

**THIRD AMENDMENT TO  
THE RESTATED PUBLIC SCHOOLS OF PETOSKEY  
CAFETERIA PLAN**

The Public Schools of Petoskey, a Michigan government entity (the “Employer”), having approved and adopted The Restated Public Schools of Petoskey Cafeteria Plan (the “Plan”), effective as of September 1, 2011, and having previously twice amended the Plan, does hereby approve and adopt this Third Amendment to the Plan, effective as of December 1, 2017.

**WHEREAS**, the Board of Education of the Employer approved and adopted the Plan with the intent that the Plan qualify under Section 125, 129 and 105 of the Internal Revenue Code of 1986, as amended (the “Code”), and for the purpose of offering certain Benefits to Employees who satisfy the eligibility requirements for participation in the Plan;

**WHEREAS**, the carrier of the group health insurance plans offered by the Employer have indicated that the contract year for such group health insurance plans will change from the fiscal year ending June 30 to the calendar year; and

**WHEREAS**, the Employer now wishes to make certain amendments to the Plan relating to the Plan Year of the Plan, in order to conform the Plan Year to the group health insurance plans’ contract year, and to make certain other technical amendments.

**NOW, THEREFORE**, the Employer hereby adopts this Third Amendment to the Plan, as follows:

1. Section 2.10 of the Plan is amended in its entirety to read, as follows:

**2.10 Election Period** -- The Election Period will be the period during the calendar months of September, October and November immediately preceding the first day of each Plan Year, or as may be otherwise designated by the Administrator, in its sole discretion. The Election Period is the time during which Participants in the Plan may select the types of benefits and the allocation of funds to each benefit for the next period of coverage, all in the manner that is permitted by this Plan. Notwithstanding the foregoing, any Employee who becomes eligible to participate in the Plan on a date that is not within the Election Period will be permitted to make the selections and allocations during the thirty (30) calendar day period immediately preceding the date the Employee’s participation under the Plan is to begin. The Administrator may on a uniform basis provide newly hired Employees a window of up to thirty (30) days after their hire dates to make their elections and elections made during this period can be effective as of the Employee’s hire date (i.e., on a retroactive basis); provided that the salary reductions to pay for elected benefits must come from Compensation that is not yet available when the election is made.

2. Section 2.20 of the Plan is amended in its entirety to read, as follows:

**2.20 Plan Year.** Effective as of January 1, 2018, the Plan Year shall be the calendar year. As such, the Plan shall have a short Plan Year commencing as of September 1, 2017, and ending as of December 31, 2017.

3. The following sentence is added to the end of Sub-Section 4.2.C:

If this Plan includes a Health Savings Account (HSA) Contribution Benefit, then a Participant may amend or revoke the Participant's election relative to that Benefit as provided in the description of the Health Savings Account (HSA) Contribution Benefit contained in the attached Benefit Schedule (Exhibit A).

4. New Sub-Section F is added to Section 4.2, as follows:

F. If the Employer receives any rebates attributable to medical insurance options offered by the Employer, such rebates shall be used to (i) reduce Premiums for all medical insurance plan options for Participants covered when the rebate is received, (ii) to reduce Premiums for current Participants covered by the option receiving the rebate, (iii) or as a cash refund to current Participants covered by the option receiving the rebate. In each case, the rebate shall be allocated in proportion to actual contributions to premiums. Rebates that are distributed as a reduction of Premium cost or in cash to Participants will be subject to federal income and employment taxes in the year of distribution.

5. New Sub-Sections G, H and I are added to Section 4.3, as follows:

G. Revocation Due to Reduction in Hours of Service. In accordance with IRS Notice 2014-55, a Participant may prospectively revoke an election of coverage under a group health plan that is not a health flexible spending account plan and that provides minimum essential coverage (as defined in § 5000A(f)(1)) provided the following conditions are met:

1. The Participant has been in an employment status under which the Participant was reasonably expected to average at least 30 hours of service per week and there is a change in status so that the Participant will reasonably be expected to average less than 30 hours of service per week after the change, even if that reduction does not result in the Participant ceasing to be eligible under the group health plan; and

2. The revocation of the election of coverage under the group health plan corresponds to the intended enrollment of the Participant, and any related individuals who cease coverage due to the revocation, in another plan that provides minimum essential coverage with the new coverage effective no later than the first day of the second month following the month that includes the date the original coverage is revoked.

The Plan Administrator may rely on the reasonable representation of the Participant who is reasonably expected to have an average of less than 30 hours of service per week for future periods that the Participant and related individuals have enrolled or intend to enroll in another plan that provides minimum essential coverage for new coverage that is effective no later than the first day of the second month following the month that includes the date the original coverage is revoked.

H. Revocation Due to Enrollment in a Qualified Health Plan. In accordance with IRS Notice 2014-55, a Participant may prospectively revoke an election of coverage under a

group health plan that is not a health flexible spending account plan and that provides minimum essential coverage (as defined in § 5000A(f)(1)) provided the following conditions are met:

1. The Participant is eligible for a Special Enrollment Period to enroll in a Qualified Health Plan through a Marketplace pursuant to guidance issued by the U.S. Department of Health and Human Services and any other applicable guidance, or the Participant seeks to enroll in a Qualified Health Plan through a Marketplace during the Marketplace's annual open enrollment period; and

2. The revocation of the election of coverage under the group health plan corresponds to the intended enrollment of the Participant and any related individuals who cease coverage due to the revocation in a Qualified Health Plan through a Marketplace for new coverage that is effective beginning no later than the day immediately following the last day of the original coverage that is revoked.

The Plan Administrator may rely on the reasonable representation of a Participant who has an enrollment opportunity for a Qualified Health Plan through a Marketplace that the Participant and related individuals have enrolled or intend to enroll in a Qualified Health Plan for new coverage that is effective beginning no later than the day immediately following the last day of the original coverage that is revoked.

I. Procedure for Making New Election. Except as otherwise provided, a Participant entitled to revoke an existing election and make a new election under this Section 4.3 may make a new election within 30 days of the occurrence of an event described herein as applicable, but only if the election under the new election is made on account of and is consistent with the event. The new election shall be effective for the balance of the Period of Coverage following the change of election unless a subsequent event allows for a further election change. Furthermore, except as provided for HIPAA special enrollment rights, in the event of birth, adoption, or placement for adoption, all election changes shall be effective on a prospective basis only (i.e., election changes will become effective no earlier than the first day of the next calendar month following the date that the election change was filed, but, as determined by the Plan Administrator, election changes may become effective later to the extent that the coverage in the applicable benefit commences later).

6. New Section 4.5 is hereby added to the Plan, as follows:

**4.5 Group Health Coverage: COBRA.** Notwithstanding any provision to the contrary in this Plan, to the extent required by COBRA, a Participant and his or her Spouse and Dependents, as applicable, whose coverage terminates under any group health plan sponsored by the Employer because of a COBRA qualifying event (and who is a qualified beneficiary as defined under COBRA), shall be given the opportunity to continue on a self-pay basis the same coverage that he or she had under the group health plan the day before the qualifying event for the periods prescribed by COBRA. Such continuation coverage shall be subject to all conditions and limitations under COBRA. Contributions for COBRA coverage may be paid on a pre-tax basis for current Employees receiving taxable compensation (as may be permitted by the Plan Administrator on a uniform and consistent basis, but may not be prepaid from contributions in

one Plan Year to provide coverage that extends into a subsequent Plan Year) where COBRA coverage arises either (a) because the Employee ceases to be eligible because of a reduction in hours; or (b) because the Employee's Dependent ceases to satisfy the eligibility requirements for coverage. For all other individuals (e.g., Employees who cease to be eligible because of retirement, termination of employment, or layoff), contributions for COBRA coverage shall be paid on an after-tax basis (unless may be otherwise permitted by the Plan Administrator on a uniform and consistent basis, but may not be prepaid from contributions in one Plan Year to provide coverage that extends into a subsequent Plan Year).

7. The following sentence is added to the end of Section 5.6:

This provision requiring the forfeiture of unused account balances does not apply to a Health Savings Account (HSA) Contribution Benefit if such a Benefit is included in this Plan.

8. Effective as of December 1, 2017, Exhibit A to the Plan (Benefit Schedule) is amended in its entirety and replaced with the Exhibit A that is attached hereto, and incorporated herein by reference.

9. Except as specifically affected by this Third Amendment, all of the terms and provisions of the Plan, as previously amended, shall remain in full force and effect, the same and unchanged.

IN WITNESS WHEREOF, the Employer has caused this Third Amendment to be executed on the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**THE PUBLIC SCHOOLS OF PETOSKEY**  
a Michigan governmental entity

By: \_\_\_\_\_

Its: Superintendent

**THE RESTATED PUBLIC SCHOOLS OF PETOSKEY  
CAFETERIA PLAN  
[Restated Effective December 1, 2017]**

**EXHIBIT A**

**BENEFIT SCHEDULE**

Medical Plan Coverage

Each Participant who wants coverage under the insured Medical Plan maintained by the Employer for a Plan Year will receive coverage under the Policy or Policies maintained by the Employer to provide such coverage as designated by the Participant in the election form or forms executed by the Participant for the Plan Year under the terms of such Policy or Policies. The coverage available to the Participant will be in accordance with the pertinent provisions of the Collective Bargaining Agreement between the Employer and the bargaining unit that represents the Participant, or in the case of non-organized Participants, in accordance with the terms of the Participant's employment with the Employer.

Pre-Tax Premium Benefit; Automatic Enrollment

The Salary of each Participant will be reduced to pay the Participant's contribution to the Premium under the Policy or Policies maintained by the Employer to provide medical coverage in the amount, when added to the Employer's portion (if any), that is required for the coverage designated by the Participant in the Participant's election form, and amounts so reduced in each pay period during the relevant Plan Year will be credited to the Participant's Medical Insurance Premium Account. Premiums will be paid from the Participant's Medical Insurance Premium Account in accordance with the terms of the Policy. Amounts credited to a Participant's Medical Insurance Premium Account may only be used to pay medical insurance Premiums, and any amounts credited to that Account within a Plan Year that are not so used before the end of that Plan Year will be deemed forfeited. Beginning in 2014, the Plan may not pay premiums for individual health insurance policies that provide major medical coverage or any qualified health plan (as defined in section 1301(a) of the Patient Protection and Affordable Care Act) offered through an Exchange established under section 1311 of such Act.

Notwithstanding any other provisions of the Plan, any Employee who is enrolled in the Employer's medical insurance plan, who under the terms of such Employee's employment is required to pay a share of the Premiums for such coverage, shall be automatically enrolled in this Benefit so that such Employee's salary shall be automatically reduced on a pre-tax basis to pay for the Employee's portion Premiums; unless, however, the Employee affirmatively elects not to participate in this Benefit for a Plan Year, during the relevant Election Period. Therefore, at the time an Employee is hired, the Administrator shall provide the Employee a written notice explaining the automatic enrollment process and the employee's right to decline coverage and have no reduction to Compensation. The notice shall include the pay reduction amounts for employee-only coverage and family coverage, procedures for exercising the right to decline coverage, a form

for making an election to decline coverage, information on the time by which an election must be made, and the period for which an election will be effective. The notice shall also be given to each Employee before the beginning of each Plan Year, during the Election Period, except that the notice for a current Employee shall include a description of the Employee's existing coverage, if any. The Administrator shall develop procedures for the distribution of notices and the submission of declinations.

#### Waiver of Health Insurance; Cash Option

Each Participant who does not want coverage under the Employer's insured medical plan may elect to not receive such coverage for a Plan Year by executing a Waiver form provided by the Administrator within the relevant Election Period. A Participant who elects to waive coverage under the Employer's insured medical plan will receive cash in lieu of health insurance coverage in an amount and at the times determined by referencing the pertinent provisions of the Collective Bargaining Agreement between the Employer and the bargaining unit that represents the Participant, or in the case of non-organized Participants, the terms of the Participant's employment with the Employer. Unless otherwise provided, a Participant's waiver of health insurance shall apply to major medical coverage for which the Participant is eligible, and shall not apply to other insured benefits such as dental or vision coverage. Notwithstanding the foregoing, if the Employer has 20 or more employees, this Benefit may not be offered to an Employee who is eligible for coverage by Medicare, unless the Employee provides satisfactory proof of primary medical coverage other than by Medicare, such as under a group health plan sponsored by the Employer of the Employee's spouse.

#### Health Care Flexible Spending Account Plan

The Salary of each Participant electing this Benefit will be reduced in accordance with a Salary Reduction Agreement to fund the Participant's Health Care Reimbursement Account established for the Participant under the Employer's Medical Expense Reimbursement Plan. The amount and payment of Benefits will be determined under the Medical Expense Reimbursement Plan. This Benefit is **not** available to Participants who participate in the Health Savings Account (HSA) Contributions Benefit offered under this Plan.

#### Limited Purpose Flexible Spending Account Plan

The Salary of each eligible Participant electing this Benefit will be reduced in accordance with a Salary Reduction Agreement to fund the Participant's Health Care Reimbursement Account established for the Participant under the Employer's Limited Purpose Medical Reimbursement Plan. The amount and payment of Benefits will be determined under the Limited Purpose Medical Reimbursement Plan. This Benefit is available to Employees who participate in the Health Savings Account Contributions Benefit under this Plan.

### Dependent Care Assistance Flexible Spending Account Plan

The Salary of each Participant electing this Benefit will be reduced in accordance with a Salary Reduction Agreement to fund the Participant's Dependent Care Reimbursement Account established for the Participant under the Employer's Dependent Care Assistance Plan. The amount and payment of Benefits will be determined under the Dependent Care Assistance Plan.

### Health Savings Account (HSA) Contributions

In accordance with Code Section 223, on and after September 1, 2011, a Participant under this Plan who is eligible to participate and who enrolls in a Health Savings Account (HSA) sponsored by the Employer may elect to participate in this Benefit by electing to pay HSA contributions on a pre-tax Salary Reduction basis to an HSA owned by the Participant and established and maintained outside of the Plan by a trustee/custodian to which the Employer can forward contributions to be deposited. A Participant is eligible to contribute to an HSA under this Plan provided the Participant has elected qualifying High Deductible Health Plan coverage offered by the Employer and, further provided, the Participant does not have disqualifying non-High Deductible Health Plan coverage.

The provisions of the Plan pertaining to permitted changes to benefit elections notwithstanding, a Participant may revoke or modify a Salary Reduction Agreement to fund an HSA, prospectively, at any time during a Plan Year; provided that any such change shall be effective no later than the first day of the next month following the date that the election change was submitted to the Plan Administrator. The Plan Administrator may establish rules and a procedure for the election of salary reductions by Participant's to fund HSAs that are reasonably and practicably consistent with the provisions of the Plan, and in compliance with applicable laws, regulations and published guidance.

Participants may not elect this HSA Benefit if they participate in the Health Care Flexible Spending Account Plan sponsored by the Employer under this Cafeteria Plan. In addition, a Participant who has an election under the Health Care Flexible Spending Account Plan that is in effect on the last day of a Plan Year cannot elect this HSA Benefit for any of the first three calendar months following the close of that Plan Year, unless the balance in the Participant's Health Care Reimbursement Account is \$0 as of the last day of that Plan Year.

Subject to the next paragraph, the annual contribution for a Participant's HSA Benefit is equal to the annual benefit amount elected by the Participant, but in no event shall the amount elected exceed the statutory maximum amount for HSA contributions applicable to the Participant's High Deductible Health Plan coverage option (i.e., single or family) for the calendar year in which the contribution is made. An additional catch-up contribution may be made for Participants who are age 55 or older up to the statutory catch-up contribution amount.

Notwithstanding the foregoing, the maximum annual contribution shall be: (a) reduced by any matching HSA contribution made by the Employer through this Plan on the

Participant's behalf; and (b) prorated for the number of months in which the Participant is eligible to participate in an HSA.

The Employer may, but is not required to, make a matching HSA contribution to the HSA of each Participant who elects to make pre-tax Salary Reduction HSA contributions under this Benefit. If the Employer agrees to make matching HSA contributions on behalf of Participants, the amount of the Employer's matching contribution on behalf of a Participant shall be equal to the lesser of: (a) the amount the Participant's HSA contributions made under this Plan on a pre-tax Salary Reduction; and (b) an annual cap, the amount of which shall be determined by the Employer each year and announced to Participants prior to the first day of each Plan Year. The timing and amounts of matching contributions on behalf of a Participant for a Plan Year shall correspond to the timing and amounts of HSA contributions reduced from each of the Participant's paychecks pursuant to the Participant's Salary Reduction Agreement, but shall cease when the amount of the matching contributions reaches the cap for the applicable year.

The HSA trustee/custodian, not the Employer, will establish and maintain Participants' HSAs. The HSA trustee/custodian will be chosen by the Participant, not by the Employer; provided, however, that the Employer may limit the number of HSA providers to whom it will forward contributions that the Employee makes via pre-tax Salary Reductions. The Plan Administrator will maintain records to keep track of HSA contributions an Employee makes through this Plan, but it will not create a separate fund or otherwise segregate assets for this purpose. The Employer has no authority or control over the funds deposited in a HSA.