

EDUCATION CONTRIBUTION AGREEMENT

THIS AGREEMENT made this ____ day of _____, 2017, by and between **WARWICK SCHOOL DISTRICT**, having a principal business address of 301 W. Orange Street, Lititz, PA 17543 (the “School District”), and **UPMC PINNACLE LITITZ** (f.k.a. PINNACLE HEALTH HEART OF LANCASTER), a Pennsylvania non-profit corporation with a principal business address of 409 South Second Street, Harrisburg, PA 17101 (“UPMC”).

WHEREAS, UPMC is the owner and operator of a certain property known as UPMC Pinnacle Lititz Hospital located at 1500 Highlands Drive, Lititz, PA 17543; and

WHEREAS, the real estate on which UPMC Pinnacle Lititz Hospital is located is identified as Lancaster County Tax Parcel No. 600-50170-0-0000 (the “Property”); and

WHEREAS, the primary use of the Property is that of a non-profit hospital, which UPMC asserts and the School District agrees not to challenge is exempt from real property taxation as a purely public charity as defined by the Pennsylvania Constitution and Pennsylvania Institutions of Purely Public Charity Act, 10. P.S. § 371 (“Act 55”); and

WHEREAS, the School District and UPMC desire to affirm the tax exempt status of the Property, to avoid appeals and litigation regarding the determination that the Property is exempt from real property taxes, and further desire to provide a basis for the voluntary payment to the School District pursuant to the authority set forth in Act 55; and

WHEREAS, the School District agrees that the Property shall be exempt from real property taxes and agrees not to contest the determination that the Property is entitled to an exemption from real property taxes, so long as the voluntary payments that are provided in this Agreement are made; and

NOW, THEREFORE, in consideration of the foregoing promises and other good and valuable consideration as hereinafter set forth, the parties, intending to be legally bound, hereby agree as follows:

1. Incorporation of Recitals. All of the foregoing recital paragraphs set forth above in this Agreement are herein incorporated by reference as if set forth at length.

2. Voluntary Payment. UPMC agrees to make monetary contributions (hereinafter referred to as “Voluntary Education Contribution Payments”) to the School District during the term of this Agreement as follows:

- a. \$250,000 on or before July 1, 2018;
- b. \$225,000 on or before July 1, 2019;
- c. \$200,000 on or before July 1, 2020;
- d. \$200,000 on or before July 1, 2021;
- e. \$200,000 on or before July 1, 2022;
- f. \$200,000 for each renewal year on or before July 1.

The Voluntary Education Contribution Payments will each be paid in one payment directly to the Business Manager of the School District.

3. Late Voluntary Education Contribution Payments. Due to the School District’s reliance on the Voluntary Education Contribution Payments in its budgetary matters, the School District may impose a late charge on the Voluntary Education Contribution Payments in the event that UPMC fails to make all or any portion of the Voluntary Education Contribution Payments as required by Paragraph 2 hereof within thirty (30) days of the due date. The late charge shall accrue on the unpaid balance in the amount of six percent (6%) per annum, accruing monthly.

4. Exemption of Property. In consideration of UPMC's undertaking as described above, the School District hereby warrants, covenants and agrees that, for purposes of the Property at issue, it shall consider and treat UPMC as an institution of purely public charity and the Property as exempt from real property taxes for each year covered by this Agreement, and that it will not take any action to challenge or otherwise change the tax exempt status of the Property under any applicable law during the term of this Agreement.

5. Term. The term (the "Term") of this Agreement shall commence on July 1, 2018 and shall continue for sixty (60) calendar months and conclude on June 30, 2023. This Agreement shall automatically renew for successive one (1) year periods unless either party to this Agreement provides Notice to the other party of intent not to renew on or before twelve (12) months prior to the expiration of the original or any extended term.

6. Binding Effect.

a. This Agreement shall remain in full effect, and shall bind the parties hereto, so long as the principal use of the Property is a continued non-profit hospital, or used for other exempt purposes.

b. If, at any time during the term of this Agreement, the primary use of the Property (or any portion thereof) shall change from a non-profit hospital, or other exempt purpose, to another use, then, in that event, upon Notice to UPMC as provided under this Agreement, the Property shall be subject to appeal.

c. At the end of the Term, the Property's assessment will continue to be exempt, provided that it is being used for an exempt purpose under applicable law.

d. This Agreement shall be binding upon the parties and their successors and assigns.

7. Change in Law Decreasing Tax Liability.

a. In the event that the General Assembly of the Commonwealth of Pennsylvania enacts legislation or the Pennsylvania Supreme Court issues a final decision that abolishes real estate taxes levied by school districts, this Agreement shall terminate at the option of UPMC upon thirty (30) days written notice, but any prior payments made thereunder shall be retained by the School District.

b. In the event that any state or federal court issues a final decision which declares unlawful agreements which are of the nature of this Agreement, this Agreement shall terminate and be unenforceable as of the Effective Date of said decision, but any prior payments made thereunder shall be retained by the School District.

8. Notice. Any notice contemplated under this Agreement shall be deemed to have been given if the same shall be provided, in writing, to the other party, and shall be delivered personally, deposited in the United States Mail by registered or certified mail, return receipt requested, postage prepaid, or sent by any nationally recognized delivery service and addressed as set forth below:

a. If to the School District:

Warwick Board of School Directors
Attn: Solicitor
301 W. Orange Street
Lititz, PA 17543

b. If to UPMC:

UPMC Pinnacle
409 South Second Street
P.O. Box 8700
Harrisburg, PA 17105-8700
Attn: Christopher Markley, SVP and General Counsel

9. **Agreement.** The parties acknowledge and agree that this Agreement is intended to be a voluntary agreement within the meaning of Act 55, 10 P.S. § 373, 377.

10. **Entire Agreement.** This Agreement contains the entire understanding of the parties concerning the tax status of the Property and the Voluntary Education Contribution Payments, and there are no other understandings, agreements, covenants, or conditions relating to the subject matter thereof.

11. **Effect of Agreement.** None of the parties to this Agreement shall use this Agreement or the terms hereof as an admission against another party during or subsequent to the term hereof, except in a legal proceeding seeking to enforce this Agreement or asserting breach thereof.

12. **Governing Law.** This Agreement shall be governed by, construed and decided in accordance with the laws of the Commonwealth of Pennsylvania.

13. **Counterparts.** The agreement may be executed simultaneously in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same instrument.

14. **Miscellaneous.** The parties do not intend to create, and nothing contained in the Agreement shall be construed as creating, a joint venture arrangement, or partnership between School District and UPMC. Nothing in the Agreement expressed or implied, is intended or shall be construed to confer upon or give to any person, firm, corporation, or legal entity, other than the parties, any rights, remedies, or other benefits under or by reason of the Agreement.

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IN WITNESS WHEREOF, the parties have set their hands and seals, with the full intent to be legally bound hereby, on the date first written above.

ATTEST:

WARWICK SCHOOL DISTRICT

By: _____

Name: _____

Title: _____

Date: _____

ATTEST:

UPMC PINNACLE LITITZ

By: _____

Name: _____

Title: _____

Date: _____