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Layoff Prevention Act of 2012

**Federal Short-Time Compensation (STC) Program
Operated by the State Workforce Agency**

AGREEMENT BETWEEN

THE STATE OF

AND

THE SECRETARY OF LABOR, U.S. DEPARTMENT OF LABOR

The Secretary of Labor, U.S. Department of Labor (Department), and the State/Commonwealth of _____, in order to carry out the provisions of Section 2163 of Title II of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112-96), hereinafter referred to as the “Act,” hereby agree as follows:

- I. The _____ State Workforce Agency, hereinafter referred to as the “Agency,” will make payments of Federal STC in accordance with Section 2163 of the Act (which is incorporated herein by reference), and will cooperate with the Department, and with other state agencies in making the payments.
- II. The Agency and other appropriate state officials will perform all of the functions and duties undertaken under this Agreement in accordance with the terms of this Agreement and the regulations, operating instructions, or guidance issued by the Department.
- III. If a state enters into this Agreement and subsequently enacts a state law providing for the payment of STC that meets the definition under the Federal Unemployment Tax Act (FUTA) Section 3306(v), the state—
 - a. Will not be eligible for the 50 percent reimbursement of Federal STC under the requirements of Section 2163 of the Act for weeks of unemployment beginning after the effective date of the state law; and

May be eligible to receive 100 percent reimbursement of STC paid under the requirements of Section 2162 of the Act for any weeks of unemployment beginning after the effective date of the state law conforming with 3306(v), FUTA and when the state enters into an agreement with the Department providing the terms and conditions for such reimbursement.

IV. The Agency will maintain those records pertaining to the administration of Section 2163 of the Act as the Department requires, in accordance to 29 CFR part 97.42 Retention and access requirements for records, and will make all of these records available for inspection, examination, and audit at the time and by those Federal officials or employees as the Department may designate or as may be required by law.

V. The Agency will furnish to the Department or its agents the information and reports the Department may require, and will participate fully in any studies or evaluations that the Department uses for carrying out the purposes of Section 2163 of the Act.

VI. At the beginning of each month, the Department will make available in the Payment Management System an amount equal to 50 percent of the estimated amount needed by the state for payment of Federal STC during that month, adjusted for any excess or shortfall in amounts provided in any prior month. For each of the first three months after implementation of the program, the state should provide an estimate of expected Federal STC. For each month thereafter, the estimated amount to be made available to the state will generally be equal to 50 percent of the Federal STC paid in the most recent month for which data are reported, adjusted for any excess or shortfall in amounts provided in prior months. Estimates may be adjusted during the month at the Agency's request, if necessary. The Department intends to use the amounts of Federal STC reported on the ETA 2112 as the basis for estimates and adjustments.

In making Federal STC payments, the Agency agrees that:

- a. The Agency will make Federal STC payments in accordance with Section 3306(v), FUTA, including approval by the Agency of any Federal STC plan(s) submitted by an employer(s).
- b. The Department will make no payments to the Agency for Federal STC paid to any individual covered by a state-approved employer's Federal STC plan in excess of 26 times the amount of regular compensation (including dependents' allowances) under the state law payable to the individual for a week of total unemployment.

- c. The Department will make no payments to the Agency for benefits paid to any individual covered by a state-approved employer's Federal STC plan if the individual is employed by the participating employer on a seasonal, temporary, or intermittent basis.
- d. The Department will make no payment to the Agency with respect to payments to any individual covered by a state-approved employer's Federal STC plan for more than 104 weeks of Federal STC benefits or for weeks of unemployment of an individual covered by an employer's STC plan ending on or after May 24, 2014.
- e. Federal STC plans approved by the Agency must provide that the employer will pay the state an amount equal to one-half of the amount (50 percent) of Federal STC paid to an individual under the plan. The amount will be deposited in the state's account in the Unemployment Trust Fund and will not be used for purposes of calculating a participating employer's contribution rate under Section 3303(a)(1), FUTA.

VII. The Agency will use all funds paid to the state for the payment of benefits solely for the purpose of making Federal STC payments. The Agency will return to the United States Treasury, upon request of the Department, any of these funds (a) if the Department finds that the funds were not needed for that purpose or that the funds have been used for a purpose other than that for which they were intended, or (b) upon termination of this Agreement. The "Audit Requirements for Grants, Contracts, and other Agreements," 29 CFR part 96, will apply to disagreements under this section.

VIII. The Agency will take any action reasonably necessary to recover for the account of the United States all benefit amounts improperly paid and restore any lost or misapplied funds paid to the state for benefits or the administration of this Agreement.

IX. To the extent that agencies of the state obtain bonds to protect funds of the state, the Agency will obtain bonds to protect funds made available to it for the payment of benefits and the costs of administration of this Agreement. The pro rata cost of the bonds will be considered a necessary cost of administration. If under state law the state acts as a self-insurer of state funds and does not obtain bonds to protect them, the Agency must so inform the Department in writing, and in the case the state will act as a self-insurer with respect to funds which are paid to the state under this Agreement.

X. The Agency will apply the methods of administration required by Section 303(a)(1) of the Social Security Act (42 U.S.C. 503(a)(1)) to the functions undertaken under this Agreement.

