

50278 - Fidelity

STATE OF DELAWARE

403(b) PLAN

Effective January 1, 2009

**STATE OF DELAWARE
403(b)PLAN**

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ARTICLE I
Definition of Terms

The following words and terms, when used in the Plan, have the meaning set forth below.

1.1 **"Account"** is the account or accumulation maintained for the benefit of any Participant or Beneficiary under an Annuity Contract or a Custodial Account.

1.2 **"Account Balance"** is the bookkeeping account maintained for each Participant which reflects the aggregate amount credited to the Participant's Account under all Accounts, including the Participant's Elective Deferrals, the earnings or loss of each Annuity Contract or a Custodial Account (net of expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant's death, then a separate Account Balance shall be maintained for each Beneficiary. The Account Balance includes any account established under Section 6 for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death, and any account or accounts established for an alternate payee (as defined in Section 414(p)(8) of the Code).

1.3 **"Administrator"** is the Office of the State Treasurer which has responsibility for the control of the operation and administration of the Plan. The Plan will be operated and administered in a uniform and consistent manner in accordance with procedures adopted by the Administrator or by other such entity that is empowered under applicable State law to administer the Plan.

1.4 **"Annuity Contract"** is a nontransferable contract as defined in Section 403(b)(1) of the Code, established for each Participant by the Employer, or by each Participant individually, that is issued by an insurance company qualified to issue annuities in Delaware, Maryland, New Jersey or Pennsylvania and that includes payment in the form of an annuity.

1.5 **"Beneficiary"** is the designated person who is entitled to receive benefits under the Plan after the death of a Participant, subject to such additional rules as may be set forth in the Individual Agreements.

1.6 **"Custodial Account"** is the group or individual custodial account or accounts, as defined in Section 403(b)(7) of the Code, established for each Participant by the Employer, or by each Participant individually, to hold assets of the Plan.

1.7 **"Code"** is the Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

1.8 **"Compensation"** is all cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash Compensation for services to the Employer includible in the Employee's gross income for the calendar year but for a compensation reduction election under Section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including an election under Section 2 made to reduce Compensation in order to have Elective Deferrals under the Plan).

1.9 **"Disabled"** means, with respect to a Participant who was actively employed by the State of Delaware immediately prior thereto, a determination of disability under the State of Delaware Long Term Disability Plan. A determination that an employee is Disabled for purposes of the Plan shall not be deemed a determination that such employee is disabled for any other purpose.

1.10 **"Effective Date"** is January 1, 2009, the date the Plan is adopted as a written plan. A 403(b) program was in effect for periods prior to the Effective Date pursuant to the payroll practices of the Employer and the materials and procedures of the various 403(b) Vendors whose Funding Vehicles were made available for Plan contributions from time to time. The Plan, and all agreements, forms and other materials that are incorporated by reference, is hereby established as a written plan in compliance with Section 403(b) of the Code and the regulations issued thereunder.

1.11 **"Elective Deferral"** is the Employer contributions made to the Plan at the election of the Participant to make contributions in lieu of receiving cash Compensation. Elective Deferrals under the Plan shall include any pre-tax salary reduction contributions and any after-tax salary reduction contributions made as "Roth Deferrals" (as defined below) that a Participant elects to make to the Plan.

1.12 **"Employee"** is each individual, whether hired, appointed or elected, who is a common law employee of the Employer performing services for the Employer for either (a) a School or (2) the State of Delaware Department of Education. This definition is not applicable unless the employee's compensation for performing services for a public school or the State of Delaware Department of Education is paid by the Employer. Further, a person occupying an elective or appointive public office is not an Employee performing services for a public school unless such office is one to which an individual is elected or appointed only if the individual has received training, or is experienced, in the field of education. A public office includes any elective or appointive office of a State or local government.

1.13 **"Employer"** is the State of Delaware.

1.14 **"Funding Vehicles"** are the Annuity Contracts and Custodial Accounts as provided by the Vendor, issued for funding amounts held under the Plan and specifically approved by the Administrator for use under the Plan.

1.15 **"Includible Compensation"** is an Employee's actual wages in box 1 of Form W-2 for a Year of Service with the Employer, but subject to a maximum of \$200,000 (or such

*Doc
Office
OSU
District
Charter
School*

higher maximum as may apply under Section 401(a)(17) of the Code, which is \$230,000 for 2008) and increased (up to the dollar maximum) by any Compensation reduction election under Section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including any Elective Deferral under the Plan). The amount of Includible Compensation is determined without regard to any community property laws.

1.16 **"Individual Agreement"** is each agreement between a Vendor and the Employer or a Participant that constitutes or governs a Custodial Account or an Annuity Contract. The Individual Agreement may be an application, enrollment or other form through which a Participant will provide information to the Vendor.

1.17 **"Participant"** is an Employee for whom Elective Deferrals are currently being made, or for whom Elective Deferrals have previously been made, under the Plan and who has not received a distribution of his or her entire benefit under the Plan.

1.18 **"Plan"** is the State of Delaware 403(b) Plan.

1.19 **"Plan Year"** is each calendar year, commencing on January 1 and concluding on December 31.

1.20 **"Related Employer"** is the Employer and any other entity which is under common control with the Employer as described under Section 414(b) or (c) of the Code. For this purpose, the Employer shall determine which entities are Related Employers based on a reasonable, good faith standard and taking into account the special rules applicable under Notice 89-23, 1989-1 C.B. 654.

1.21 **"Roth Account"** is a separate Account maintained for any Roth Deferrals made to the Plan. Contributions and withdrawals of Roth Deferrals only will be credited and debited to the Roth Account maintained for a Participant. Any gains, losses, and other credits or charges must be separately allocated on a reasonable and consistent basis to a Participant's Roth Account.

1.22 **"Roth Deferral"** is the Employer after-tax contribution made to the Plan as an Elective Deferral that is:

(a) designated irrevocably by the Participant at the time of the election as a Roth Deferral that is being made to the Plan; as such a Roth Deferral is made in lieu of all or a portion of the pre-tax Elective Deferrals that the Participant is otherwise eligible to make under the Plan; and

(b) treated by the Employer as includible in the Participant's income during the taxable year in which the Participant contributed such amount to the Plan.

1.23 **"Salary Reduction Agreement"** is the multi-purpose election form, which may be hard copy or electronic, as provided and approved by the Administrator, through which an Employee voluntarily:

(a) elects to contribute to the Plan by instructing the Employer to reduce the Compensation that would otherwise be paid to the Employee and to transfer such Elective Deferrals to the Funding Vehicle or investment options specified therewith;

(b) prospectively changes such election, either as to amount of Elective Deferrals or as to the Vendor or Funding Vehicle to which Elective Deferrals are contributed; and

(c) requests distribution of benefits, including specification of the desired manner in which distributions are to be made.

The initial Salary Reduction Agreement containing instructions with respect to the deferral of Compensation shall not be effective before the first day of the month in which the Compensation would otherwise be paid or made available in the absence of such Agreement. A Salary Reduction Agreement will remain in effect until it is revoked or revised by the Participant. The revised election will be effective prospectively in accordance with procedures established by the Administrator and the Individual Agreements.

1.24 **"School"** is a State of Delaware sponsored educational organization that regularly maintains faculty and curriculum, and has regularly enrolled students that take part in educational activities. Schools are listed in Appendix A attached hereto.

1.25 **"Severance from Employment"** is, for purposes of the Plan, Severance from Employment means termination of employment with the Employer and any Related Employer. However, Severance from Employment also occurs on any date on which an Employee ceases to be an employee of a School or the State of Delaware Department of Education, even though the Employee may continue to be employed by the State or a Related Employer that is another unit of the State or local government that is not a public school, the State of Delaware Department of Education or in a capacity that is not employment with a public school (e.g., ceasing to be an employee performing services for a public school but continuing to work for the same State or local government employer).

1.26 **"State Pension Plan"** is the State Employees' Pension Plan sponsored by the State of Delaware for certain eligible employees.

1.27 **"Vendor"** is the provider of an Annuity Contract or Custodial Account. The authority and responsibility to appoint, remove and replace Vendors will rest with the Administrator, or other such entity that is empowered under applicable State law, or their delegates. The Vendors for the Plan as of January 1, 2009 are listed in Appendix B.

1.28 **"Valuation Date"** is each business day, or as indicated in the Individual Agreements, on which the underlying investments are valued and a Participant's Account Balance is determined.

ARTICLE II
Participation and Contributions

2.1 **Eligibility.** Each full-time and part-time Employee shall be eligible to participate in the Plan and elect to have Elective Deferrals made on his or her behalf hereunder immediately upon becoming employed by the Employer.

2.2 **Compensation Reduction Election.** An Employee elects to become a Participant by executing a Salary Reduction Agreement, providing an election to reduce his or her Compensation (and have that amount contributed as a pre-tax Elective Deferral or a Roth Deferral, on his or her behalf), and submitting the election to the Administrator. This Compensation reduction election shall be made on the Salary Reduction Agreement provided by the Administrator under which the Employee agrees to be bound by all the terms and conditions of the Plan. The Administrator may establish an annual minimum deferral amount no higher than \$200, and may change such minimum to a lower amount from time to time.

In addition to completing the Plan's Salary Reduction Agreement, the Employee must complete the applicable Vendor's Individual Agreement or application to make an election of investments or Funding Vehicles to which Elective Deferrals are to be made, designate the percent of pre-tax Elective Deferrals, percent of after-tax Roth Deferrals, or a percent for both to be made to the Plan, and designate a Beneficiary. Any such election shall remain in effect until a new election is received. Only an individual who performs services for the Employer as an Employee may reduce his or her Compensation under the Plan. Each Employee will become a Participant in accordance with the terms and conditions of the Individual Agreements. An Employee shall become a Participant as soon as administratively practicable following the date applicable under the Employee's election.

2.3 **Information Provided by the Employee.** Each Employee enrolling in the Plan should provide to the Administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable for the Administrator to administer the Plan, including any information required under the Individual Agreements.

2.4 **Change in Elective Deferrals Election.** Subject to the provisions of the applicable Individual Agreements, an Employee may at any time revise his or her participation election, including a change of the amount of his or her Elective Deferrals, a change from a pre-tax Elective Deferral to a Roth Deferral, a change from a Roth Deferral to a pre-tax Elective Deferral, or a change to discontinue making deferrals by completing a new Salary Reduction Agreement with the Administrator. A Participant may revise his or her investment direction or designated Beneficiary by completing the required form with an existing or new Vendor. A change in the investment direction shall take effect as of the date provided by the Administrator on a uniform basis for all Employees. A change in the Beneficiary designation shall take effect when the election is accepted by the Vendors.

2.5 **Contributions Made Promptly.** Elective Deferrals under the Plan shall be transferred to the applicable Funding Vehicle within 15 business days following the end of the month in which the amount would otherwise have been paid to the Participant.

2.6 **Leave of Absence.** Unless an election is otherwise revised, if an Employee is absent from work due to an approved leave of absence, such Participant's Elective Deferrals, if any, under the Plan shall continue to the extent that Compensation continues during the leave period.

ARTICLE III Limitations on Amounts Deferred

3.1 **Basic Annual Limitation.** Except as provided in Sections 3.2, the maximum amount of the Elective Deferral under the Plan for any calendar year shall not exceed the lesser of (a) the applicable dollar amount or (b) the Participant's Includible Compensation for the calendar year. The applicable dollar amount is the amount established under Section 402(g)(1)(B) of the Code, which is \$15,500 for 2008, and as adjusted for cost-of-living thereafter to the extent provided under Section 415(d) of the Code.

3.2 **Catch-up Contributions.**

(a) **Age 50 Catch-Up Elective Deferral Contributions.** A Participant who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of Elective Deferrals, up to the maximum age 50 catch-up Elective Deferrals for the year. The maximum dollar amount of the age 50 catch-up Elective Deferrals for a year is \$5,000 for 2008, and is adjusted for cost-of-living thereafter to the extent provided under the Code. Amounts in excess of the limitation set forth in Section 3.1 shall be allocated to the age 50 catch-up contribution under this Section 3.2. However, in no event can the amount of the Elective Deferrals for a year be more than the Participant's Compensation for the year.

(b) **Special Section 403(b) Catch-Up Limitation For Employees With 15 Years of Service.** Special Section 403(b) catch-up contributions are not available under the Plan. Any amount so contributed (1) prior to January 1, 2009 or (2) in another employer's plan and rolled over into the Plan will not be accounted for in a separate account.

3.3 **Special Rule for a Participant Covered by Another Section 403(b) Plan.** For purposes of this Article III, if the Participant is or has been a participant in one or more other plans under Section 403(b) of the Code (and any other plan that permits elective deferrals under Section 402(g) of the Code), then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this Article III. For this purpose, the Administrator shall take into account any other such plan maintained by any Related Employer and shall also take into account any other such plan for which the Administrator receives from the Participant sufficient information concerning his or her participation in such other plan. Notwithstanding the foregoing, another plan maintained by a Related Employer shall be taken into account for purposes of Section 3.2 only if the other plan is a Section 403(b) plan.

3.4 **Correction of Excess Elective Deferrals.** If the Elective Deferral on behalf of a Participant for any calendar year exceeds the limitations described in this Article III, or the Elective Deferral on behalf of a Participant for any calendar year exceeds the limitations

described in this Article III when combined with other amounts deferred by the Participant under another plan of the Employer under Section 403(b) of the Code (and any other plan that permits elective deferrals under Section 402(g) of the Code for which the Participant provides information that is accepted by the Administrator), then the Elective Deferral, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant. Pre-tax Elective Deferrals will be distributed before Roth Deferrals.

3.5 **Protection of Persons Who Serve in a Uniformed Service.** An Employee whose employment is interrupted by qualified military service under Section 414(u) of the Code or who is on a leave of absence for qualified military service under Section 414(u) of the Code may elect to make additional Elective Deferrals upon resumption of employment with the Employer. Military make-up contributions may be made in an amount up to the maximum Elective Deferrals that the Employee could have contributed during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave. The amount of any military make-up contributions will be reduced by the Elective Deferrals, if any, actually made for the Employee during the period of the interruption or leave. Except to the extent provided under Section 414(u) of the Code, the returning Participant may make military make-up contributions during the five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave). Military make-up contributions made upon the resumption of employment with the Employer will count towards applicable contribution limits for the year of the qualified military service, and need not count toward current year contributions limits.

ARTICLE IV Loans

4.1 **Loans.** Loans shall not be permitted under the Plan effective January 1, 2009. To the extent loans were previously permitted by the Individual Agreements controlling the Account, such loans will be grandfathered under the Plan and may continue to be repaid in accordance with their terms. Assets from which the loan is made and by which the loan will be secured will be controlled by the issuing Individual Agreement applicable to the Account of the Participant.

4.2 **Information Coordination Concerning Loans.** To the extent applicable for previously issued loans, each Vendor is responsible for reporting and tax withholding required by applicable federal and state law in connection with distributions and loans. To minimize the instances in which Participants have taxable income as a result of loans from the Plan, the Administrator shall take such steps as may be appropriate to coordinate the limitations on loans set forth in Section 4.3, including the collection of information from Vendors, and transmission of information requested by any Vendor, concerning the outstanding balance of any loans previously made to a Participant. The Administrator shall also take such steps as may be appropriate to collect information from Vendors, and transmission of information to any Vendor, concerning any failure by a Participant to repay timely any loans made to a Participant under the Plan or any other plan of the Employer.

4.3 **Maximum Loan Amount.** No loan to a Participant under the Plan may exceed the lesser of:

(a) \$50,000, reduced by the greater of (i) the outstanding balance on any loan from the Plan to the Participant on the date the loan is made or (ii) the highest outstanding balance on loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the Administrator (not taking into account any payments made during such one-year period); or

(b) one half of the value of the Participant's vested Account Balance (as of the valuation date immediately preceding the date on which such loan is approved by the Administrator).

For purposes of this Section 4.3, any loan from any other plan maintained by the Employer and any Related Employer shall be treated as if it were a loan made from the Plan, and the Participant's vested interest under any such other plan shall be considered a vested interest under this Plan; provided, however, that the provisions of this paragraph shall not be applied so as to allow the amount of a loan to exceed the amount that would otherwise be permitted in the absence of this paragraph.

ARTICLE V Benefit Distributions

5.1 **Benefit Distributions At Severance from Employment or Other Distribution Event.** Except as permitted under Section 3.4 (relating to excess Elective Deferrals), Section 5.4 (relating to withdrawals of amounts rolled over into the Plan), Section 5.5 (relating to hardship) or Section 8.3 (relating to termination of the Plan), distributions from a Participant's Account may not be made earlier than the earliest of the date on which the Participant has a Severance from Employment, dies, becomes Disabled, or attains age 59½. Distributions shall otherwise be made in accordance with the terms of the Individual Agreements.

5.2 **Small Account Balances.** The terms of the Individual Agreement may permit distributions to be made in the form of a lump sum payment, without the consent of the Participant or Beneficiary, but no such payment may be made without the consent of the Participant or Beneficiary unless the Account Balance does not exceed \$5,000. A Participant's balance will be determined without regard to any separate account that holds rollover contributions under Section 6.1. Any such distribution of small account balances shall comply with the requirements of Section 401(a)(31)(B) of the Code (relating to automatic distribution as a direct rollover to an individual retirement plan for distributions in excess of \$1,000).

5.3 **Minimum Distributions.** Each Individual Agreement shall comply with the minimum distribution requirements of Section 401(a)(9) of the Code and the regulations thereunder. For purposes of applying the distribution rules of Section 401(a)(9) of the Code, each Individual Agreement is treated as an individual retirement account (IRA) and distributions shall be made in accordance with the provisions of Section 1.408-8 of the Income Tax Regulations, except as provided in Section 1.403(b)-6(e) of the Income Tax Regulations.

5.4 **In-Service Distributions From Rollover Account.** If a Participant has a separate account attributable to rollover contributions to the Plan, to the extent permitted by the applicable Individual Agreement, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in such rollover account.

5.5 **Hardship Withdrawals.** (a) Hardship withdrawals shall be permitted under the Plan to the extent permitted by the Individual Agreements controlling the Account assets to be withdrawn to satisfy the hardship. If applicable under an Individual Agreement, no Elective Deferrals shall be allowed under the Plan during the 6-month period beginning on the date the Participant receives a distribution on account of hardship.

(b) The Individual Agreements shall provide for the exchange of information among the Employer and the Vendors to the extent necessary to implement the Individual Agreements, including, in the case of a hardship withdrawal that is automatically deemed to be necessary to satisfy the Participant's financial need (pursuant to Section 1.401(k)-1(d)(3)(iv)(E) of the Income Tax Regulations), the Vendor notifying the Employer of the withdrawal in order for the Employer to implement the resulting 6-month suspension of the Participant's right to make Elective Deferrals under the Plan. In addition, in the case of a hardship withdrawal that is not automatically deemed to be necessary to satisfy the financial need (pursuant to Section 1.401(k)-1(d)(3)(iii)(B) of the Income Tax Regulations), the Vendor shall obtain information from the Employer or other Vendors to determine the amount of any plan loans and rollover accounts that are available to the Participant under the Plan to satisfy the financial need.

+ 5.6 **Rollover Distributions.**

(a) A Participant, Beneficiary of a deceased Participant (or a Participant's spouse or former spouse who is an alternate payee under a domestic relations order, as defined in Section 414(p) of the Code) who is entitled to an eligible rollover distribution may elect to have any portion of an eligible rollover distribution (as defined in Section 402(c)(4) of the Code) from the Plan paid directly to an eligible retirement plan (as defined in Section 402(c)(8)(B) of the Code) specified by the Participant in the form of a direct rollover. In the case of a distribution to a Beneficiary who at the time of the Participant's death was neither the spouse nor former spouse of the Participant who is an alternate payee under a domestic relations order, a direct rollover is payable only to an individual retirement account or individual retirement annuity (IRA) that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of Section 408(d)(3)(C) of the Code).

(b) A direct rollover of a distribution from a Roth Deferral Account under the Plan will only be made to another Roth elective deferral account under an eligible retirement plan described in Section 403(b) of the Code or to a Roth IRA described in Section 408A of the Code, and only to the extent the rollover is permitted under the rules of Section 402(c) of the Code. Furthermore, the Plan will not provide for a direct rollover (including an automatic rollover) for distributions from a Participant's Roth Deferral Account if the amount of the distributions that are eligible rollover distributions are reasonably expected to total less than \$200 during a year. In addition, any distribution from a Participant's Roth Deferral Account is

not taken into account in determining whether distributions from a Participant's other Accounts are reasonably expected to total less than \$200 during a year. However, eligible rollover distributions from a Participant's Roth Deferral Account are taken into account in determining whether the total amount of the Participant's Account balances under the Plan exceeds \$1,000 for purposes of mandatory distributions from the Plan. The provisions of any Individual Agreement that allow a Participant to elect a direct rollover or only a portion of an eligible rollover distribution but only if the amount rolled over is at least \$500 is applied by treating any amount distributed from the Participant's Roth Deferral Account as a separate distribution from any amount distributed from the Participant's other accounts in the Plan, even if they are distributed at the same time.

(c) Each Vendor shall be separately responsible for providing, within a reasonable time period before making an initial eligible rollover distribution, an explanation to the Participant of his or her right to elect a direct rollover, the mandatory income tax withholding on distributions not directly rolled over, the rules for indirect rollover distributions, including special treatment for certain lump sum distributions and when distributions may be subject to different restrictions and income tax consequences after being rolled over. This notice must be provided in a reasonable period of time, not more than 180 days or as indicated in the Individual Agreements, prior to the date the Participant takes a distribution from the Plan.

ARTICLE VI

Rollovers to the Plan and Transfers

6.1 Eligible Rollover Contributions to the Plan.

(a) **Eligible Rollover Contributions.** To the extent provided in the Individual Agreements, a Participant who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution contributed to the Plan. Such rollover contributions shall be made in the form of cash only. The Vendor may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Section 402 of the Code and to confirm that such plan is an eligible retirement plan within the meaning of Section 402(c)(8)(B) of the Code. Subject to the terms of the Individual Agreements, a Participant may make a rollover contribution to the Plan consisting of a distribution from a Roth deferral account under an applicable retirement plan described in Section 403(b) of the Code or a Roth IRA described in Section 408A of the Code, and only to the extent the rollover is permitted under the rules of Section 402(c) of the Code.

(b) **Eligible Rollover Distribution.** For purposes of Section 6.1(a), an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include (1) any installment payment for a period of 10 years or more, (2) any distribution made as a result of an unforeseeable emergency or other distribution which is made upon hardship of the employee, or (3) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Section 401(a)(9) of the Code. In addition, an eligible retirement plan means an individual retirement account described in Section 408(a) of the Code,

an individual retirement annuity described in Section 408(b) of the Code, a qualified trust described in Section 401(a) of the Code, an annuity plan described in Section 403(a) or 403(b) of the Code, or an eligible governmental plan described in Section 457(b) of the Code, that accepts the eligible rollover distribution.

(c) **Separate Accounts.** The Vendor shall establish and maintain for the Participant a separate Account for any eligible rollover distribution paid to the Plan. A separate Account shall be established for the pre-tax elective deferrals and any Roth deferrals contributed by a Participant as a rollover contribution to the Plan.

6.2 **Plan-to-Plan Transfers to the Plan.**

(a) At the direction of the Employer, for a class of Employees who are participants or beneficiaries in another plan under Section 403(b) of the Code, the Administrator may permit a transfer of assets to the Plan as provided in this Section 6.2. Such a transfer is permitted only if the other plan provides for the direct transfer of each person's entire interest therein to the Plan and the participant is an Employee or former employee of the Employer. The Administrator and any Vendor accepting such transferred amounts may require that the transfer be in cash or other property acceptable to it. The Administrator or any Vendor accepting such transferred amounts may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with Section 1.403(b)-10(b)(3) of the Income Tax Regulations and to confirm that the other plan is a plan that satisfies Section 403(b) of the Code.

(b) The amount so transferred shall be credited to the Participant's Account Balance, so that the Participant or Beneficiary whose assets are being transferred has an accumulated benefit immediately after the transfer at least equal to the accumulated benefit with respect to that Participant or Beneficiary immediately before the transfer.

(c) To the extent provided in the Individual Agreements holding such transferred amounts, the amount transferred shall be held, accounted for, administered and otherwise treated in the same manner as an Elective Deferral by the Participant under the Plan, except that (1) the Individual Agreement which holds any amount transferred to the Plan must provide that, to the extent any amount transferred is subject to any distribution restrictions required under Section 403(b) of the Code, the Individual Agreement must impose restrictions on distributions to the Participant or Beneficiary whose assets are being transferred that are not less stringent than those imposed on the transferor plan and (2) the transferred amount shall not be considered an Elective Deferral under the Plan in determining the maximum deferral under Section 3.

6.3 **Plan-to-Plan Transfers from the Plan.**

(a) At the direction of the Employer, the Administrator may permit a class of Participants and Beneficiaries to elect to have all or any portion of their Account Balance transferred to another plan that satisfies Section 403(b) of the Code in accordance with Section 1.403(b)-10(b)(3) of the Income Tax Regulations. A transfer is permitted under this Section 6.3(a) only if the Participants or Beneficiaries are employees or former employees of the

employer (or the business of the employer) under the receiving plan and the other plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.

(b) The other plan must provide that, to the extent any amount transferred is subject to any distribution restrictions required under Section 403(b) of the Code, the other plan shall impose restrictions on distributions to the Participant or Beneficiary whose assets are transferred that are not less stringent than those imposed under the Plan. In addition, if the transfer does not constitute a complete transfer of the Participant's or Beneficiary's interest in the Plan, the other plan shall treat the amount transferred as a continuation of a pro rata portion of the Participant's or Beneficiary's interest in the transferor plan (e.g., a pro rata portion of the Participant's or Beneficiary's interest in any after-tax employee contributions).

(c) Upon the transfer of assets under this Section 6.3, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 6.3 (for example, to confirm that the receiving plan satisfies Section 403(b) of the Code and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer pursuant to Section 1.403(b)-10(b)(3) of the Income Tax Regulations.

6.4 **Contract and Custodial Account Exchanges.**

(a) A Participant or Beneficiary is permitted to change the investment of his or her Account Balance among the Vendors under the Plan, subject to the terms of the Individual Agreements. The Vendors who are eligible to receive contributions under Article II on January 1, 2009 are listed on Appendix A. The Administrator may add, remove or change the Vendors who are eligible to receive contributions to the Plan in its discretion as evidenced by a writing, which will be incorporated by reference into this Plan. However, an investment change that includes an investment with a Vendor that is not eligible to receive contributions under Article II (referred to below as an exchange) is not permitted unless the conditions in paragraphs (b) through (d) of this Section 6.4 are satisfied.

(b) The Participant or Beneficiary must have an Account Balance immediately after the exchange that is at least equal to the Account Balance of that Participant or Beneficiary immediately before the exchange (taking into account the Account Balance of that Participant or Beneficiary under both Section 403(b) contracts or custodial accounts immediately before the exchange).

(c) The Individual Agreement with the receiving Vendor has distribution restrictions with respect to the Participant that are not less stringent than those imposed on the investment being exchanged.

(d) The Employer enters into an information sharing agreement with the receiving Vendor for the other contract or custodial account under which the Employer and the Vendor will from time to time in the future provide each other with the following information:

(1) Information necessary for the resulting contract or custodial account, or any other contract or custodial accounts to which contributions have been made by the Employer, to satisfy Section 403(b) of the Code, including the following:

(i) the Employer providing information as to whether the Participant's employment with the Employer is continuing, and notifying the Vendor when the Participant has had a Severance from Employment (for purposes of the distribution restrictions in Section 5.1);

(ii) the Employer notifying the Vendor when a Participant is performing qualified military service as described under Section 414(u) of the Code and when such Employee resumes employment (to allow for make-up Elective Deferrals that do not count towards current year contribution limits for purposes of Section 3.5);

(iii) the Vendor notifying the Employer of any hardship withdrawal under Section 5.5 if the withdrawal results in a 6-month suspension of the Participant's right to make Elective Deferrals under the Plan; and

(iv) the Vendor providing information to the Employer or other Vendors concerning the Participant's or Beneficiary's Section 403(b) contracts or custodial accounts or qualified employer plan benefits (to enable a Vendor to determine the amount of any rollover accounts that are available to the Participant under the Plan in order to satisfy the financial need under the hardship withdrawal rules of Section 5.5 and for purposes of Section 5.6); and

(2) Information necessary in order for the resulting contract or custodial account and any other contract or custodial account to which contributions have been made for the Participant by the Employer to satisfy other tax requirements.

(e) If any Vendor ceases to be eligible to receive Elective Deferrals under the Plan, the Employer will enter into an information sharing agreement as described in Section 6.4(d) to the extent the Employer's contract with the Vendor does not provide for the exchange of information described in Section 6.4(d)(1) and (2).

6.5 Permissive Service Credit Transfers.

(a) If a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in Section 414(d) of the Code), such as the State Pension Plan, that provides for the acceptance of plan-to-plan transfers with respect to the Participant, then the Participant may elect to have any portion of the Participant's Account Balance (except any Roth Account) transferred to the State Pension Plan or other defined benefit governmental plan. A

transfer under this Section 6.5(a) may only be after the Participant has had a Severance from Employment. No transfers may be made from the Roth Account.

(b) A transfer may be made under Section 6.5(a) only if the transfer is either for the purchase of permissive service credit (as defined in Section 415(n)(3)(A) of the Code) under the State Pension Plan or other receiving defined benefit governmental plan or a repayment to which Section 415 of the Code does not apply by reason of Section 415(k)(3) of the Code.

(c) In addition, if a plan-to-plan transfer does not constitute a complete transfer of the Participant's or Beneficiary's interest in the transferor plan (without regard to any Roth Account), the Plan shall treat the amount transferred as a continuation of a pro rata portion of the Participant's or Beneficiary's interest in the transferor plan (e.g., a pro rata portion of the Participant's or Beneficiary's interest in any non-Roth after-tax employee contributions).

ARTICLE VII Investment of Contributions

7.1 **Manner of Investment.** All Elective Deferrals or other amounts contributed to the Plan, all property and rights purchased with such amounts under the Funding Vehicles, and all income attributable to such amounts, property, or rights shall be held and invested in one or more Annuity Contracts or Custodial Accounts. Each Custodial Account shall provide for it to be impossible, prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the Custodial Account to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

7.2 **Investment of Contributions.** Each Participant or Beneficiary shall direct the investment of his or her Account among the investment options available under the Annuity Contract or Custodial Account in accordance with the terms of the Individual Agreements. Transfers among Annuity Contracts and Custodial Accounts may be made to the extent provided in the Individual Agreements and permitted under applicable Income Tax Regulations. Transfers between Annuity Contracts and Custodial Accounts may be made to the extent the requirements of Section 6.4 are satisfied.

7.3 **Current and Former Vendors.** The Administrator shall maintain a list of all Vendors under the Plan. Such list is hereby incorporated as part of the Plan. Each Vendor and the Administrator shall exchange such information as may be necessary to satisfy Section 403(b) of the Code or other requirements of applicable law. In the case of a Vendor which is not eligible to receive Elective Deferrals under the Plan (including a Vendor which has ceased to be a Vendor eligible to receive Elective Deferrals under the Plan and a Vendor holding assets under the Plan in accordance with Section 6.2 or 6.4), the Employer shall keep the Vendor informed of the name and contact information of the Administrator in order to coordinate the sharing of information necessary to satisfy Section 403(b) of the Code or other requirements of applicable law.

ARTICLE VIII
Amendment and Plan Termination

8.1 **Termination of Contributions.** The Employer has adopted the Plan with the intention and expectation that contributions will be continued indefinitely. However, the Employer has no obligation or liability whatsoever to maintain the Plan for any length of time and may discontinue contributions under the Plan at any time without any liability hereunder for any such discontinuance.

8.2 **Amendment and Termination.** The Employer reserves the authority to amend this Plan from time to time to comply with the requirements of Section 403(b) of the Code and the regulations thereunder, and as determined by the Employer. The Employer reserves the right to terminate this Plan at any time.

8.3 **Distribution Upon Termination of the Plan.** The Employer may provide that, in connection with a termination of the Plan and subject to any restrictions contained in the Individual Agreements, all Accounts will be distributed. Such distribution is permitted provided that the Employer and any Related Employer on the date of termination do not make contributions to an alternative Section 403(b) contract that is not part of the Plan during the period beginning on the date of Plan termination and ending 12 months after the distribution of all assets from the Plan, except as permitted by the Income Tax Regulations.

ARTICLE IX
Miscellaneous

9.1 **Non-Assignability.** Except as provided in Section 9.2 and 9.3, the interests of each Participant or Beneficiary under the Plan are not subject to the claims of the Participant's or Beneficiary's creditors; and neither the Participant nor any Beneficiary shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.

9.2 **Domestic Relation Orders.** Notwithstanding Section 9.1, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made pursuant to the domestic relations law of any State ("domestic relations order"), then notice of receipt of the domestic relations order will be sent to the Participant, alternate payee, and any known legal representative of either. The amount of the Participant's Account Balance shall be paid in the manner and to the person or persons so directed in the domestic relations order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Administrator or its designee shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order.

9.3 **IRS Levy.** Notwithstanding Section 9.1, the Administrator may pay from a Participant's or Beneficiary's Account Balance the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

9.4 **Tax Withholding.** Contributions to the Plan are subject to applicable employment taxes (including, if applicable, Federal Insurance Contributions Act (FICA) taxes with respect to Elective Deferrals, which constitute wages under Section 3121 of the Code). Any benefit payment made under the Plan is subject to applicable income tax withholding requirements (including Section 3401 of the Code and the Employment Tax Regulations thereunder). A payee shall provide such information as the Administrator may need to satisfy income tax withholding obligations, and any other information that may be required by guidance issued under the Code.

9.5 **Payments to Minors and Incompetents.** If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits will be paid to the minor's parent, guardian, or such person as the Administrator may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

9.6 **Mistaken Contributions.** If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the Employer.

9.7 **Procedure When Distributee Cannot Be Located.** The Administrator, or its delegate, shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on the Employer's or the Administrator's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guaranty Corporation (under their program to identify payees under retirement plans), and (c) other administrative means available to the Administrator (e.g., contacting the Beneficiary, checking the personal information for other plans sponsored by the Employer). If the payee has not responded within 6 months and the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Funding Vehicle shall continue to hold the benefits due such person.

9.8 **Incorporation of Individual Agreements.** The Plan, together with the Individual Agreements, enrollment materials and other related documents, is intended to satisfy the requirements of Section 403(b) of the Code and the Income Tax Regulations thereunder. Terms and conditions of the Individual Agreements, enrollment materials and other related

documents are hereby incorporated by reference into the Plan, excluding those terms that are inconsistent with the Plan or Section 403(b) of the Code.

9.9 **Limitations on Liability of Employer.** Neither the establishment of the Plan nor any modification thereof, nor the payment of any benefits shall be construed as giving to any Participant or Beneficiary any legal or equitable right against the Employer or Administrator (or any person connected therewith), except as provided by law or by any Plan provision. Neither the Employer nor the Administrator in any way guarantees the Accounts from loss or depreciation, nor does the Employer or Administrator guarantee the payment of any money, which may be or become due to any person from the Plan. Any person having a right or claim under the Plan shall look solely to the Account assets, and in no event shall the Employer or the Administrator (or any person connected therewith) be liable to any person on account of any claim arising by reason of the provisions of the Plan or of any instrument or instruments implementing its provisions, or for the failure of any Participant, Beneficiary or other person to be entitled to any particular tax consequences with respect to the Plan, the Account or any contribution thereto or distribution therefrom. Neither the Employer nor the Administrator shall be liable to any person for failure on its part to make contributions, nor shall any action lie to compel such contributions. Neither the Employer nor the Administrator (or any person connected therewith) shall have any liability to any person by reason of the failure of the Plan to attain and/or maintain its status under Section 403(b) of the Code, regardless of whether or not such failure is due to any act or omission of the Administrator (or any person connected therewith). Nothing contained in the Plan shall be deemed to affect in any manner whatsoever the right of the Employer in its discretion to employ employees and to discharge or terminate employees, with or without cause.

9.10 **Governing Law.** The Plan will be construed, administered and enforced according to the Code and the laws of the State of Delaware, where the Employer has its principal place of business.

9.11 **Headings.** Headings of the Plan have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

9.12 **Gender.** Pronouns used in the Plan in the masculine or feminine gender include both genders unless the context clearly indicates otherwise.

IN WITNESS WHEREOF, the State of Delaware has duly adopted the Plan as stated herein effective January 1, 2009 and has caused the Plan to be executed this 12 day of December 2008.

STATE OF DELAWARE



By: The Honorable Jack Markell
Title: State Treasurer

Appendix A

State of Delaware Public Schools

Appoquinimink School District	Appoquinimink Early Childhood Center
	Appoquinimink High School
	Brick Mill Elementary School
	Cedar Lane Early Childhood Center
	Cedar Lane Elementary School
	Olive B. Loss Elementary School
	Everett Meredith Middle School
	Middletown High School
	Louis L. Redding Middle School
	Silver Lake Elementary School
	Townsend Early Childhood Center
	Townsend Elementary School
	Alfred G. Waters Middle School
Brandywine School District	Brandywine Community School
	Brandywine High School
	Brandywood Elementary School
	Bush Early Education center
	Charles W. Bush Elementary School
	Carrcroft Elementary School
	Claymont Elementary School
	Concord High School
	Darley Road (Autistic Program)
	Darley Road Elementary School
	Pierre S. duPont Elementary School
	Forwood Elementary School
	Hanby Middle School
	David W. Harlan Elementary School
	Lancashire Elementary School
	Lombardy Elementary School
	Maple Lane Elementary School
	Mount Pleasant Elementary School
	Mount Pleasant High School
	Springer Middle School
	Talley Middle School
Caesar Rodney School District	W. Reily Brown Elementary School
	John S. Charlton
	Dover Air Force Base Middle School
	Fifer Middle School
	Allen Frear Elementary School

School District	School
	Kent Elementary Intensive Learning Center
	Postlethwait Middle School
	Caesar Rodney High School
	W.B. Simpson Elementary School
	Star Hill Elementary School
	Nellie Hughes Stokes Elementary School
	Major George S. Welch Elementary School
Cape Henlopen School District	H.O. Brittingham Elementary School
	Cape Henlopen High School
	Beacon Middle School
	Mariner Middle School
	Milton Elementary School
	Rehoboth Elementary School
	Richard A. Shields Elementary School
	Sussex Consortium
Capital School District	Central Middle School
	Dover High School
	East Dover Elementary School
	Fairview Elementary School
	Hartly Elementary School
	William Henry Middle School
	North Dover Elementary School
	Peak/Kent Secondary Intensive Learning Center
	South Dover Elementary School
	Towne Point Elementary School
	Booker T. Washington Elementary School
	Kent County Community School
Charter Schools	Academy of Dover Charter School
	Campus Community School
	The Charter School of Wilmington
	Delaware Military Academy
	East Side Charter School
	Family Foundations Academy
	Kuumba Academy Charter School
	Prestige Academy
	MOT Charter School
	Maurice J. Moyer Academy
	Newark Charter School
	Odyssey Charter School
	Pencader Business and Finance Charter High School
	Positive Outcomes Charter School
	Providence Creek Academy Charter School

School District	School
	Sussex Academy of Arts and Sciences
	Thomas A. Edison Charter School
Christina School District	Bancroft Intermediate School
	Bayard Intermediate School
	Henry M. Brader Elementary School
	Brookside Elementary School
	Christiana High School
	John R. Downes Elementary School
	Elbert-Palmer Intermediate School
	Robert S. Gallaher Elementary School
	Gauger-Cobbs Elementary School
	Glasgow High School
	William B. Keene Elementary School
	Albert H. Jones Elementary School
	George V. Kirk Middle School
	May B. Leasure Elementary School
	R. Elisabeth Maclary Elementary School
	Thurgood Marshall Elementary School
	Joseph M. McVey Elementary School
	Newark High School
	Casimir Pulaski Intermediate School
	Shue-Medill Middle School
	Jennie E. Smith Elementary School
	Margaret S. Sterck School, Delaware School for the Deaf
	Frederick R. Douglass Stubbs Intermediate School
	West Park Place Elementary School
	Etta J. Wilson Elementary School
	Joseph H. Douglass Behavioral School
	Brennen School, Delaware Autism Program
	REACH Program
	NETworks Career Training Program
	Sarah Pyle Academy for Academic Intensity
Colonial School District	Gunning Bedford Middle School
	Castle Hills Elementary School
	Colonial Intensive Learning Center
	Colwyck Elementary School
	Carrie Downie Elementary School
	Harry O. Eisenberg Elementary School
	John G. Leach Special School
	Calvin R. McCullough Middle School
	New Castle Middle School
	William Penn High School

School District	School
	Pleasantville Elementary School
	George Read Middle School
	Southern Elementary School
	Wilmington Manor Elementary School
	Wrangle Hill Elementary School
Delmar School District	Delmar Middle School
	Delmar Senior High School
Indian River School District	Richard Allen School
	East Millsboro Elementary School
	Howard T. Ennis School
	Frankford elementary School
	Georgetown Elementary School
	Indian River High School
	Long Neck Elementary School
	Lord Baltimore Elementary School
	North Georgetown Elementary School
	Selbyville Middle School
	Phillip C. Showell Elementary School
	Southern Delaware School of the Arts
	Sussex Central Middle School
	Sussex Central Senior High School
Lake Forest School District	W.T. Chipman Middle School
	Lake Forest High School
	Lake Forest Central Elementary School
	Lake Forest East Elementary School
	Lake Forest North Elementary School
	Lake Forest South Elementary School
	Delaware Early Childhood Center (DECC)
Laurel School District	Paul Laurence Dunbar Elementary School
	Laurel Central Middle School
	Laurel Senior High School
	Laurel Intermediate School
	North Laurel Elementary School
	Western Sussex Academy
Milford School District	Benjamin Banneker Elementary School
	Milford Middle School
	Milford Senior High School
	Evelyn I. Morris Early Childhood Center
	Lulu M. Ross Elementary School
New Castle County VoTech School District	Delaware Skills Center
	Delcastle Technical High School
	Hodgson Vocation Technical High School

	Howard High School Technology
	Multiple Alternative Program
	St. Georges Technical High School
Polytech School District	POLYTECH High School
Red Clay Consolidated School District	Alexis I. duPont Middle School
	Alexis I. duPont High School
	Anna P. Mote Elementary School
	Austin D. Baltz Elementary School
	Brandywine Springs Elementary School
	Cab Calloway School of the Arts
	The Central School
	The Community School
	Conrad Middle School
	Evan G. Shortlidge Elementary School
	Forest Oak Elementary School
	H.B. duPont Middle School
	Heritage Elementary School
	Highlands Elementary School
	John Dickinson High School
	Linden Hill Elementary School
	Marbrook Elementary School
	Meadowood Program
	North Star Elementary School
	Richardson Park Elementary School
	Richardson Park Learning Center
	Richey Elementary School
	Skyline Middle School
	Stanton Middle School
	Thomas McKean High School
	Warner Elementary School
	William Lewis Elementary School
Seaford School District	Blades Elementary School
	Frederick Douglass Elementary School
	Seaford Autistic Program
	Seaford ILC
	Seaford Central Elementary School
	Seaford Middle School
	Seaford Senior High School
	Sussex Orthopedic Program
	West Seaford Elementary School
Smyrna School District	Clayton Elementary School
	John Bassett Moore School

	North Smyrna Elementary School
	Smyrna Elementary School
	Smyrna Kindergarten Center
	Smyrna Middle School
	Smyrna High School
Sussex VoTech School District	Sussex Technical High School
Woodbridge School District	Phillis Wheatley Middle School
	Woodbridge Elementary School
	Woodbridge High School

	Delaware State University
	Delaware Technical and Community College

In addition to the schools and school districts listed above, eligible Employees of any new elementary or secondary public school in the State of Delaware that is opened on or after January 1, 2009 may participate in the Plan unless otherwise provided.

APPENDIX B

Vendors – Funding Vehicles

AIG Retirement <i>or AIG VALIC</i> 800-448-2542	AIG Retirement c/o TX Commerce Bank P.O. Box 200777 Houston, TX 77216-0777	AIG Retirement 2000 W. Sam Houston Pkway. S. Suite 1500 Houston, TX 77042
AXA Equitable Life Assurance TSA – <i>AXA Advisors, LLC</i> 800-528-0204	Unit Annuity Collections P.O. Box 13463 Newark, NJ 07188-0463	AXA Equitable Retirement Services P. O. Box 8095 Boston, MA 02265
Fidelity Investments TSA 800-345-1388	Fidelity Investments TSA P.O. Box 770002 Cincinnati, OH 45277-0089	Fidelity Investments TSA P.O. Box 770002 Cincinnati, OH 45277-0089
First Investors Corp. 800-832-7783	Administrative Data Mngt. Corp. Raritan Plaza I P. O. Box 7837 Edison, NJ 08818-7837	First Investors TSA Administrative Data Mngt. Corp. Raritan Plaza I P. O. Box 7837 Edison, NJ 08818-7837
Great American Financial Resources 800-854-3649	Great American TSA Dept. 1822 Cincinnati, OH 45274-1822	Great American Life Insurance Co. Annuity Products P. O. Box 5420 Cincinnati, OH 45201-5420
The Hartford Life Insurance 860-547-5000	Asset Management Services P.O. Box 1583 Hartford, CT 06144-1583	The Hartford Attn: Investor Relations Hartford Plaza (H0-01-01) Hartford, CT 06115
Horace Mann Life Insurance Company TSA 800-314-6031	TDA & Life c121 P.O. Box 3263 Springfield, IL 62708-9953	Horace Mann Life Insurance Co. P. O. Box 4657 Springfield, IL 62708-4657
ING Financial Advisors 800-366-0066	ING Service Center P.O. Box 5050 Minot, ND 58702-5050	ING Life Insurance and Annuity Co. One Orange Way Windsor, CT 06095
Kades-Margolis Corporation 800-433-1828	K-M -Employee Deposit Account GWN Marketing c/o Colonial Bank P.O. Box 568828 Orlando, FL 32856	Kades-Margolis Corporation 998 Old Eagle School Rd. Suite 1220 Wayne, PA 19087
Lincoln Investment Planning, Inc. 800-242-1421 x4599	Lincoln Investment TSA The Forest Pavilion 218 Glenside Avenue Wyncote, PA 19095-1595	Lincoln Investment Planning, Inc. Home Office 218 Glenside Avenue Wyncote, PA 19095

Lincoln Financial Group <i>800-341-0441</i>	Lincoln National TSA Dept. C P.O. Box 2212 Fort Wayne, IN 46801	Lincoln National Life Insurance Co. P. O. Box 1110 1300 S. Clinton Street Ft. Wayne, IN 46802-3506
Metropolitan Life Insurance <i>800-343-8496</i>	MetLife TSA P.O. Box 7777 Dept. W-4235 Philadelphia, PA 19175-4235	MetLife Investors Variable Annuity Products P. O. Box 10366 Des Moines, IA 50306-0366
Security Benefit Life Ins TSA <i>800-888-2461</i>	AA – List Bills P.O. Box 750500 Topeka, KS 66675-0500	Security Benefit Life Ins One Security Benefit Place Topeka , Kansas 66636

Funding Vehicles under the Plan are those products offered by the Plan's Vendors from time to time as reflected in enrollment materials distributed to Employees.

**AMENDMENT NUMBER ONE
TO THE
STATE OF DELAWARE 403(B) PLAN**

THIS AMENDMENT is made and adopted as of this 6 day of May 2009, by the State of Delaware (the "State").

WITNESSETH:

WHEREAS, the State maintains the State of Delaware 403(b) Plan (the "Plan") to enable certain eligible employees to save for retirement by making salary deferral contributions to the Plan; and

WHEREAS, the State is empowered to amend the Plan from time to time pursuant to Section 8.2 of the Plan; and

WHEREAS, the Plan provides that a Participant may designate his or her salary deferral contributions to the Plan as Roth contributions which are treated by the State as includible in the Participant's income during the taxable year in which the Participant contributed such amount to the Plan ("Roth Contributions"); and

WHEREAS, the State desires to amend the Plan (1) to provide that Roth Contributions will be distributed in advance of pre-tax contributions in the event that a Participant makes contributions in excess of the annual limits imposed under the Internal Revenue Code; (2) to allow the rollover of Roth contributions into the Plan from Roth 401(k) plans; and (3) to clarify that the effective date for making Roth Contributions is July 1, 2009.

NOW THEREFORE, the Plan is hereby amended as follows:

1. Section 3.4 is amended in its entirety to read as follows:

3.4 **Correction of Excess Elective Deferrals.** If the Elective Deferral on behalf of a Participant for any calendar year exceeds the limitations described in this Article III, or the Elective Deferral on behalf of a Participant for any calendar year exceeds the limitations described in this Article III when combined with other amounts deferred by the Participant under another plan of the Employer under Section 403(b) of the Code (and any other plan that permits elective deferrals under Section 402(g) of the Code for which the Participant provides information that is accepted by the Administrator), then the Elective Deferral, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant. Roth Deferrals will be distributed before Pre-tax Elective Deferrals.

2. Section 6.1(a) of the Plan is amended in its entirety to read as follows:

6.1 Eligible Rollover Contributions to the Plan.

(a) **Eligible Rollover Contributions.** To the extent provided in the Individual Agreements, a Participant who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution contributed to the Plan. Such rollover contributions shall be made in the form of cash only. The Vendor may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Section 402 of the Code and to confirm that such plan is an eligible retirement plan within the meaning of Section 402(c)(8)(B) of the Code. Subject to the terms of the Individual Agreements, effective July 1, 2009, a Participant may make a rollover contribution to the Plan consisting of a distribution from a Roth deferral account under an applicable retirement plan described in Section 403(b) or Section 401(k) of the Code or a Roth IRA described in Section 408A of the Code, and only to the extent the rollover is permitted under the rules of Section 402(c) of the Code.

3. Section 1.11 of the Plan is amended in its entirety to read as follows:

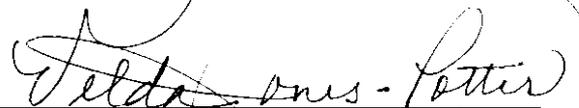
1.11 **"Elective Deferral"** is the Employer contributions made to the Plan at the election of the Participant to make contributions in lieu of receiving cash Compensation. Elective Deferrals under the Plan shall include any pre-tax salary reduction contributions and, effective July 1, 2009, any after-tax salary reduction contributions made as "Roth Deferrals" (as defined below) that a Participant elects to make to the Plan.

4. All capitalized terms herein shall have the meaning as set forth in the Plan.

5. The Plan is hereby ratified and confirmed in all respects.

IN WITNESS WHEREOF, the State of Delaware has duly adopted this Amendment as stated herein effective July 1, 2009 and has caused the Amendment to be executed this 6 day of May, 2009.

STATE OF DELAWARE



By: The Honorable Velda Jones-Potter
Title: State Treasurer