which results in a penalty of dismissal from service, the decision and award may be reviewed in accordance with Article 75 of the CPLR. The permanent umpire shall, upon a finding of guilt, have full authority to uphold the penalty proposed in the notice of discipline or to impose a lesser penalty within the minimum and maximum penalties as contained in the attached schedule and appropriate to that notice of discipline. In appropriate cases and in addition to the penalty imposed, the permanent umpire may direct the grievant to attend counseling sessions or other appropriate programs jointly agreed upon by the State and DC-37.

(d) Within one (1) month of the execution of this Agreement, the State and DC-37 shall mutually select a panel of two or more permanent umpires, who shall serve for the term of this Agreement, and shall be jointly administered by the State and DC-37.

(e) Unless the State and DC-37 mutually agree otherwise, a permanent umpire shall be available to hold reviews at least once each month on a regularly scheduled basis. At such times, the permanent umpire shall review and finally determine all time and attendance disciplinary grievances which have been pending no less than ten (10) days prior to the permanent umpire's scheduled appearance, and are unresolved in accordance with paragraph (a) above.

(f) An employee is entitled to appear at the review before a permanent umpire and is entitled to have a DC-37 representative or an attorney present provided at his or her own expense. Matters scheduled to be heard by the permanent umpire may not be adjourned except at

the discretion of the permanent umpire for good cause shown. Any matters which are adjourned shall be rescheduled for the next regularly scheduled appearance of the permanent umpire.

(g) Where an employee is to be served a notice of discipline related solely to time and attendance and, within three (3) years of such notice, has been found guilty of or settled (or a combination of both) two prior notices of discipline not solely related to time and attendance, the appointing authority may elect either to pursue such time and attendance notice before the permanent umpire in accordance with the attached schedule or to serve a notice of discipline and proceed before a disciplinary arbitrator. This paragraph shall not apply to notices of discipline based solely on tardiness.

For the purposes of the Time and Attendance Schedule only, "prior record" shall mean any notice of discipline based solely on time and attendance where either guilt was found or a settlement occurred or a combination of both occurred. However, for all notices of discipline based solely upon time and attendance issued on or after the date of execution of this Agreement, the "prior record" shall not include any notices of discipline based solely upon time and attendance that are three or more years old if the employee has not been served a notice of discipline based solely upon time and attendance within the three years from the date of the resolution of the last notice of discipline based solely upon time and attendance.

Notices of discipline based solely on tardiness shall proceed on the tardiness schedule only and shall not be considered as a prior record for any other offense.

The penalty level for notices of discipline which contain charges of both tardiness and unauthorized absence shall be the appropriate level within the type of unauthorized absence charge.

(h) As used in this Article, "time and attendance disciplinary grievances" shall mean those disciplinary grievances based upon notices of discipline which specify tardiness, or unauthorized absence, including improper use of sick leave, and do not contain any other allegations of misconduct or incompetence.

(i) All fees and expenses (if any) of the umpire(s) shall be divided equally between the appointing authority and DC-37 or the employee if not represented by DC-37.

See Time and Attendance Schedule on following page.

# TIME AND ATTENDANCE SCHEDULE

| Type of Offense | Prior Record | Minimum Penalty | Maximum Penalty |
|---|---|---|---|
| Tardiness | 1st, 2nd, or 3rd Notice of Discipline<br><br>4th or more Notices of Discipline | Written reprimand<br><br>Penalty contained in Article 33.5(a) | $300 fine<br><br>Penalty contained in Article 33.5(a) |
| Unauthorized absence including improper use of sick leave of 3 consecutive workdays or less | 1st Notice of Discipline<br><br>2nd Notice of Discipline<br><br>3rd or more Notice of Discipline | Written reprimand<br><br>$150 fine<br><br>$250 fine | $150 fine<br><br>Suspension without pay of 4 weeks or equivalent<br><br>Dismissal |
| Unauthorized absence including improper use of sick leave of more than 3 but less than 8 consecutive workdays | 1st Notice of Discipline<br><br>2nd Notice of Discipline<br><br>3rd or more Notice of Discipline | $200 fine<br><br>$250 fine<br><br>$300 fine | Suspension without pay of 3 weeks or equivalent<br><br>Suspension without pay of 8 weeks or equivalent<br><br>Dismissal |
| Unauthorized absence including improper use of sick leave of 8 consecutive workdays or more | 1st Notice of Discipline<br><br>2nd Notice of Discipline or more | $300 fine<br><br>Suspension without pay of 8 weeks or equivalent | Dismissal<br><br>Dismissal |

## ARTICLE 34 Reimbursement for Property Damage

The State agrees to provide for the uniform administration of the procedure for reimbursement to employees for personal property damage or destruction as provided for by subdivisions 12 and 12-c of Section 8 of the State Finance Law and to provide for payments of up to $50,000 out of local funds at the institution level as provided therein. Allowances shall be based upon the reasonable value of the property involved and payment shall be made against a satisfactory release.

## ARTICLE 35 Accidental Death Benefit

**§35.1**

In the event an employee dies subsequent to the effective date of this agreement as the result of an accidental on-the-job injury and a death benefit is paid pursuant to the Workers' Compensation Law, the State shall pay a death benefit in the amount of $50,000 to the employee's surviving spouse and children to whom the Workers' Compensation Accidental Death Benefit is paid and in the same proportion as the Workers‟ Compensation Accidental Death Benefit is paid. However, in the event that the Workers' Compensation Accidental Death Benefit is paid to the deceased employee's estate, the State shall pay this death benefit to the employee's estate.

**§35.2**

Children of an employee who received an Accidental Death Benefit paid by the State under the terms of Section 35.1 above, and who thereafter enroll in and attend any college or other unit of the State University of New York, shall receive from the State a payment equal to the amount of the tuition cost for each semester they are enrolled and in attendance at such college or other unit. In addition, children of an employee who received an Accidental Death Benefit paid by the State under the terms of Section 35.1 above who meet the institution's entrance requirements and enroll in an accredited private college or university within New York State, shall receive a payment from the State, equal to the corresponding semester's tuition at the

State University of New York as determined by the State, for each semester they are enrolled and are in attendance at such private college or university.

## ARTICLE 36 Employee Assistance Program/Work-Life Services

In recognition of the mutual advantage to the employees and the employer inherent in an employee assistance program the State shall prepare, secure introduction and recommend passage by the Legislature of such legislation as may be appropriate and necessary to obtain an appropriation in the amount indicated in each year of the 2011-2016 Agreement: $3,354 in 2011-2012, $3,354 in 2012-2013, $3,354 in 2013-2014, $3,421 in 2014-2015 and $3,489 in 2015-2016 to continue the Employee Assistance Program effort. A joint labor/management advisory body, which recognizes the need for combined representation of all employee negotiating units and the State, will monitor and evaluate the Employee Assistance Program and other Work-Life services.

## ARTICLE 37 Family Benefits/Work-Life Services

**§37.1**

The name of the New York State Labor/Management Child Care Advisory Committee (NYSLMCCAC) shall be changed to the Family Benefits/Work-Life Services Committee in recognition of its expanded role. The new Committee will continue to serve as a multi-union joint labor/management advisory body to monitor and evaluate the family benefits programs and other work-life services.

**§37.2**

Effective January 1, 2015, the State shall provide a contribution per Dependent Care Advantage Account (DCAA) as follows:

| Employee Gross Annual Salary | Employer Contribution |
|---|---|
| Under $30,000 | $700 |
| $30,001-$40,000 | $600 |
| $40,001-$50,000 | $500 |
| $50,001-$60,000 | $400 |
| $60,001-$70,000 | $300 |
| Over $70,000 | $200 |

In subsequent years, the employer contribution may be increased or reduced so as to fully expend available funds for this purpose, while maintaining salary sensitive differentials. In the event available funds are not fully expended for this purpose, the residual funds shall be made available to benefit DC-37 members as mutually determined by the Director of GOER and the President of DC-37 or their designees. In no event shall the aggregate employer contribution exceed the amounts provided for this purpose.

**§37.3**

In the interest of providing greater availability of dependent care and other services to DC-37 represented employees and maximizing resources available, the Family Benefits Program may support additional initiatives as recommended by the Advisory Board.

**§37.4**

The State and DC-37 remain committed to ensuring that all network childcare available to State employees is provided in safe, high quality centers. Therefore, the State and DC-37 agree to:

(a) Continue financial support for health and safety grants for childcare network centers.

(b) Provide technical support and training for child and elder care initiatives; and

(c) Encourage the continuation of existing host agency support for childcare centers.

**§37.5**

Employees choosing not to use the Flexible Benefit Spending Program who use work site child care centers designated by the Governor's Office of Employee Relations may elect to pay their child care fees to the child care centers through a payroll deduction program pursuant to law.

**§37.6**

The State shall prepare, secure introduction and recommend passage of legislation for appropriations in the amount indicated in each year of the 2011-2016 Agreement: $10,061 in 2011-2012, $10,061 in 2012-2013, $10,061 in 2013-2014, $10,262 in 2014-2015 and $10,467 in 2015-2016 to fund the activities of the Family Benefits/Work-Life Services Program.

## ARTICLE 38 Job Classifications

The State, through the Office of the Director of Classification and Compensation, will provide to DC-37 copies of any new or revised tentative classification specifications and standards for titles in the Rent Regulation Services Unit for review and comment. DC-37 will provide its comments, if any, to the Director of Classification and Compensation within 45 calendar days after its receipt of such material. The specifications and standards will not be issued in final form during the 45 calendar days in order to permit consideration of any comments submitted by DC-37.

## ARTICLE 39 Benefits Guaranteed

With respect to matters not covered by this Agreement, the State will not seek to diminish or impair during the term of this Agreement any benefit or privilege provided by law, rule or regulation for employees without prior notice to DC-37; and, when appropriate, without negotiations with DC-37; provided, however, that this Agreement shall be construed consistently with the free exercise of rights reserved to the State by the Management Rights Article of this Agreement.

## ARTICLE 40 Severability

In the event that any article, section or portion of this Agreement is found to be invalid by a decision of a tribunal of competent jurisdiction or shall have the effect of loss to the State of funds made available through Federal law, then such specific article, section or portion specified in such decision or having such effect shall be of no force and effect, but the remainder of this Agreement shall continue in full force and effect. Upon the issuance of such a decision or the issuance of a ruling having such effect of loss of Federal funds, then either party shall have the right immediately to reopen negotiations with respect to a substitute for such Article, Section or portion of this Agreement involved. The parties agree to use their best efforts to contest any such loss of Federal funds which may be threatened. In the event that the Legislature fails to implement Sections 7.1 through 7.8, any or all Articles may be reopened at the option of DC-37 or the State, and renegotiated. In the event that any other Article, Section or portion of this Agreement fails to be implemented by the Legislature, then in that event, such article, section or portion may be reopened by DC-37 or the State and renegotiated. During the course of any reopened negotiations any provision of this Agreement not affected by such reopener shall remain in full force and effect.

## ARTICLE 41 Printing of Agreement

The cost of printing this Agreement shall be shared equally by the State and DC-37.

## ARTICLE 42 Approval of the Legislature

It is agreed by and between the parties that any provision of this Agreement requiring legislative action to permit its implementation by amendment of law or by providing the additional funds therefore, shall not become effective until the appropriate legislative body has given approval.

## ARTICLE 43 Duration of Agreement

The term of this Agreement shall be from April 2, 2011 through April 1, 2016.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective representatives on June 15, 2015.

| **THE EXECUTIVE BRANCH OF THE STATE OF NEW YORK** | **DISTRICT COUNCIL 37 AFSCME, AFL-CIO** |
|---|---|
| _____ | _____ |
| Joseph M. Bress<br>Chief Negotiator<br>State of New York | Henry Garrido<br>Executive Director<br>District Council 37<br>AFSCME, AFL-CIO |

# Appendix A DC-37 SALARY SCHEDULE – April 2, 2011

**DC-37 Salary Schedule-April 2, 2011**

| SG | HR | STEP 1 | STEP 2 | STEP 3 | STEP 4 | STEP 5 | STEP 6 | JR | INCR | JR INCR |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 22041 | 22785 | 23529 | 24273 | 25017 | 25761 | 26505 | 27249 | 744 | 744 |
| 2 | 22883 | 23663 | 24443 | 25223 | 26003 | 26783 | 27563 | 28343 | 780 | 780 |
| 3 | 24025 | 24840 | 25655 | 26470 | 27285 | 28100 | 28915 | 29730 | 815 | 815 |
| 4 | 25074 | 25937 | 26800 | 27663 | 28526 | 29389 | 30252 | 31115 | 863 | 863 |
| 5 | 26274 | 27178 | 28082 | 28986 | 29890 | 30794 | 31698 | 32602 | 904 | 904 |
| 6 | 27744 | 28683 | 29622 | 30561 | 31500 | 32439 | 33378 | 34317 | 939 | 939 |
| 7 | 29278 | 30263 | 31248 | 32233 | 33218 | 34203 | 35188 | 36173 | 985 | 985 |
| 8 | 30928 | 31951 | 32974 | 33997 | 35020 | 36043 | 37066 | 38089 | 1023 | 1023 |
| 9 | 32653 | 33722 | 34791 | 35860 | 36929 | 37998 | 39067 | 40136 | 1069 | 1069 |
| 10 | 34521 | 35642 | 36763 | 37884 | 39005 | 40126 | 41247 | 42368 | 1121 | 1121 |
| 11 | 36523 | 37700 | 38877 | 40054 | 41231 | 42408 | 43585 | 44762 | 1177 | 1177 |
| 12 | 38612 | 39830 | 41048 | 42266 | 43484 | 44702 | 45920 | 47138 | 1218 | 1218 |
| 13 | 40903 | 42177 | 43451 | 44725 | 45999 | 47273 | 48547 | 49821 | 1274 | 1274 |
| 14 | 43270 | 44596 | 45922 | 47248 | 48574 | 49900 | 51226 | 52552 | 1326 | 1326 |
| 15 | 45781 | 47163 | 48545 | 49927 | 51309 | 52691 | 54073 | 55455 | 1382 | 1382 |
| 16 | 48346 | 49792 | 51238 | 52684 | 54130 | 55576 | 57022 | 58468 | 1446 | 1446 |
| 17 | 51067 | 52595 | 54123 | 55651 | 57179 | 58707 | 60235 | 61763 | 1528 | 1528 |
| 18 | 51268 | 53027 | 54786 | 56545 | 58304 | 60063 | 61822 | 65190 | 1759 | 3368 |
| 19 | 54047 | 55879 | 57711 | 59543 | 61375 | 63207 | 65039 | 68637 | 1832 | 3598 |
| 20 | 56813 | 58727 | 60641 | 62555 | 64469 | 66383 | 68297 | 72076 | 1914 | 3779 |
| 21 | 59825 | 61819 | 63813 | 65807 | 67801 | 69795 | 71789 | 75862 | 1994 | 4073 |
| 22 | 63041 | 65119 | 67197 | 69275 | 71353 | 73431 | 75509 | 79819 | 2078 | 4310 |
| 23 | 66376 | 68538 | 70700 | 72862 | 75024 | 77186 | 79348 | 83954 | 2162 | 4606 |
| 24 | 69911 | 72159 | 74407 | 76655 | 78903 | 81151 | 83399 | 88256 | 2248 | 4857 |
| 25 | 73768 | 76111 | 78454 | 80797 | 83140 | 85483 | 87826 | 92974 | 2343 | 5148 |
| 26 | 77654 | 80091 | 82528 | 84965 | 87402 | 89839 | 92276 | 95713 | 2437 | 3437 |
| 27 | 81858 | 84425 | 86992 | 89559 | 92126 | 94693 | 97260 | 100827 | 2567 | 3567 |
| 28 | 86167 | 88834 | 91501 | 94168 | 96835 | 99502 | 102169 | 105836 | 2667 | 3667 |
| 29 | 90685 | 93452 | 96219 | 98986 | 101753 | 104520 | 107287 | 111054 | 2767 | 3767 |
| 30 | 95423 | 98293 | 101163 | 104033 | 106903 | 109773 | 112643 | 116513 | 2870 | 3870 |
| 31 | 100510 | 103489 | 106468 | 109447 | 112426 | 115405 | 118384 | 122363 | 2979 | 3979 |
| 32 | 105854 | 108931 | 112008 | 115085 | 118162 | 121239 | 124316 | 128393 | 3077 | 4077 |

# Appendix B DC-37 SALARY SCHEDULE – April 2, 2014

**DC-37 Salary Schedule-April 2, 2014**

| SG | HR | STEP 1 | STEP 2 | STEP 3 | STEP 4 | STEP 5 | STEP 6 | JR | INCR | JR INCR |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 22482 | 23240 | 23998 | 24756 | 25514 | 26272 | 27030 | 27795 | 758 | 765 |
| 2 | 23341 | 24137 | 24933 | 25729 | 26525 | 27321 | 28117 | 28913 | 796 | 796 |
| 3 | 24506 | 25338 | 26170 | 27002 | 27834 | 28666 | 29498 | 30323 | 832 | 825 |
| 4 | 25575 | 26456 | 27337 | 28218 | 29099 | 29980 | 30861 | 31735 | 881 | 874 |
| 5 | 26799 | 27721 | 28643 | 29565 | 30487 | 31409 | 32331 | 33253 | 922 | 922 |
| 6 | 28299 | 29257 | 30215 | 31173 | 32131 | 33089 | 34047 | 35005 | 958 | 958 |
| 7 | 29864 | 30868 | 31872 | 32876 | 33880 | 34884 | 35888 | 36899 | 1004 | 1011 |
| 8 | 31547 | 32591 | 33635 | 34679 | 35723 | 36767 | 37811 | 38848 | 1044 | 1037 |
| 9 | 33306 | 34397 | 35488 | 36579 | 37670 | 38761 | 39852 | 40936 | 1091 | 1084 |
| 10 | 35211 | 36355 | 37499 | 38643 | 39787 | 40931 | 42075 | 43212 | 1144 | 1137 |
| 11 | 37253 | 38454 | 39655 | 40856 | 42057 | 43258 | 44459 | 45660 | 1201 | 1201 |
| 12 | 39384 | 40626 | 41868 | 43110 | 44352 | 45594 | 46836 | 48078 | 1242 | 1242 |
| 13 | 41721 | 43020 | 44319 | 45618 | 46917 | 48216 | 49515 | 50814 | 1299 | 1299 |
| 14 | 44135 | 45488 | 46841 | 48194 | 49547 | 50900 | 52253 | 53606 | 1353 | 1353 |
| 15 | 46697 | 48107 | 49517 | 50927 | 52337 | 53747 | 55157 | 56567 | 1410 | 1410 |
| 16 | 49313 | 50788 | 52263 | 53738 | 55213 | 56688 | 58163 | 59638 | 1475 | 1475 |
| 17 | 52088 | 53646 | 55204 | 56762 | 58320 | 59878 | 61436 | 63001 | 1558 | 1565 |
| 18 | 52293 | 54087 | 55881 | 57675 | 59469 | 61263 | 63057 | 66494 | 1794 | 3437 |
| 19 | 55128 | 56997 | 58866 | 60735 | 62604 | 64473 | 66342 | 70013 | 1869 | 3671 |
| 20 | 57949 | 59901 | 61853 | 63805 | 65757 | 67709 | 69661 | 73519 | 1952 | 3858 |
| 21 | 61022 | 63056 | 65090 | 67124 | 69158 | 71192 | 73226 | 77376 | 2034 | 4150 |
| 22 | 64302 | 66421 | 68540 | 70659 | 72778 | 74897 | 77016 | 81415 | 2119 | 4399 |
| 23 | 67704 | 69909 | 72114 | 74319 | 76524 | 78729 | 80934 | 85635 | 2205 | 4701 |
| 24 | 71309 | 73602 | 75895 | 78188 | 80481 | 82774 | 85067 | 90020 | 2293 | 4953 |
| 25 | 75243 | 77633 | 80023 | 82413 | 84803 | 87193 | 89583 | 94834 | 2390 | 5251 |
| 26 | 79207 | 81692 | 84177 | 86662 | 89147 | 91632 | 94117 | 97627 | 2485 | 3510 |
| 27 | 83495 | 86113 | 88731 | 91349 | 93967 | 96585 | 99203 | 102844 | 2618 | 3641 |
| 28 | 87890 | 90610 | 93330 | 96050 | 98770 | 101490 | 104210 | 107953 | 2720 | 3743 |
| 29 | 92499 | 95322 | 98145 | 100968 | 103791 | 106614 | 109437 | 113275 | 2823 | 3838 |
| 30 | 97331 | 100259 | 103187 | 106115 | 109043 | 111971 | 114899 | 118843 | 2928 | 3944 |
| 31 | 102520 | 105558 | 108596 | 111634 | 114672 | 117710 | 120748 | 124810 | 3038 | 4062 |
| 32 | 107971 | 111110 | 114249 | 117388 | 120527 | 123666 | 126805 | 130961 | 3139 | 4156 |

# APPENDIX C DC-37 SALARY SCHEDULE – April 2, 2015

**DC-37 Salary Schedule-April 2, 2015**

| SG | HR | STEP 1 | STEP 2 | STEP 3 | STEP 4 | STEP 5 | STEP 6 | JR | INCR | JR INCR |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 22932 | 23706 | 24480 | 25254 | 26028 | 26802 | 27576 | 28350 | 774 | 774 |
| 2 | 23808 | 24619 | 25430 | 26241 | 27052 | 27863 | 28674 | 29492 | 811 | 818 |
| 3 | 24996 | 25844 | 26692 | 27540 | 28388 | 29236 | 30084 | 30932 | 848 | 848 |
| 4 | 26087 | 26985 | 27883 | 28781 | 29679 | 30577 | 31475 | 32373 | 898 | 898 |
| 5 | 27335 | 28275 | 29215 | 30155 | 31095 | 32035 | 32975 | 33915 | 940 | 940 |
| 6 | 28865 | 29842 | 30819 | 31796 | 32773 | 33750 | 34727 | 35704 | 977 | 977 |
| 7 | 30461 | 31486 | 32511 | 33536 | 34561 | 35586 | 36611 | 37636 | 1025 | 1025 |
| 8 | 32178 | 33243 | 34308 | 35373 | 36438 | 37503 | 38568 | 39626 | 1065 | 1058 |
| 9 | 33972 | 35084 | 36196 | 37308 | 38420 | 39532 | 40644 | 41756 | 1112 | 1112 |
| 10 | 35915 | 37081 | 38247 | 39413 | 40579 | 41745 | 42911 | 44077 | 1166 | 1166 |
| 11 | 37998 | 39223 | 40448 | 41673 | 42898 | 44123 | 45348 | 46573 | 1225 | 1225 |
| 12 | 40172 | 41439 | 42706 | 43973 | 45240 | 46507 | 47774 | 49041 | 1267 | 1267 |
| 13 | 42555 | 43880 | 45205 | 46530 | 47855 | 49180 | 50505 | 51830 | 1325 | 1325 |
| 14 | 45018 | 46398 | 47778 | 49158 | 50538 | 51918 | 53298 | 54678 | 1380 | 1380 |
| 15 | 47631 | 49069 | 50507 | 51945 | 53383 | 54821 | 56259 | 57697 | 1438 | 1438 |
| 16 | 50299 | 51803 | 53307 | 54811 | 56315 | 57819 | 59323 | 60834 | 1504 | 1511 |
| 17 | 53130 | 54719 | 56308 | 57897 | 59486 | 61075 | 62664 | 64260 | 1589 | 1596 |
| 18 | 53339 | 55169 | 56999 | 58829 | 60659 | 62489 | 64319 | 67827 | 1830 | 3508 |
| 19 | 56231 | 58137 | 60043 | 61949 | 63855 | 65761 | 67667 | 71412 | 1906 | 3745 |
| 20 | 59108 | 61099 | 63090 | 65081 | 67072 | 69063 | 71054 | 74986 | 1991 | 3932 |
| 21 | 62242 | 64316 | 66390 | 68464 | 70538 | 72612 | 74686 | 78922 | 2074 | 4236 |
| 22 | 65588 | 67750 | 69912 | 72074 | 74236 | 76398 | 78560 | 83044 | 2162 | 4484 |
| 23 | 69058 | 71307 | 73556 | 75805 | 78054 | 80303 | 82552 | 87351 | 2249 | 4799 |
| 24 | 72735 | 75074 | 77413 | 79752 | 82091 | 84430 | 86769 | 91821 | 2339 | 5052 |
| 25 | 76748 | 79186 | 81624 | 84062 | 86500 | 88938 | 91376 | 96732 | 2438 | 5356 |
| 26 | 80791 | 83326 | 85861 | 88396 | 90931 | 93466 | 96001 | 99580 | 2535 | 3579 |
| 27 | 85165 | 87835 | 90505 | 93175 | 95845 | 98515 | 101185 | 104901 | 2670 | 3716 |
| 28 | 89648 | 92422 | 95196 | 97970 | 100744 | 103518 | 106292 | 110112 | 2774 | 3820 |
| 29 | 94349 | 97228 | 100107 | 102986 | 105865 | 108744 | 111623 | 115541 | 2879 | 3918 |
| 30 | 99278 | 102264 | 105250 | 108236 | 111222 | 114208 | 117194 | 121220 | 2986 | 4026 |
| 31 | 104570 | 107669 | 110768 | 113867 | 116966 | 120065 | 123164 | 127306 | 3099 | 4142 |
| 32 | 110130 | 113332 | 116534 | 119736 | 122938 | 126140 | 129342 | 133580 | 3202 | 4238 |

## APPENDIX D ARTICLE 21 Protection of Employees

## A. REDEPLOYMENT PROCESS AND PROCEDURES

This process and procedure is developed to support the provisions of Article 21 regarding the redeployment of permanent employees impacted by the State's right to contract out for goods and services.

It is the State's intent to redeploy employees affected to the maximum extent possible in instances where the positions will be eliminated as a result of the contracting out for goods and services. All agencies will work cooperatively to ensure that every opportunity to redeploy is explored. Employees will be flexible in considering redeployment alternatives.

**(1) General Redeployment Rules and Definitions**

**(a) Rules** 1.a. All employees whose functions will be contracted out will be placed on a redeployment list with the employees' eligibility remaining in effect until the employee is redeployed, exercises his or her displacement or reemployment rights, or is separated pursuant to the provisions of Article 21.1. However, such list, established pursuant to the intended contracting out of the specific function, will expire when all employees on that list are either redeployed, exercise their displacement or reemployment rights, or are separated pursuant to Article 21.1. In the event that not all employees in an affected title in a layoff unit must be redeployed, eligibility for retention shall be based on seniority as defined in Section 80 and 80(a) of the Civil Service Law, except that employees in such affected titles may voluntarily elect to be redeployed. In the event that more employees elect redeployment than can be accommodated, eligibility for redeployment shall be in order of seniority as defined in Section 80 and 80(a) of this law. The names of persons on a redeployment list shall be certified for redeployment in order of seniority.

(**b)** Should an employee not be redeployed prior to separation, that employee shall continue on a redeployment list after separation for a period not to exceed six (6) months or until the employee is redeployed or exercises his/her reemployment rights.

A redeployment list comprised of separated employees shall be certified to positions occupied by non-permanent employees pursuant

to Civil Service procedures, prior to the certification of other reemployment lists.

It is anticipated that, based on Civil Service practice, redeployment lists will be certified against non-permanent appointees within 30-45 days of separation.

(2) Redeployment under the terms of Article 21 shall not be used for disciplinary reasons.

(3) The State shall make its best efforts to arrange with other non-executive branch agencies, authorities and other governmental entities to place redeployed personnel should redeployment in the classified service not be possible.

(4) A vacancy in any State department or agency shall not be filled by any other means, except by redeployment, until authorized by the Department of Civil Service. Agencies with authority to fill vacancies will be required to use the redeployment list provided by the Department of Civil Service to fill vacancies.

(5) Employees offered redeployment shall have at least five (5) working days to accept or decline the offer.

(6) Full-time employees will be redeployed to full-time assignments and part-time employees will be redeployed to part-time assignments, unless the employees volunteer otherwise.

(7) Redeployment opportunities within RRSU shall first be offered to affected employees in the unit. Exceptions to this section may be agreed to by the Employment Security Committee.

(8) There shall be the following types of redeployment:

(a) Primary redeployment shall mean redeployment to the employee's current title or a title determined by the Department of Civil Service to have substantially equivalent tests, qualifications or duties. Comparability determinations shall be as broad as possible and will include consideration of the professional licenses or educational degrees required of the incumbents of the positions to be contracted out.

(b) Secondary redeployment shall mean redeployment to a title for which the employee qualifies by virtue of his or her own background and qualifications. Participation shall not be mandatory for either party. If an individual employee is interested in secondary redeployment, the State shall work with that employee to identify suitable available positions and arrange for placements. Should the

Department of Civil Service determine that an employee can be certified for appointment to a particular job title, such employee shall be placed on the appropriate reemployment roster immediately upon such determination. Appointments from such reemployment rosters shall be governed by Civil Service Law. The State shall make its best efforts to identify suitable available positions and arrange for placements. Secondary redeployment shall not be considered until primary redeployment alternatives are fully explored.

(c) Employees not successfully redeployed through their primary and secondary redeployment options may be temporarily appointed to positions in which they are expected to be qualified for permanent appointment within nine (9) months. At the discretion of the appointing authority and the Department of Civil Service, this period may extend to one year. Participation shall not be mandatory for either party.

When the employee completes the necessary qualification(s) for the position, such employee shall be permanently appointed to the position pursuant to Civil Service Law, Rules and Regulations.

If the employee fails to complete the required qualification(s) for the position, fails the required probation, or is otherwise not appointable, the employee's transition benefits shall be subject to the provisions of subsection 14(d) below.

In the event an employee completes the qualification(s) but is unappointable because of the existence of a reemployment list, that employee shall be placed on the reemployment roster for the title in question.

If the trainee employee is appointed pursuant to the foregoing to a higher level position, the employee shall retain his/her present salary while in a trainee capacity.

If the trainee employee is appointed pursuant to the foregoing to a lower level position, a trainee salary rate appropriate to the new position will be determined at the time of appointment.

(d) Employees who are redeployed to comparable titles or through secondary redeployment in a lower salary grade shall be placed on reemployment lists.

(9) Agencies with employees to be redeployed shall notify the Department of Civil Service of the name, title and date of appointment

of affected employees at least 90 days prior to the effective date of the contract for goods and services which makes redeployment necessary. If more than 90-days' notice is possible, such notice shall be provided. Agencies shall be responsible for managing the redeployment effort in conjunction with the Department of Civil Service. Employees to be redeployed shall be notified by their agency at the same time as the agency notifies the Department of Civil Service.

(10) Redeployment to current or comparable titles shall be accomplished without loss to the redeployed employee of compensation, seniority or benefits (except as benefits other than base salary are affected by new bargaining unit designations). Future increases in compensation of employees redeployed to comparable titles shall be determined by the position to which the employee is redeployed. Subsequently negotiated salary increases shall not permit an employee to exceed the second longevity step of the new position.

(11) Salary upon secondary redeployment shall be that appropriate for the salary grade to which the employee is redeployed, as calculated by the Office of the State Comptroller and/or the Director of Classification and Compensation, as appropriate.

(12) An employee may elect redeployment to any county in New York State, but the employee may not decline primary redeployment in his/her county of residence, or county of current work location. Such declination will result in separation without the transition benefits of Article 21.1(b) of the Agreement.

(13) Any fees required by the Agency or the Department of Civil Service upon the redeployment of an employee shall be waived. Redeployed employees who qualify for moving expenses under the State Finance Law Section 202 and the regulations thereunder shall be entitled to payment at the rates provided for in the Rules of the Director of the Budget 9 NYCRR Part 155.

(14) Probation

(a) Permanent non-probationers redeployed to positions in their own title or to titles for which they would not be required to serve a probationary period under Civil Service Law and Rules shall not be subject to further probation.

(b) Probationers redeployed to positions in their own title shall serve the balance of their probationary period in the new agency.

(c) Employees redeployed to comparable titles for which they

would be required to serve a probationary period under applicable Civil Service Law and Rules or under secondary redeployment shall be subject to a probationary period in accordance with the Rules for the Classified Service.

(d) Employees who fail probation shall be eligible for layoff and preferred list rights in their original titles. Additionally, such employees who fail probation shall have an opportunity to select either the transition benefit of an Educational Stipend as set forth in Appendix D(B), or the Severance Option as provided for in Appendix D(C). The value of the salary earned during the redeployed employee's probation (or in connection with 8(c) above) shall be subtracted from the value of the transition benefit, C(B) or C(C), chosen by the employee.

**(b) Definitions**

(1) Seniority shall be determined by Section 80 of the Civil Service Law for competitive class employees and by Article 22.1 of the Agreement for non-competitive and labor class employees.

(2) In the event that two or more employees have the same seniority date, the employee with the earliest seniority date in an affected title shall be deemed to have the greater seniority. Further tie breaking procedures shall be developed by the Committee and applied consistently.

**(2) Role of the Employment Security Committee**

The Committee shall meet at least bimonthly to discuss open issues related to the redeployment process. Such issues shall include, but not be limited to: comparability determinations; vacancy availability; information sharing in hiring and redeployment; dispute resolution, Civil Service layoff procedures; hardship claims from individual employees in the redeployment process. The Committee shall also explore the viability of expanding the redeployment concept to other reduction in force situations.

**(3) Grievability and Dispute Resolution**

(a) The application of terms of the Appendix shall be grievable only up to Step 3 of the provisions of Article 31 (Grievance and Arbitration Procedure).

(b) Disputes raised to the Step 3 level will be reviewed by the

Employment Security Committee for attempted resolution. If a decision must eventually be rendered and no resolution is agreed to, the decision shall be issued pursuant to the procedures outlined in Article 31.1(b).

## B. EDUCATION STIPEND

**(1) Eligibility**

(a) The Education Stipend shall solely apply to permanent employees who are eligible as per Article 21.1, who have agreed to accept the terms as set forth herein and have been notified of their acceptance by the State.

(b) Employees who have exercised one of the options described in Article 21.1(b)(ii), (iii) of the Agreement and related Appendices shall be ineligible for the Education Stipend set forth herein.

**(2) Stipend**

An employee may elect to receive an Education Stipend for full tuition and fees at an educational institution or organization of the employee's choosing to pursue course work or training offered by such institution or organization provided, however, that the employee meets the entrance and/or course enrollment requirements. The maximum stipend cannot exceed the one-year (two semesters) SUNY tuition maximum for Resident Graduate Students. Such tuition will be paid by the State directly to the institution in which the employee is pursuing course work, subject to certification of payment by the agency.

**(3) Health Insurance**

A permanent affected employee who elects the Education Stipend and is separated, shall continue to be covered under the State Health Insurance Plan at the same contribution rate as an active employee for one year following such separation or until reemployment by the State or employment by another employer, whichever occurs first.

**(4) Grievability and Dispute Resolution**

(a) The application of terms of the Appendix shall be grievable only up to Step 3 of the provisions of Article 31 (Grievance and Arbitration Procedure).

(b) Disputes raised to the Step 3 level will be reviewed by the Employment Security Committee for attempted resolution. If a

decision must eventually be rendered and no resolution is agreed to, the decision shall be issued pursuant to the procedures outlined in Article 31.1(b).

## C. SEVERANCE OPTION

**(1) Definitions**

(a) The terms "affected employee" and "affected employees" shall refer to those employees of the State of New York who are represented by District Council 37 and who are subject to redeployment pursuant to provisions of Article 21.1, unless otherwise indicated herein.

(b) The term "Service" shall mean an employee's State service as would be determined by the Retirement System, regardless of jurisdictional class or Civil Service status.

**(2) Eligibility**

(a) The severance benefits provided by this Severance Option shall apply solely to permanent employees who are eligible pursuant to Article 21.1, and

(b) Who have agreed to accept the terms as set forth herein; have been notified of their acceptance by the State; have executed a Severance Agreement; and are subject further to the limitations set forth in Section 2(c) below.

(c) Employees who have declined a primary redeployment opportunity in county of residence, or county of work location or exercise one of the options described in Article 21.1(b) (i) or (iii) shall be ineligible for the severance benefits set forth in this Severance Option.

**(3) Payment Schedule**

(a) Other than those covered under (b) below, all affected employees with at least six (6) months, but less than one year of service are eligible to receive $2,000 or two weeks' base pay, whichever is greater.

Each additional year of service will result in a $600 increase per year to a maximum of $15,000. However, employees in the following categories will receive the amount specified if that amount exceeds that which would be otherwise payable:

| | |
|---|---|
| One year of service, but less than three years of service. | 4 Weeks of Base Pay |
| Three years of service, but less than five years of service. | 6 Weeks of Base Pay |
| Five years of service, but less than ten years of service. | 8 Weeks of Base Pay |
| Ten years of service, but less than fifteen years of service. | 10 Weeks of Base Pay |
| Fifteen years of service but less than twenty years of service. | 12 Weeks of Base Pay |
| Twenty or more years of service. | 14 Weeks of Base Pay |

(b) Affected employees 50 years of age or over may choose the schedule in (a) above or the following at their option:

- employees with 10 years of service, but less than 15 are eligible to receive 20% of base annual salary;
- employees with 15 years of service, but less than 20 are eligible to receive 30% of base annual salary;
- employees with 20 years of service, but less than 25 are eligible to receive 40% of base annual salary;
- employees with 25 years of service or more are eligible to

receive 50% of base annual salary.

**(4) Payment Conditions**

(a) All payments made to affected employees under the Severance Option shall be reduced by such amounts as are required to be withheld with respect thereto under all federal, state and local tax laws and regulations and any other applicable laws and regulations. In addition, the severance payment made pursuant to Section 3 of this Severance Option shall not be considered as part of salary or wages for the purposes of determining State and member pension contributions and for the purposes of computing all benefits administered by the New York State Employees' Retirement System.

(b) All payments made to affected employees under this Severance Option are considered to be one-time payments and shall not be pensionable. Each affected employee must execute a Severance Agreement (sample hereto) prior to separation from State service in order to be eligible to receive said payment.

(c) In no event shall an affected employee who returns to State service receive severance pay in an amount that would exceed that which he or she would otherwise have received as base annual salary during the period of separation from State service. Should the amount of severance pay exceed the amount of base annual pay otherwise earned during the period of separation from State service, said employee shall repay the difference pursuant to the following rules:

(i) Any affected employee who resumes State service shall repay such excess payments received within one (1) year of the employee's return to payroll, by payroll deductions in equal amounts.

(ii) Nothing in this Section 4(c) shall affect the State's right to recover the full amount of the monetary severance payment by other lawful means if it has not recovered the full amount by payroll deduction within the time periods set forth herein.

**(5) Grievability and Dispute Resolution**

(a) The application of terms of the Appendix shall be grievable only up to Step 3 of the provisions of Article 31 (Grievance and Arbitration Procedure).

(b) Disputes raised to the Step 3 level will be reviewed by the Employment Security Committee for attempted resolution. If a

decision must eventually be rendered and no resolution is agreed to, the decision shall be issued pursuant to the procedures outlined in Article 31.1(b).

**(6) Health Insurance**

A permanent affected employee who elects the severance option and is separated, shall continue to be covered under the State's Health Insurance Plan at the same contribution rate as an active employee for one year following such separation or until reemployment by the State or employment by another employer, whichever occurs first.

**(7) Savings Clause**

If any provision of this Severance Option is found to be invalid by a decision of a tribunal of competent jurisdiction, then such specific provision or part thereof specified in such decision shall be of no force and effect, but the remainder of this Severance Option shall continue in full force and effect.

## SAMPLE SEVERANCE AGREEMENT

I hereby apply for the severance benefits as described in the Severance Option (Appendix E(C)) to the 2011-2016 Collective Bargaining Agreement) and agree to accept such benefits if my application is approved by the State of New York. I understand that the State of New York shall approve applications of all employees who are eligible to apply for such benefits pursuant to the provisions of Section 21.1 of the 2011-2016 Collective Bargaining Agreement.

I understand that by accepting these severance benefits, I agree to be bound by the terms and conditions set forth in Appendix E(C), which is incorporated herein by reference. These terms and conditions include the following:

I understand that I shall not be required to make any payment on account of the monetary severance payment and/or any other benefits I receive pursuant to this agreement into any Retirement or Pension System or Plan of which I am or may become a member, nor shall any such payment be permitted.

I understand that the State of New York shall not be required to make any contribution or payment into any Retirement or Pension System or Plan of which I am or may hereafter become a member based upon the monetary severance payment, and/or any other benefits

I receive pursuant to this agreement.

I understand that any monetary severance payment and/or other benefits paid to me pursuant to this agreement shall not be considered in computing the amount of benefits or allowances to which I or my beneficiaries or heirs may be entitled under any Retirement or Pension System or Plan of which I am or may hereafter become a member.

I understand that, in exchange for my agreement to all the terms and conditions set forth in Appendix E(c), the State will do the following:

The State will pay me a monetary severance payment in the amount determined in accordance with my length of service, as described in Appendix E(c).

This written agreement, including Appendix E(c) referenced herein, contains all the terms and conditions agreed upon by the parties. In the event that the terms of this agreement conflict with the 2011-2016 Collective Bargaining Agreement between the State and District Council 37, the terms of the 2011-2016 Collective Bargaining Agreement shall prevail.

I accept the severance benefits as described in Appendix E(c) to the 2007-2011 Collective Bargaining Agreement between District Council 37 and the State of New York.

Please print:

_____

Employee's Name

_____

Employee's NYS EMPLOYEE ID No..

_____

Employee's Agency

_____

Employee's Civil Service Title

_____

Signed

_____

Date

Sworn to before me this

_____date of
_____,
Notary Public
_____

## APPENDIX E - Leave Donation

This Appendix describes the leave donation program applicable to employees of the Rent Regulation Services Unit. Detailed guidelines on program administration are contained in Attendance and Leave Manual Appendix H.

**Program Description**

The intent of the Leave Donation Program is to provide a means of assisting employees who, because of long-term personal illness, have exhausted their accrued leave credits and would otherwise be subject to a severe loss of income during a continuing absence from work. This Appendix extends the current provisions of the Leave Donation Program.

**Eligibility Criteria - Donors**

In order to donate vacation credits an employee of this unit must:

- have a minimum vacation balance of at least ten days after making the donation, based on the donor's work schedule. Vacation credits which would otherwise be forfeited may not be donated; and
- donor identity is kept strictly confidential.

is kept strictly confidential.

**Eligibility Criteria - Recipients**

In order to receive donated leave credits, an employee of this unit must:

- be subject to the Attendance Rules or otherwise eligible to earn leave credits;
- be absent due to a non-occupational personal illness or disability for which medical documentation satisfactory to management is submitted as required;
- have exhausted all leave credits;
- be expected to continue to be absent for at least two biweekly payroll periods following exhaustion of leave credits or sick leave

at half-pay;

- must not have had any disciplinary actions or unsatisfactory performance evaluations within the employee's last three years of State employment.

**Donation to and from Employees in Other Units**

Employees of this Unit may participate in the voluntary donation or receipt of accrued vacation credits with employees of other bargaining units or those designated M/C subject to the following conditions:

- Vacation credits may only be donated, received, or credited between employees who are deemed eligible to participate in an authorized leave donation program, provided that there are simultaneously in effect a Leave Donation Exchange Memorandum of Agreement between the Governor's Office of Employee Relations and the employee organizations representing both the proposed recipient and the proposed donor, or applicable attendance rules for managerial or confidential employees, that authorize such donation.
- The donations are governed by the provisions of the program applicable to the donor; receipt, crediting and use of donations are governed by the provisions of the program applicable to the recipient.

**Restrictions on Donations**

Only vacation credits which would not otherwise be forfeited may be donated. Credits must be donated in full-day units (7.5 or 8 hours). There is no limit on the number of times an eligible donor may make donations. Donated credits not used by recipients are returned to the donor, provided the donor is employed in the same agency as the recipient. Donated credits from employees outside the agency will NOT be returned.

There is no maximum number of days which a recipient employee may accept, provided, however, that donated credits cannot be used to extend employment beyond the point it would otherwise end by operation of law, rule or regulation. There is no maximum number of donors from whom an eligible employee may accept donations.

An employee's continuing eligibility to participate in this program must be reviewed by the agency personnel office at least every 30 days and more frequently if appropriate, based on current standards as to what constitutes satisfactory medical documentation.

**Use of Donated Credits**

Donated credits may be used, at the employee's option, in full-day units after exhaustion of all leave credits and prior to sick leave at half-pay or in either full- or half-day units after exhaustion of sick leave at half-pay.

An employee who opts to use donated credits prior to sick leave at half-pay is permitted to again participate in this program following exhaustion of sick leave at half-pay. Use in full- or half-day units is based on the recipient employee's work schedule.

Donations made across agency lines shall be used prior to donations made within the agency.

**Status of Recipient Employees**

Recipient employees are deemed to be in leave without pay status for attendance and leave purposes while charging donated leave credits. They do not earn biweekly accruals or observe holidays, nor do they receive personal leave or vacation bonus days if their anniversary dates fall while using donated leave credits. Time charged to donated leave credits does not count as service for earning additional eligibility for sick leave at half-pay.

Employees using donated leave receive retirement service credit for days in pay status. Health insurance premiums, retirement contributions and other payroll deductions continue to be withheld from the employee's paycheck so long as the check is of an amount sufficient to cover these deductions.

**Solicitations**

Donations may be solicited by the recipient employee, on his or her behalf by coworkers or by local union representatives. The

employing agency may not solicit donations on the employee's behalf.

**Administrative Issues**

The employing department or agency is responsible for verifying medical documentation, reviewing eligibility requirements, approving and processing donations, confirming employee acceptance of donations and transferring credits. This program is not subject to the grievance procedure contained in this Agreement.

For purposes of this Appendix, family shall be defined as any relative
or any relative-in-law regardless of place of residence, or any person with whom the employee makes his or her home.

## APPENDIX F - Productivity Enhancement Program

This Appendix describes the Productivity Enhancement Program (PEP) available to employees in the Rent Regulation Services Unit (RRSU). Detailed guidelines on program administration will be issued by the Department of Civil Service.

**Program Overview**

Eligible employees may elect to participate in the Productivity Enhancement Program. As detailed below, this program allows eligible employees to exchange previously accrued annual leave (vacation) and/or personal leave in return for a credit to be applied toward their employee share NYSHIP premiums on a biweekly basis.

The program will be available effective July 1, 2014 for calendar year 2014 and the entire calendar year in 2015, and 2016. During each of these years the credit will be divided evenly among the State paydays that fall between January 1 and December 31.

Disputes arising from this program are not subject to the grievance procedure contained in this Agreement. This is a pilot program that will sunset on December 31, 2016 unless extended by mutual agreement of the parties.

**Eligibility/Enrollment**

In order to enroll an employee must:

- be a classified or unclassified service employee in a title below, or equated to a position below, Salary Grade 25;

- be an employee covered by the 2011-2016 New York State/DC-37 Collective Bargaining Agreements;

- have a sufficient leave balance to make the full leave forfeiture at the time of enrollment without bringing their combined annual and personal leave balances below 8 days; and
- be a NYSHIP enrollee (contract holder) in either the Empire Plan or an HMO at the time of enrollment.

- Part-time employees who meet these eligibility requirements will be eligible to participate on a prorated basis.

Once enrolled for a given year, employees continue to participate unless they separate from State service or cease to be NYSHIP contract holders. Leave forfeited in association with the program will not be returned, in whole or in part, to employees who cease to be eligible for participation in the program.

During any calendar year in which an employee participates, the credit established upon enrollment in the program will be adjusted only if the employee moves between individual and family coverage under NYSHIP during that calendar year.

With the exception of calendar year 2014, open enrollment will be offered during the month of November of each year PEP is offered. The exact dates of open enrollment will be established by the Department of Civil Service. Employees will be required to submit a separate enrollment for each calendar year in which they wish to participate.

**Calendar Year 2014**

Effective July 1, 2014, full-time employees in Salary Grades 1-17 (or non-statutory employees with an annual salary no greater than the

job rate of SG-17) who enroll in this portion of the program will forfeit a total of 1.5 or 3 days of annual and/or personal leave standing to their credit at the time of enrollment in return for a credit of up to $250 or $500 to be applied toward the employee share of NYSHIP premiums deducted from biweekly paychecks issued between July 1, 2014 and December 31, 2014.

Effective July 1, 2014, full-time employees in Salary Grades 18 (or non-statutory employees equated to SG-18, or in the absence of that, employees with an annual salary exceeding the job rate of SG-17) to 24 (or non-statutory employees with an annual salary no greater than the job rate of SG-24) who enroll in this portion of the program will forfeit a total of 1 day or 2 days of annual and/or personal leave standing to their credit at the time of enrollment in return for a credit of up to $250 or $500 to be applied toward the employee share of NYSHIP premiums deducted from biweekly paychecks issued between July 1, 2014 and December 31, 2014.

**Calendar Year 2015**

Full-time employees in Salary Grades 1-17 (or non-statutory employees with an annual salary no greater than the job rate of SG-17) who enroll in this portion of the program will forfeit a total of 3 or 6 days of annual and/or personal leave standing to their credit at the time of enrollment in return for a credit of up to $500 or $1,000 to be applied toward the employee share of NYSHIP premiums deducted from biweekly paychecks issued between January 1, 2015 and December 31, 2015.

Full-time employees in Salary Grades 18 (or non-statutory employees equated to SG-18, or in the absence of that, employees with an annual salary exceeding the job rate of SG-17) to 24 (or non-statutory employees with an annual salary no greater than the job rate of SG-24) who enroll in this portion of the program will forfeit a total of 2 or 4 days of annual and/or personal leave standing to their credit at the time of enrollment in return for a credit of up to $500 or $1,000 to be applied toward the employee share of NYSHIP premiums deducted from biweekly paychecks issued between January 1, 2015 and December 31, 2015.

**Calendar Year 2016**

Full-time employees in Salary Grades 1-17 (or non-statutory employees with an annual salary no greater than the job rate of SG-

17) who enroll in this portion of the program will forfeit a total of 3 or 6 days of annual and/or personal leave standing to their credit at the time of enrollment in return for a credit of up to $500 or $1,000 to be applied toward the employee share of NYSHIP premiums deducted from biweekly paychecks issued between January 1, 2016 and December 31, 2016.

Full-time employees in Salary Grades 18 (or non-statutory employees equated to SG-18, or in the absence of that, employees with an annual salary exceeding the job rate of SG-17) to 24 (or non-statutory employees with an annual salary no greater than the job rate of SG-24) who enroll in this portion of the program will forfeit a total of 2 or 4 days of annual and/or personal leave standing to their credit at the time of enrollment in return for a credit of up to $500 or $1,000 to be applied toward the employee share of NYSHIP premiums deducted from biweekly paychecks issued between January 1, 2016 and December 31, 2016.

Eligible part-time employees:

- In Salary Grades 1-17 who participate during 2014 will forfeit a total of 1.5 or 3 prorated days of annual and/or personal leave and/or during 2015 and/or 2016 will forfeit 3 or 6 prorated days of annual and/or personal leave per year of participation and receive a prorated credit toward the employee share of their health insurance premiums based on their payroll percentage; in

- Salary Grades 18-24 during 2014 will forfeit a total of 1 or 2 prorated days of annual and/or personal leave and/or during 2015 and/or 2016 will forfeit 2 or 4 days of annual and/or personal leave per year of participation and receive a prorated credit toward the employee share of their health insurance premiums based on their payroll percentage.

## APPENDIX G Voluntary Reduction in Work Schedule

## PROGRAM GUIDELINES

**Introduction**

Voluntary Reduction in Work Schedule (VRWS) is a program that allows employees to voluntarily trade income for time off. The VRWS program is available to eligible annual-salaried employees in the Rent Regulation Services Unit (RRSU). Individual VRWS agreements may be entered into for any number of payroll periods up to a maximum of 26 biweekly pay periods in duration and must expire at the end of the last payroll period in the fiscal year.

**(1) Purposes**

(a) VRWS provides agencies with a flexible mechanism for allocating staff resources.

(b) VRWS permits employees to reduce their work schedules to reflect personal needs and interests.

**(2) Limitations**: Eligibility, Work Schedule Reduction, Terms of VRWS

(a) Eligibility: This program is available to certain annual-salaried employees in the RRSU

Employees are required to be employed to work on a full-time annual-salaried basis for a minimum of one biweekly payroll period immediately prior to the time of entry into the VRWS Program. Time on paid or unpaid leave from a full-time annual salaried position satisfies this requirement

and

Employees must remain in a full-time annual-salaried position during the term of the VRWS agreement

and

Employees must have one continuous year of State service on a qualifying schedule (any schedule which entitled the employee to earn leave credits, not necessarily a full-time schedule).

Consistent with the way in which creditable service is counted under the Attendance Rules, separations of less than one year and periods of leave without pay of any duration are not counted toward the one-year service requirement but do not constitute a break in service. Employees who separate from State service (through resignation, termination, layoff, etc.) for more than one year cannot count service preceding that break in service toward the one-year requirement (unless the employee is reinstated by the Civil Service Commission or Department or appointed while on a preferred list) Payroll periods of VRWS participation, Sick Leave at Half-Pay, or Workers' Compensation Leave and time on the Leave Donation Program will count toward the one-year service requirement.

(b) Work Schedule Reduction: Participating employees may reduce their work schedules (and salaries) a minimum of 5 percent, in 5 percent increments, up to a maximum of 30 percent.

(c) Term of VRWS Program: Effective with the first full biweekly payroll period in October 2000, the VRWS program will commence for employees in the RRSU.

(3) Description of an Employee VRWS Agreement

(a) An employee develops a plan for a reduced work schedule.

(b) Management reviews and approves the plan as long as it is consistent with operating needs.

(c) Jointly agreed plan specifies:

(1) Duration of VRWS agreement which may be up to a maximum of 26 biweekly payroll periods with the VRWS agreement expiring the last day of the last payroll period in the fiscal year.

(2) Percentage reduction of work schedule and salary.

(3) Amount of VR time earned in exchange for reduced salary.

(4) Schedule for use of VR time earned. This may be either a fixed schedule, e.g., every Friday, every Wednesday afternoon, an entire month off, etc., or intermittent time off.

(i) An employee's fixed schedule VR time off, once the VRWS schedule has been agreed upon by management, cannot be

changed without the consent of the employee except in an emergency. In the event an employee's schedule is changed without his or her consent, the employee may appeal this action through an expedited grievance procedure.

(ii) VR time used as intermittent time off will be subject to scheduling during the term of the VRWS agreement, and will require advance approval by the employee's supervisor.

(d) While the VRWS agreement is in effect, the employee will earn and accumulate VR credits in accordance with the percentage reduction in work week, e.g., a ten (10) percent reduction will result in 7.5 or 8 hours of VR credit earned each payroll period which the employee will charge on his or her scheduled VR absences. If the employee's VRWS schedule calls for one-half day off every Friday afternoon, 3.75 or 4 hours of VR credits will be charged for each Friday. An employee whose VRWS agreement calls for a ten (10) percent reduction and taking an entire month off will work his or her full 37.5 or 40 hours each week, accrue 7.5 or 8 hours of VR credit each payroll period, and have the accumulated VR credits to use during that month.

(e) The employee never goes off the payroll. The employee remains in active pay status for the duration of the agreement and receives pay checks each payroll period at the agreed-upon, temporarily reduced level.

(f) The employee will work a prorated share of his or her normal work schedule over the duration of the agreement period.

(g) Participation in the VRWS program will not be a detriment to later career moves within the agency or the State.

(h) Scheduled non-work time taken in accordance with a VRWS agreement shall not be considered to be an absence for the purpose of application of Section 4.5(f) of the Civil Service Rules governing probationary periods.

(4) Time Limits

The employee and management can establish a VRWS agreement on a fiscal year basis of any number of payroll periods in duration from one (1) to twenty-six (26). The VRWS contract must expire the last day of the last payroll period in the fiscal year. The VRWS agreement must begin on the first day of a payroll period and end on the last day of a payroll period. VRWS ending balances must be segregated for

each fiscal year. The employee and management may, by agreement, discontinue or modify the VRWS agreement if the employee's needs or circumstances change.

(5) Time Records Maintenance

(a) All VRWS schedules will be based on the crediting and debiting of VR credits on the employee's time card against a regular 37.5 or 40 hour workweek.

(b) VR credits earned during an agreement may be carried on the employee's time card past the end of the individual VRWS agreement and past the end of the fiscal year but must be liquidated by September 30 following the end of the fiscal year in which the individual VRWS agreement expires. VRWS ending balances must be segregated for each fiscal year.

(c) There is no requirement that existing paid leave credits (including previously earned and banked VR credits) be exhausted prior to the beginning of the new VRWS agreement. However, agencies should encourage employees to use carried-over VR credits on a priority basis.

(6) Advancing of VR Credits; Recovering a VR Credit Debit

(a) To accommodate an employee whose VRWS agreement calls for an extended absence during the agreement period, an agency may advance VR credits in an amount not to exceed the number of hours for which the employee is paid in one payroll period.

(b) If an employee terminates his or her employment and has a VR debit, the agency shall recover the debit from the employee's lagged salary payment for his or her last payroll period at work.

(7) Coordination with Alternative Work Schedules

It is possible to coordinate VRWS agreements with Alternative Work Schedule arrangements when desired by the employee and consistent with operating needs. For example, a VRWS agreement may be combined with four-day week scheduling for a 37.5 hour/week employee by the employee opting for a ten (10) percent reduction to produce a workweek of 3 days of 8.5 hours and 1 day of 8.25 hours. Such a schedule would generate savings for the employee of commuting expenses, child care costs, etc. An alternative work schedule which applies to a single employee is considered to be an

individualized work schedule and does not require approval through the normal Alternative Work Schedule approval process.

(8) Effect on Benefits and Status

The effect of participation in the VRWS program on benefits and status is outlined in Appendix A (attached).

(9) Effect on Overtime Payment for Overtime Eligible Employees

Scheduled absences charged to VR credits, unlike absences charged to leave credits, are not the equivalent of time worked for purposes of determining eligibility for overtime payments at premium rates within a workweek. For example, an employee who, under an 80 percent VRWS schedule, works four (4) days, charges the fifth day to VR credits, and is called in to work a sixth day, will not be considered to have worked the fifth day and thus will not be entitled to premium rate payments on the sixth day. Similarly, VR credits earned, banked and charged after the payroll period in which they are earned are not counted in determining eligibility for overtime in the workweek in which they are charged. However, employees who work full time at reduced salary and bank VR credits who, as the result of working and charging leave accruals other than VR credits, exceed their normal 37.5 or 40-hour workweek continue to be eligible for overtime compensatory time and paid overtime in that workweek as appropriate.

Sections 135.2(h) and (i) of Part 135 of the Budget Director's Overtime Rules are waived to the extent necessary to permit payment of overtime compensation to overtime-eligible employees who are participating in this program.

(10) Discontinuation or Suspension of VRWS Agreements

Although VRWS agreements are for stated periods of time, they can be discontinued by mutual agreement at the end of any payroll period. VR agreements may be discontinued, at management discretion, when an employee is promoted, transferred or reassigned within an agency, facility or institution, although VR credits must be carried forward on the employee’s time record.

VR agreements may also be discontinued when an employee moves between agencies or between facilities or institutions within an agency. (See Provisions for Payment of Banked (unused) VR Time in Exceptional Cases below.)

Employees who go on sick leave at half-pay for 28 consecutive calendar days, who receive leave donation credits for 28 consecutive calendar days or who are absent because of a work-related injury or illness for 28 consecutive calendar days will have their VRWS agreement suspended and be returned to their normal full-time work schedule and pay base. VR agreements are suspended on the day employees begin to receive Short Term Disability (STD) or Long Term Disability (LTD) benefits under the Income Protection Plan. Suspension of a VR agreement does not extend the agreement beyond its scheduled termination date. If the employee returns to work prior to the scheduled termination date of the VR agreement, the employee's participation in the VR agreement resumes and continues until the scheduled termination date, unless both parties agree to terminate the agreement.

(11) Provisions for Payment of Banked (Unused) VR Time in Exceptional Cases

The VRWS program is intended to be a program that allows employees to voluntarily trade income for time off. The agreement for program participation between the employee and management includes a plan for the use of VR time earned. Management must make every effort to ensure that VR time earned by an employee is used (1) under the terms of the individual VRWS agreement, (2) before the September 30th liquidation date (see section 5(b)), (3) before the employee separates from State service, and (4) while the employee is on the job he or she was in when the VRWS program agreement was made. If this is not possible, payment for banked (unused) VR time may be made in exceptional cases that fall under the following criteria:

(a) Upon layoff, resignation from State service, termination, retirement or death, unused VR time will be paid at the then current straight time rate of pay.

(b) Upon movement of an employee from one agency to another or between facilities or institutions within an agency, unused VR time will be paid at the then current straight time rate of pay by the agency or facility/institution in which the VR time was earned, unless the employee requests and the new agency or facility/institution accepts the transfer of the VR time on the employee's time card. The lump sum

payment for VR balances upon movement to another agency or facility/institution will be made irrespective of whether or not the employee is granted a leave of absence from the agency where the VR time was earned. Payment will be made within two payroll periods following the move to the new agency/facility/institution.

(c) VRWS ending balances must be segregated for each fiscal year. Employees who accumulate VR time in a fiscal year and who are unable to use the VR time by the applicable September 30 liquidation date due to management requirements predicated on workload will be paid at the then current straight time rate of pay. Payment will be made within two payroll periods following the applicable September 30 liquidation date. Requests for payment in these exceptional cases described in this subparagraph, as distinct from those specified in subparagraphs (a) and (b) above, should be directed to GOER Research Division-VRWS Program and will be decided on a case-by-case basis.

In all cases where payment for unused VR time is made, notification of payment must be sent to GOER Research Division VRWS Program. Such notification must include date of payment, circumstances of payment, employee's name, title, number of hours in the employee's normal workweek (37.5 or 40), number of days of unused VR time, daily rate of pay, and gross dollar amount of payment. In addition, agencies must certify that they have not already used these savings for replacement staff in other programs or, if they have, identify another funding source for the payment.

(12) Review of VRWS Denials

(a) Individual Requests

An employee whose request to participate in the VRWS program has been denied shall have the right to request a written statement of the reason for the denial. Such written statement shall be provided within five (5) working days of the request. Upon receipt of the written statement of the reason for the denial, the employee may request a review of the denial by the agency head or the designee of the agency head. Such requests for review must be made, and will be reviewed, in accordance with the following procedure:

(1) Requests must be submitted by the employee or the employee's representative within ten (10) working days of receipt of the written

statement or of the date when the written statement was due.

(2) Requests must be submitted to the official who serves as the agency head's designee at Step 2 of the grievance procedure. Employees of facilities must concurrently provide a copy of such request to the facility head.

(3) Such requests shall specify why the employee believes the written reasons for the denial are improper. The request must explain how the employee believes his or her work can be reorganized or reassigned so that his or her participation in the VRWS program will not unduly interfere with the agency's program operations.

(4) The designee of the agency head shall review the appeal and make a determination within ten (10) working days of receipt. The determination shall be sent to the employee and a copy shall be sent to the President of DC-37. The determination shall be based on the record, except that the agency head's designee may hold a meeting with the employee and/or the employee's supervisors if the designee believes additional information or discussion is required to make a determination. If the employee believes that there are special circumstances that make a meeting appropriate, the employee may describe these circumstances in addition to providing the information specified in paragraph 3 above, and request that a review meeting be held. The agency head's designee shall consider such request in determining whether or not to hold a review meeting.

(5) The determination of the agency head's designee shall not be subject to further appeal.

(b) Facility-Wide or Agency-Wide Practices

When DC-37 alleges that an agency or a facility, or a sub-division thereof, has established a practice of routinely denying employee applications to participate, this matter shall be an appropriate subject for discussion in a labor/management committee at the appropriate level. Such labor/management discussions shall be held in accordance with Article 23 of the Agreement.

(13) Exceptions

The restrictions and limitations contained in these Program Guidelines may be waived by the Governor's Office of Employee Relations whenever that Office determines that strict adherence to the guidelines would be detrimental to the sound and orderly

administration of State government.

**Effect on Benefits and Status**

Annual Leave - Prorate accruals based on the employee's VRWS percentage.

Personal Leave - Prorate credits based on the employee's VRWS percentage.

Sick Leave at Full Pay - Prorate accruals based on the employee's VRWS percentage.

Holidays - No change in holiday benefit.

Sick Leave at Half-Pay - There is no impact on eligibility or entitlement. Employees who go on sick leave at half-pay for 28 consecutive calendar days will have their VRWS agreement suspended and be returned to their normal full-time work schedule and pay base.

Workers' Compensation Benefits - There is no impact on eligibility for entitlement to workers' compensation benefits pursuant to rule or contract. Following 28 consecutive calendar days of absence due to a work-related injury or illness, the VRWS agreement is suspended and the employee is returned to his or her normal full time work schedule and pay base. (See subsection 10 above)

Disability under the Income Protection Plan - An employee’s VRWS agreement is automatically suspended on the day the employee begins receiving STD/LTD benefits.

Leave Donation - Employees who are absent using donated leave credits for 28 consecutive calendar days will have their VRWS agreement suspended.

Military Leave - No impact on eligibility or entitlement.

Jury-Court Leave - No impact on eligibility or entitlement.

Paid Leave Balances on Time Card - There is no requirement that leave credits be exhausted prior to the beginning of the VRWS agreement. Vacation, sick leave and holiday balances are carried forward without adjustment; the personal leave balance is prorated.

Shift Pay - Prorate.

Inconvenience Pay - Prorate.

Location Pay - Prorate.

Geographic Pay - Prorate.

Pre-Shift Briefing - Prorate.

Standby Pay - No impact.

Salary - Normal gross salary earned is reduced by the percentage of voluntary reduction in work schedule. There is no effect on the base annual salary rate.

Payroll - The employee never leaves the payroll. An employee remains in full payroll status with partial pay for the duration of the agreement period and receives pay checks each pay period at the agreed upon temporarily reduced level.

Return to Normal Work Schedule - An employee will return to his or her normal full-time work schedule and pay basis upon completion of the VRWS agreement period.

Banked (Unused) VR Time Upon Return to Normal Work Schedule - VR time credits may be carried forward on the employee's time card after completion of the individual VRWS agreement period but must be liquidated by the September 30 after the end of the fiscal year in which the employee's individual agreement expires. VRWS ending balances must be segregated for each fiscal

year.

Banked (Unused) VR Time Upon Separation - Unused VR time credits will be paid at the straight time rate upon layoff, resignation from State service, termination, retirement or death.

Banked (Unused) VR Time Upon Promotion, Transfer or Reassignment Within an Agency or Within a Facility or Institution - Unused VR time credits are carried forward on the employee's time card when movement is within an appointing authority. Continuation of the VRWS program agreement is at the discretion of management.

Banked (Unused) VR Time Upon Movement From One Agency to Another or Between Facilities or Institutions Within an Agency - Unused VR time credits will be paid at the straight time rate by the agency or facility/institution in which the VR time was earned, unless the employee requests and the new agency or facility/institution accepts the transfer of VR time on the employee's time card.

Health Insurance - No effect; full coverage.

Dental Insurance - No effect; full coverage.

Employee Benefit Fund - No effect.

Survivor's Benefit - No effect.

Retirement Benefit Earnings - Participation will reduce final average salary if the VRWS period is included in three (3) years of earnings used to calculate final average salary.

Retirement Service Credit - Prorate.

Social Security - There is no change in the contribution rate, which is set by Federal Law and applied to the salary that the employee is paid.

Unemployment Insurance - No change; formula set by statute.

Performance Advance or Increment Advance - Evaluation date is not changed; no change in eligibility.

Performance Award or Lump Sum Payment - No impact; no change in eligibility.

Longevity Increase - No change in eligibility.

Probationary Period - No effect; scheduled non-work time under a VR agreement is not an absence for this purpose.

Traineeship - No effect; traineeships are not extended by scheduled non-work time under a VR agreement.

Layoff - No impact; seniority date for layoff purposes is not changed.

Seniority - No impact; employee never leaves the payroll; seniority date is not changed; full seniority credit is earned.

Seniority for Promotion Examinations - No impact; VR time used shall be counted as time worked in determining seniority credits for promotion exams.

Eligibility for Promotion Examinations - No impact; VR time used shall be counted as time worked in determining eligibility for promotion exams.

Eligibility for Open Competitive Examinations - Prorate; VR time used shall not be considered time worked for determining length of service for open competitive examinations.

Overtime Work - VR time used shall not be counted as time worked in determining eligibility for overtime payments at premium rates within a workweek.

## NOTES