

AGREEMENT

between

**SEIU HEALTHCARE
MINNESOTA**

and the

STATE OF MINNESOTA

July 1, 2015 through June 30, 2017

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PREAMBLE

This Agreement is made and entered into this 22nd day of May, 2015 by and between the State of Minnesota, hereinafter referred to as the "State," and SEIU Healthcare Minnesota, hereinafter referred to as the "Union."

This Agreement has as its purpose the promotion of harmonious relations, with mutual dignity and respect, between the parties; the establishment of an equitable and peaceful procedure for the resolution of differences; the establishment of rates of pay and other conditions of employment; and to express the full and complete understanding of the parties relative to all terms and conditions of employment covered by the Agreement.

The State and the Union share a commitment to strengthening and improving the home care programs on which people with disabilities and seniors rely. The State and the Union agree that recipients of in-home care should be provided with the highest possible quality of services and supports consistent with the principles of self-direction.

The parties recognize the importance of involving both Individual Providers and Participants in strategy decisions and policymaking, and that nothing in this Agreement is intended to supersede or interfere with the principles of participant self-direction.

The parties also recognize and respect the critical services provided by Individual Providers, their professionalism and dedication, and the importance of their contribution to the development of the best possible workforce and the delivery of high quality services to self-directed program participants in the State of Minnesota.

The parties acknowledge that the State is the employer of Individual Providers for purposes of collective bargaining as defined under Minnesota Statutes Section 179A.54.

If the parties mutually agree during the term of this Agreement, the Agreement may be modified by additional provisions relating to specific conditions covering the terms of employment stated herein. Any Agreement which is to be included as a part of this Agreement must so indicate, must be reduced to writing, and must be signed by the parties to this Agreement.

DEFINITION OF TERMS

The following terms shall be interpreted as indicated below when used in this Agreement:

- (a) "Direct Support Services" means personal care assistance services covered by Medical Assistance; assistance with activities of daily living (ADLs) and instrumental activities of daily living (IADLs); and other similar, in-home long-term services and supports provided to an elderly person or a person with a disability by their

employee or the employee of their representative to meet such person's daily living needs and ensure that such person may adequately function in the person's home and have safe access to the community.

- (b) "Covered Program" means a program providing direct support services funded in whole or in part by the State of Minnesota, including the Community First Services and Supports (CFSS) program; Consumer Directed Community Supports (CDCS) services and extended state plan personal care assistance services available under programs established pursuant to home and community-based service waivers and under the alternative care program; the Personal Care Assistance Choice (PCA Choice) program; the Consumer Support Grant (CSG) program; and any similar program that may provide similar services in the future.
- (c) "Individual Provider" means an individual selected by and working under the direction of a participant in a covered program, or a participant's representative, to provide direct support services to the participant, but does not include an employee of a provider agency, subject to the agency's direction and control commensurate with agency employee status.
- (d) "Program participant" or "Participant" means a person who receives direct support services through a covered program.
- (e) "Participant's Representative" means a participant's legal guardian or an individual having the authority and responsibility to act on behalf of a participant with respect to the provision of direct support services through a covered program.
- (f) "Fiscal Intermediary" means the Fiscal Support Entity or Fiscal Management Service that provides support to participants and participant's representatives with regard to employing Individual Providers. Prior to the implementation of a new fiscal management structure, PCA Choice Provider Agency shall be included in the definition of Fiscal Intermediary.

ARTICLE 1. UNION RECOGNITION

The State recognizes the Union as the exclusive representative under Minnesota Public Employee Labor Relations Act (PELRA) for all Individual Providers in the bargaining unit certified by the Bureau of Mediation Services in Case Number 15PCE0010. The Union shall have the rights and duties as prescribed by Minnesota Statutes Section 179A.54 and other applicable provisions of PELRA and as set forth in this Agreement.

The State shall not, during the life of this Agreement, meet and negotiate within the meaning of PELRA with any other employee organization or any individual employee with respect to the terms and conditions of employment of the employees covered by this Agreement.

ARTICLE 2. NON-DISCRIMINATION

Section 1. Prohibition Against Discrimination. The provisions of this Agreement shall be applied to all Individual Providers without discrimination as to sex, marital status, sexual orientation, race, color, religion, disability, national origin, veteran status, union membership status, current or former public assistance recipient status, age, or political affiliation.

Section 2. Union Activity. The State shall not discriminate against, interfere with, restrain or coerce an Individual Provider from exercising her or his right to join or not join the Union, to serve in an elected or appointed position with the Union, or to participate in any other official capacity on behalf of the Union. The State shall remain neutral on the question of whether Individual Providers should join the Union under PELRA. The State shall also require that all Fiscal Intermediaries with which it contracts shall remain neutral on the question of whether Individual Providers shall join the Union. All questions addressed to the State or its Fiscal Intermediaries by Individual Providers concerning membership in or representation by the Union under PELRA shall be referred to the Union.

Section 3. Program Participants Rights. This Article does not apply to the Program Participants' sole and undisputed rights provided in the law, including the selection and termination of employment of Individual Providers.

ARTICLE 3. PROGRAM PARTICIPANT RIGHTS

This Agreement shall not diminish in any way the rights of program participants to:

- 1) select, hire, direct, train, supervise, and terminate the employment of their Individual Providers;
- 2) determine levels of service;
- 3) determine the work schedule of Individual Providers in their employ;
- 4) manage individual service budgets, within the limits established by the State's covered programs;
- 5) determine Individual Provider wages in accordance with Article 9 of this Agreement; and,
- 6) receive direct support services from Individual Providers not referred to them through a state registry.

No actions taken by the program participant, or participant's representative, with respect to this Article or any other participant rights shall be subject to the grievance and arbitration procedures provided for in this Agreement.

This Agreement shall not be interpreted to require the State to release confidential personal information regarding any program participant to the Union, without the express written consent of a program participant, or participant's representative.

Personal information includes, but is not limited to, program participants' names, addresses, telephone numbers, and email addresses.

The Union and State agree that standards of confidentiality of participant data should be followed in accordance with applicable state and federal law. Union representatives shall maintain confidentiality regarding program participants and shall not disclose personal information about a program participant obtained from any source unless the program participant, or participant's representative, has authorized the disclosure in writing or legal proceedings compel the disclosure.

ARTICLE 4. UNION RIGHTS

Section 1. Dues Check-Off. The Department of Human Services, hereinafter referred to as "DHS," shall require Fiscal Intermediaries to implement all the terms of dues-checkoff authorizations submitted by the Union and agreed to by the Individual Provider, including terms regarding the duration, renewal, procedure for revocation, amount of dues deducted, and all other provisions agreed to by the employee as stated in the authorization, upon receipt of proper authorizations for such deductions from the Union subject to all applicable laws.

The Union shall submit such authorizations to the Fiscal Intermediary and certify the amounts to be deducted at least ten (10) days prior to the beginning of the payroll period for which the deductions will be effective. The Union shall provide the Fiscal Intermediaries with a list of Individual Providers including the amount of dues to be deducted, the Individual Provider's name, address and identification number. In all cases, authorizations for deductions shall be continuously effective unless properly cancelled with the Union by the Individual Provider. The Union shall provide ten (10) days' notice of such cancellations to the Fiscal Intermediary.

The dues of all Individual Providers who have submitted proper authorizations shall be electronically remitted, together with an itemized statement, to the Union within ten (10) days after such deductions are taken.

The amounts to be deducted shall be deducted no less frequently than once per month. Individual Provider earnings must be sufficient after required federal and state deductions are made to cover the amount of dues certified by the Union. When an Individual Provider is in non-pay status for a full pay period, no dues payment will be withheld for that pay period.

Section 2. Employee List. The State shall require the Fiscal Intermediaries to provide to the Union on a pay period basis, in a sortable electronic format, the following information on Individual Providers:

- 1) full name, with separate fields for first and last names;
- 2) full home address, with separate fields for address, city, state, and zip code;
- 3) unique Individual Provider ID number;

- 4) hours paid in the previous pay period;
- 5) hourly wage rate (or rates, if providing services to multiple recipients);
- 6) gross pay in the previous pay period;
- 7) Fiscal Intermediary name and mailing address;
- 8) PTO account balance;
- 9) amount of dues deducted in previous pay period; and
- 10) any other Individual Provider information in accordance with state law.

The State will denote those Individual Providers who began providing services during the previous pay period with the same information and in the same format as the others described above. The State will also send to the Union each pay period a list of Individual Providers who were terminated during the pay period.

The State and the Union shall cooperate to address any discrepancies or questions about information and records pertaining to the bargaining unit.

Section 3. Bulletin Boards and Intermediary Offices. Upon implementation of the Community First Services and Supports (CFSS) program, the Union shall have access to post information on bulletin boards in the offices of Fiscal Intermediaries and reasonable access to the intermediaries' offices at times when Individual Providers are likely to be there in groups.

Section 4. Orientation Materials. If a Fiscal Intermediary for one of the covered programs conducts an orientation session, DHS shall require the Fiscal Intermediary to distribute to Individual Providers Union membership applications and Union orientation materials. It shall be the Union's responsibility to provide the Fiscal Intermediary with sufficient copies for distribution. The materials shall not be partisan or defamatory in nature, and shall be subject to prior review and approval by the State.

Section 5. Website. DHS will maintain a link on the PCA Individual Provider Orientation webpage to the Union's website.

Section 6. Union Representatives. The State shall recognize and deal with official Union advocates and staff representatives on matters within the scope of the Union's representational role. The Union shall advise DHS of the names and phone numbers of official Union advocates and representatives within thirty (30) days of appointment by the Union and include the nature, scope and authority granted each by the Union.

Section 7. Copies of Notices to Fiscal Intermediaries. The State shall provide to the Union a copy of any notices, direction, or other official communication relating to operational and programmatic functions sent by DHS to Fiscal Intermediaries. The Union may request to include Union materials in the information sent to Fiscal Intermediaries on a periodic basis, as mutually agreed, provided that the Union must cover any additional costs incurred due to inclusion of its communications materials and subject to prior review and approval of those materials by the State.

Section 8. Indemnity. The Union agrees to indemnify and hold the State, its agents, officers and employees harmless against any and all claims, suits, orders, or judgments brought or issued against the State as a result of any action taken or not taken as a result of a request of the Union under the provisions of this Article.

The Union also agrees to indemnify and hold Fiscal Intermediaries harmless against any and all claims, suits, orders, or judgments brought or issued against them as a result of any action taken or not taken as a result of a request of the Union under the provisions of this Article. The indemnity language in this section shall not prevent the Union from filing a grievance to enforce the provisions of this Article.

ARTICLE 5. MANAGEMENT RIGHTS

Except to the extent modified by this Agreement, the State reserves exclusively all inherent rights and authority to manage and operate its programs, including but not limited to:

- A. To establish missions, programs, objectives, activities and priorities.
- B. To manage, direct and control all of the agency's activities to implement programs
- C. To develop, modify and administer policies, procedures, rules and regulations and determine the methods and means by which programs are to be carried out.
- D. To make and execute contracts and all other instruments necessary or convenient for the performance of the State's duties or exercise of the State's powers, including contracts with public and private agencies, organizations or corporations and individuals to pay them for services rendered or furnished.
- E. To modify any and all operations in order to more efficiently and effectively provide services as a result of any existing and/or new laws, rules and regulatory provisions of state and/or federal origin which may in any way affect the State's ability to provide services.

All rights not specifically granted in this Agreement are reserved solely to the State. The exercise or non-exercise of rights retained by the State shall not be construed to mean that any right is waived.

The State shall not be liable for any action, including but not limited to any grievance or any Unfair Labor Practice proceeding, brought by the Union or any Individual Provider based upon any alleged wrongdoing by a Participant.

ARTICLE 6. FISCAL INTERMEDIARY RESPONSIBILITIES

The State recognizes the importance of the provision of timely and accurate payments to Individual Providers. Agreements between DHS and Fiscal Intermediaries shall require the following:

- a. Timely and accurate payment of compensation to Individual Providers.
- b. Information required by Article 4, Section 2 (Employee Information), reported regularly and timely to the State.
- c. Timely and accurate payroll deductions for dues check-off as provided by this Agreement and Minnesota Statutes Section 256B.0711, Subd. 4(h).

The State and the Union shall work together to identify concerns and develop solutions to other provider payment issues.

When payroll errors are brought to the attention of the Fiscal Intermediary and the Fiscal Intermediary has confirmed an error, or an arbitrator has confirmed a payroll error pursuant to Article 7, the Fiscal Intermediary shall be required to correct the error.

Upon implementation of a new fiscal management structure, the State shall require that all Fiscal Intermediaries make available to all Individual Providers the option to receive their paycheck by direct deposit.

ARTICLE 7. GRIEVANCE AND DISPUTE RESOLUTION

Section 1. Intent. The purpose of this procedure is to secure, in the easiest and most efficient manner, resolution of grievances.

The State and the Union commit to resolving conflict in a responsible manner, and to the use of mediation and conflict resolution procedures when appropriate.

The State and the Union agree that Individual Providers and Union representatives should make every effort to resolve concerns on an informal basis at the earliest opportunity. Accordingly, if the dispute involves the actions of a Fiscal Intermediary, the Individual Provider and/or the Union shall address the issue through informal means with the Fiscal Intermediary prior to the initiation of the grievance process with DHS.

Section 2. Definition. For the purposes of this Agreement, a grievance shall be defined as a dispute or disagreement as to the interpretation or application of any term or terms of this Agreement.

Section 3. Grievance/Dispute Resolution Procedure.

- Step 1: Informal Resolution
 - The Individual Provider and/or a Union representative may confer with the DHS-designated representative and attempt to resolve the issue informally.

- Step 2: Written Grievance
 - If the grievance is not resolved at Step 1, the Union representative, with or without the Individual Provider, shall, on a form supplied by the Union, set forth the grievance in writing, including a statement of the pertinent facts surrounding the grievance, the date on which the incident occurred, the alleged violations of the Agreement, and the specific remedy requested.
 - The written grievance shall be submitted to the DHS-designated representative within twenty one (21) calendar days of the occurrence of the alleged violation or within twenty one (21) calendar days of when the Individual Provider or the Union could reasonably have been aware of the incident or occurrence giving rise to the grievance. The written grievance shall be submitted by email.
 - The DHS designee shall meet with the grievant and his or her Union representative within seven (7) calendar days of receipt of the written grievance, in order to discuss and resolve the grievance. Subsequent to this meeting, if the grievance remains unresolved, DHS shall provide a written response to the grievance to the Union by email within seven (7) calendar days from the date the parties met to discuss the grievance. If the response does not resolve the grievance, the Union may, within twenty-one (21) calendar days of receipt of the response, proceed to Step 4, Arbitration.
- Step 3 (Optional): Mediation
 - As an alternative prior to final and binding arbitration in Step 4, if the grievance is not resolved in Step 2 the parties may choose by mutual agreement to submit the matter to mediation through the Minnesota Bureau of Mediation Services (“BMS”) to resolve it.
- Step 4: Arbitration
 - If the grievance is not settled at Step 2 or Step 3, the Union may refer it, within the time frames noted above, to final and binding arbitration.
 - The arbitration proceeding shall be conducted by an Arbitrator to be selected from a panel of seven (7) arbitrators obtained from BMS. The Arbitrator shall be selected from the panel by the following method: the Union and the State shall each strike names from the list, alternating choices of names to strike, until only one arbitrator remains. The remaining arbitrator shall hear the grievance and decide the case. The party that strikes first shall be determined by coin toss.
 - The award of the Arbitrator shall be final and binding upon both parties.
 - The parties shall each pay one half (1/2) the costs or fees, if any, of the Arbitrator. Each party shall be responsible for its own costs, including the costs of representation, advocacy and the costs of that party’s appointed representatives.
 - The Arbitrator shall be without power to amend, modify, nullify, ignore, add to, or subtract from the provisions of this Agreement. The Arbitrator shall consider and decide only the specific issue submitted in writing by the State and the Union, and shall have no authority to make a decision on any other issue not so submitted.
 - The Arbitrator shall be without power to make decisions contrary to, or inconsistent with, or modifying or varying in any way the application of laws, rules or regulations having the force and effect of law.

Section 4. Expedited Arbitration. If both parties mutually agree in writing, the parties may skip any of the steps of the grievance procedure and utilize an expedited arbitration procedure for mutually identified grievances in the interest of achieving swift and economical resolution of those grievances. Selection of the arbitrator and distribution of arbitrator costs and fees among the parties shall follow the same procedure as outlined under the Step 4 Arbitration procedure. All decisions are final and binding on the parties, but shall not be considered as precedential in any other proceeding or matter. The hearing shall last no more than three (3) hours unless mutually agreed to by the parties.

Section 5. Time Limits. The State and the Union agree that the time limits provided in this Article are essential to the prompt and orderly resolution of any grievance, and that each will abide by the time limitations. Days will be counted by excluding the first day and including the last day of timelines. When the last day falls on a Saturday, Sunday or holiday, the last day will be the next day that is not a Saturday, Sunday or holiday.

Any grievance not properly presented in writing and within the time limits specified, or any grievance not moved to the next step within the specified time limits shall be considered to have been withdrawn. If the State fails to meet the time limits specified, the Union may move the grievance to the next step. Time limits may be extended only by mutual agreement of the parties.

ARTICLE 8. COMPENSATION

Effective July 1, 2015, the minimum hourly wage rate for all Individual Providers shall be \$10.75.

Effective July 1, 2016, the minimum hourly wage rate for all Individual Providers shall be \$11.00.

Program participants or their representatives shall have the ability to choose to pay Individual Providers wage rates above the levels established by this contract and in accordance with the parameters established under covered programs.

ARTICLE 9. PAID TIME OFF

Paid Time Off accruals shall be managed by each Fiscal Intermediary. An Individual Provider shall accrue one (1) hour of Paid Time Off for every fifty-two (52) hours worked in covered programs.

In order to utilize Paid Time Off, an Individual Provider must have worked at least six hundred (600) hours in covered programs.

An Individual Provider must obtain the express consent of his or her participant/client in order to use PTO.

An Individual Provider may carry over up to eighty (80) hours of PTO from one State fiscal year to the next.

Up to eighty (80) hours of accrued PTO shall be cashed out upon termination of all employment managed by a Fiscal Intermediary.

ARTICLE 10. TRAINING

Section 1. Purpose. The State and the Union recognize the importance and value of Individual Provider training and education. To enhance the quality of home care services provided to program participants by Individual Providers and to improve the safety of home care work for both Individual Providers and program participants, the State and the Union agree to establish a Training and Orientation Committee to make available voluntary training programs and required orientation programs for all Individual Providers.

Section 2. The Committee. The Training and Orientation Committee shall consist of no more than six (6) DHS-designated representatives and no more than six (6) Union representatives. The Training and Orientation Committee shall determine training and orientation needs and priorities, evaluate options for training and orientation subject matter, the frequency and locations of trainings and orientations, and potential partnerships with other organizations and/or academic institutions for the provision of trainings, and make recommendations to DHS.

Section 3. Orientation. All newly hired Individual Providers are required to complete an orientation to the State's home care programs. Orientation content shall include, at a minimum: principles of independent living and self-direction; prevention of fraud and abuse; basic operational procedures (e.g., filling in time-sheets); and HIPAA compliance and confidentiality for program participants.

Section 4. Financing. Effective July 1, 2016, the State agrees to provide \$250,000 per year to the Training and Orientation Committee for providing trainings and orientation to Individual Providers. The Training and Orientation Committee shall recommend a budget and DHS shall ensure all expenditures are made in accordance with DHS policies and state law.

ARTICLE 11. BACKGROUND CHECKS

Individual Providers shall not be required to pay for the cost of any required background checks.

ARTICLE 12. STATE-PROVIDER COOPERATION COMMITTEE

The State and the Union support a cooperative relationship between the parties, characterized by trust, respect, and a shared commitment to improving the quality of the home care services program participants receive. In order to foster such a cooperative relationship, the parties agree to establish a joint State-Provider Cooperation Committee to deal with mutually identified issues through a problem-solving approach, and make related recommendations to DHS.

The Committee shall be composed of a mutually agreed upon number of representatives from the State and the Union. The Committee shall meet at least once per month, unless mutually agreed otherwise. The parties understand that the Committee is not intended to replace or substitute for the work of the Implementation Council. Committee meetings shall not be considered or used as a bargaining forum, or to make any specific amendments to the Agreement, nor shall they be considered or used as a substitute for the grievance procedure.

The Committee shall identify and address issues of mutual concern specific to Individual Providers working in covered programs. The Committee shall be authorized to deliver to DHS and the Union recommendations regarding mutual areas of concern, including but not limited to, development and implementation of new orientation programs; implementation of the Community First Services and Supports (CFSS) program; investigation of options for creation of a matching registry for program participants and Individual Providers; and any other mutually agreed upon areas of discussion.

The Committee is authorized to establish subcommittees on specific issues. These subcommittees may include representatives of the State or of the Union who do not serve on the full Committee. The Committee shall be responsible for coordinating the activities of the subcommittees.

ARTICLE 13. REGISTRY

The State and the Union agree that the creation of a Minnesota Home Care Registry – an online (and/or telephone) matching service for program participants seeking workers and Individual Providers seeking work to voluntarily use in order to find one another – would be a significant step forward in improving the stability of the State’s home care workforce. Participants who choose to self-direct need reliable access to workers for both permanently scheduled hours and respite services, and home care workers need reliable access to their desired number of work hours.

Such a registry would improve participants’ ability to find Individual Providers with desired qualifications, and would improve Individual Providers’ ability to take time off with the assurance that the participant will continue to receive quality services.

By January 1, 2016, the State-Provider Cooperation Committee shall create a plan and recommend a plan to DHS for the development, testing, and implementation of a new matching registry for program participants and Individual Providers. The State, upon request of the Union, shall meet and confer regarding any concerns the Union may have related to the implementation or operation of the registry.

ARTICLE 14. DURATION

The provisions of this Agreement shall become effective on July 1, 2015, subject to the acceptance of the eighty-ninth (89th) session of the Legislature or the Joint Subcommittee on Employee Relations, and shall remain in full force and effect through the 30th of June, 2017.

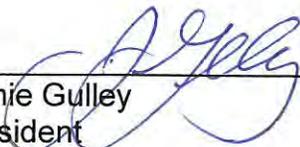
This Agreement shall be automatically renewed from biennium to biennium thereafter unless either party shall notify the other in writing no later than January 1st of odd-numbered years that it desires to modify the Agreement.

This Agreement shall remain in full force and effect during the period of negotiations and until notice of termination of this Agreement is provided to the other party in the manner set forth in the following paragraph.

In the event that a Successor Agreement has not been agreed upon by an expiration date of this Agreement as provided for in paragraphs 1 or 2 above, either party may terminate this Agreement by the serving of written notice upon the other party not less than ten (10) calendar days prior to the desired termination date which shall not be before the expiration date provided above.

FOR THE UNION

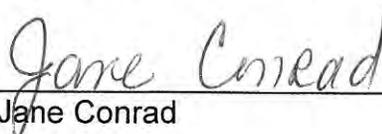
FOR THE STATE



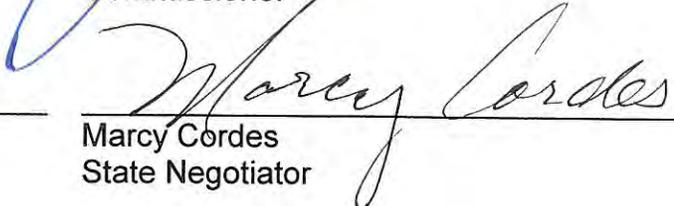
Jamie Gulley
President



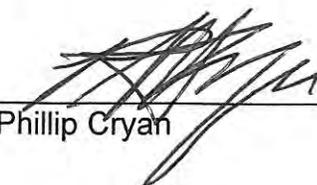
Myron Frans
Commissioner



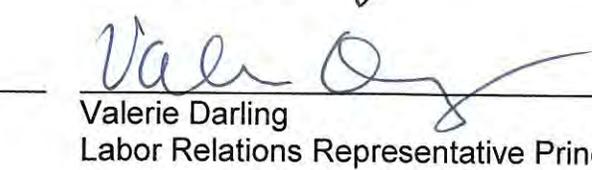
Jane Conrad



Marcy Cordes
State Negotiator



Phillip Cryan



Valerie Darling
Labor Relations Representative Principal

FOR THE UNION

FOR THE STATE

Mahamud Duale
Mahamud Duale

Liz Brady
Liz Brady
Agency Policy Specialist

Francis Hall
Francis Hall

LaTanya Hughes
LaTanya Hughes

Shaquonica Johnson
Shaquonica Johnson

Sumer Spika
Sumer Spika

Nikki Villavicencio
Nikki Villavicencio

Jan Wirpel
Jan Wirpel

David Zaffrann
David Zaffrann

ARTICLE 15. SEVERABILITY

Should any part of this Agreement or any provisions contained herein be determined to be contrary to law in a final decision by a court of competent jurisdiction, such invalidation of a part or provision shall not invalidate the remaining portions hereof and they shall remain in full force and effect. In such event, upon the request of either party, the parties shall meet promptly and negotiate regarding substitute provisions for those provisions rendered or declared unlawful, invalid or unenforceable.

ARTICLE 16. COMPLETE AGREEMENT

This Agreement is the full and complete Agreement between the Union and the State. The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make requests and proposals with respect to any subject matter not removed by law from collective bargaining, and that the complete understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. The State and the Union, for the life of this Agreement, each waives the right, and each agrees that the other shall not be obligated to bargain with respect to any subject or matter referred to or covered in this Agreement.

ARTICLE 17. APPROPRIATION

Consistent with state law, the economic provisions contained in this Agreement shall be subject to the State's legislative appropriation process.