

STATE OF DELAWARE MATCH PLAN

As Amended and Restated Effective January 1, 2017

TABLE OF CONTENTS

ARTICLE I	GENERAL	1
1.1	Name and Type of Plan	1
1.2	Applicability	1
ARTICLE II	DEFINITIONS	1
2.1	Account	1
2.2	Administrator	2
2.3	Alternate Payee	2
2.4	Beneficiary	2
2.5	Code.....	2
2.6	Compensation	2
2.7	Board.....	3
2.8	Deferred Compensation Plan.....	3
2.9	Effective Date	3
2.10	Employee.....	3
2.11	Employer.....	3
2.12	Leave of Absence.....	4
2.13	Limitation Year.....	4
2.14	Matching Contribution.....	4
2.15	Participant	4
2.16	Pay Period	4
2.17	Plan.....	4
2.18	Plan Year	4
2.19	Regulation	4
2.20	Supplemental Retirement Plan.....	4
2.21	Trust.....	4
2.22	Trustee	4
2.23	Valuation Date.....	5
ARTICLE III	ELIGIBILITY AND PARTICIPATION	5
3.1	Eligibility Requirements.....	5
3.2	Automatic Enrollment	5
3.3	Leaves of Absence	5
3.4	Resumption of Participation Following Reemployment	5
3.5	Determination of Eligibility	6
3.6	Relationship to Statute	6
ARTICLE IV	CONTRIBUTIONS.....	6
4.1	Matching Contributions	6
4.2	Maximum Contributions.....	6
4.3	Rollovers and Trust-to-Trust Transfers	6
4.4	Annual Addition Limitation	7

ARTICLE V	ALLOCATION OF FUNDS	7
5.1	Individual Accounts	7
5.2	Adjustment of Accounts	8
ARTICLE VI	INVESTMENT OF CONTRIBUTIONS	8
6.1	Manner of Investment	8
6.2	Participant Direction of Investments	8
6.3	Account Transfers	9
6.4	Liability for Participant-Directed Investments	10
ARTICLE VII	DISTRIBUTION OF BENEFITS	10
7.1	Distribution Date	10
7.2	Amount	10
7.3	Method of Payment	10
7.4	Timing of Benefit Commencement	12
7.5	Special Provisions - Death Benefits	13
7.6	Direct Rollovers	14
7.7	Incapacity	15
ARTICLE VIII	BENEFICIARIES; PARTICIPANT DATA	16
8.1	Designation of Beneficiaries	16
8.2	Absence of Beneficiary Designation	16
8.3	Information to be Furnished by Participant and Beneficiaries	17
ARTICLE IX	TRUST FUND	17
9.1	Investment of Funds	17
9.2	Prohibition Against Diversion of Funds	17
ARTICLE X	ADMINISTRATION	17
10.1	Administrative Authority	17
10.2	Administration	18
10.3	Uniformity of Discretionary Acts	20
10.4	Fiduciary Standards	20
10.5	Litigation	20
10.6	Payment of Administration Expenses	20
10.7	Statements of Account	21
10.8	Plan Statements	21
10.9	Administrator Records	21
10.10	Claims Procedure	21
10.11	Elections, Disclosures by Telephone and Electronic Means Permitted	22

ARTICLE XI	AMENDMENT.....	22
11.1	Right to Amend	22
11.2	Amendment Required by Federal Law.....	22
11.3	Modifications to Match.....	23
ARTICLE XII	TERMINATION	23
12.1	Right to Terminate.....	23
12.2	Suspension of Contributions	23
12.3	Allocation and Distribution.....	23
12.4	Plan Combinations and Transfers.....	24
ARTICLE XIII	MISCELLANEOUS.....	24
13.1	Procedure When Distributee Cannot Be Located.....	24
13.2	Limitations on Liability of Employer.....	24
13.3	Construction	25
13.4	Protection of Persons Who Serve in a Uniformed Service.....	25
13.5	Anti-Alienation	26

STATE OF DELAWARE MATCH PLAN

INTRODUCTION

THIS PLAN is amended and restated by the Plans Management Board ("Board"), under the authority of Del. C. § 2722, and Ch. 60A.

WHEREAS, the State has previously adopted and maintained this Plan, effective January 1, 2001, to qualify as a defined contribution pension plan under Code section 401(a), so that contributions to the trust established under the Plan will not be taxable to the employees prior to distribution from the Plan, and the trust will be exempt from tax under Code section 501;

WHEREAS, the State amended and restated the Plan on several occasions in order to comply with certain changes in the law pertaining to the Plan and to make certain administrative changes to the Plan; and

WHEREAS, the State desires to further amend and restate the Plan in order to comply with certain changes in the law pertaining to the Plan and to make certain administrative changes to the Plan;

NOW, THEREFORE, effective January 1, 2017 or as otherwise stated herein, the State of Delaware hereby amends and restates the State of Delaware Match Plan under the terms and conditions set forth herein, as follows:

ARTICLE I **GENERAL**

- 1.1 Name and Type of Plan** - This Plan, which is intended to be a tax-qualified 401(a) defined contribution pension plan, may be referred to as the "State of Delaware Match Plan."
- 1.2 Applicability** - The provisions of the Plan shall apply only to an individual who meets the eligibility standards set forth in the definition of Employee in Article II and in Article III hereof.

ARTICLE II **DEFINITIONS**

The following terms, as used herein, unless a different meaning is implied by the context, shall have the following meanings:

- 2.1 Account** – means an account established for the purpose of recording any contributions made on behalf of a Participant and any income, expenses, distributions, gains or losses incurred. The Administrator shall establish and maintain sub-accounts within a Participant's Account under the Plan. Each Participant shall be fully vested in his Account at all times.

Each Account shall be divided into one or more of the following functional sub-accounts categorized according to the source of the funds to be contributed thereto:

- A. **Matching Account** – means the portion of a Participant's Account attributable to Employer matching contributions made pursuant to Section 4.1. See also Section 5.1A.
 - B. **Rollover Account** – means the portion of a Participant's Account attributable to rollover contributions made pursuant to Section 4.4. See also Section 5.1B.
 - C. **Transfer Account** – means the portion of a Participant's Account transferred to the Plan pursuant to Section 4.4. See also Section 5.1C.
- 2.2 **Administrator** – means the person, group or entity designated in accordance with the provisions of Article X to administer and operate the Plan.
- 2.3 **Alternate Payee** – means the person designated pursuant to a Qualified Domestic Relations Order described in Section 13.5 to receive part or all of a Participant's Account.
- 2.4 **Beneficiary** – means the person, persons, or entity properly designated as the Participant's Beneficiary pursuant to Article VIII, or determined pursuant to the provisions of the Plan to receive the Participant's benefits under the Plan in the event of the Participant's death; or in the absence of such a designation, the person, persons, or entity as determined under Article VIII.
- 2.5 **Code** – means the Internal Revenue Code of 1986, as amended from time to time. Reference to any section or subsection of the Code includes reference to any comparable or succeeding provisions of any legislation which amends, supplements or replaces such section or subsection, and also includes reference to any Regulation issued pursuant to or with respect to such section or subsection.
- 2.6 **Compensation** – means wages within the meaning of Code section 3401(a), and all other payments of compensation to an Employee by the Employer for which the Employer is required to furnish the Employee a written statement under Code sections 6041(d), 6051(a)(3) and 6052. Compensation shall be determined without regard to any rules under section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed; provided, however, that Compensation shall include amounts that would have been includible in gross income but for (i) any elective deferral as defined in Code section 402(g)(3), and (ii) any amount contributed or deferred by the Employer at the election of the Employee, and not includible in the Employee's income by reason of Code section 125, 402(e)(3), 402(h)(1)(B), 402(k), 457(b) or, beginning January 1, 2001, Code section 132(f)(4).

Pursuant to Section 1.457-4(d)(1) of the Treasury Regulations, Compensation also includes any Compensation described in paragraphs (a) or (b), provided it is paid by the later of two and one-half months after the Employee's Severance from Employment or the end of the calendar year in which the Employee has a Severance from Employment:

(a) any payment that would have been paid to the Employee prior to a Severance from Employment if the Employee continued in employment with the State of Delaware and otherwise satisfies the definition of Compensation, and

(b) a payment for unused accrued bona fide sick, vacation, or other leave, but only if the Employee would have been able to use the leave if employment had continued and the payment would be Compensation if paid prior to the Employee's Severance from Employment, and only if the Employee separately elects for such payment to be reduced pursuant to his or her Salary Reduction Agreement in the 403(b) Plan or the Deferred Compensation Plan.

For any Plan Year beginning after December 31, 2001, the annual Compensation of each Participant taken into account in determining allocation shall not exceed \$200,000, as adjusted for cost-of-living increase in accordance with Code section 401(a)(17)(B). Annual Compensation means compensation during the Plan Year or such other consecutive 12-month period (determination period) over which compensation is otherwise determined under the Plan. The cost-of-living in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year.

- 2.7 Board** – means the Plan Management Board, acting as authorized and required under Title 29, Delaware Code § 2722, and Chapter 60A, for the exclusive benefit of Plan Participants.
- 2.8 Deferred Compensation Plan** – means the deferred compensation plan authorized by Title 29, Chapter 60A of the Delaware Code for officers and employees of the State of Delaware, and established as the Deferred Compensation Plan.
- 2.9 Effective Date** – means the Plan, as amended and restated herein which is effective January 1, 2014, unless noted otherwise. The original effective date of the Plan, pursuant to Title 29, Chapter 60A, Sections 6060 and 6061 of the Delaware Code, is January 1, 2001.
- 2.10 Employee** – means any individual who is employed by the State, including elected or appointed officials, and who received compensation wholly or in part directly from the State Treasury or from the Treasury through an agency within the State that is wholly or in part supported by the State. Individuals hired on a temporary basis or as consultants shall not qualify as Employees. (60 Del. Laws, c. 146, Section 1). The State's determination as to whether an individual is an "Employee" shall be final for purposes of this Plan, regardless of any subsequent ruling that the State was mistaken in its determination. If the State determines that an individual is serving as an independent contractor, leased or temporary employee or in another nonemployee status, and it is subsequently found that such individual's legal status was that of a common law Employee during such period of service, such recharacterization shall take effect only prospectively for purposes of this Plan.
- 2.11 Employer** – means the State of Delaware.

- 2.12 Leave of Absence** – means an authorized absence from active service, under conditions described in Section 3.3, which does not constitute a termination of employment.
- 2.13 Limitation Year** – means the Limitation Year shall be the Plan Year.
- 2.14 Matching Contribution** – means the contribution made by the Employer to the Account of a Qualified Participant described in Section 4.1.
- 2.15 Participant** – means any person so designated in accordance with the provisions of Article III, including, where appropriate according to the context of the Plan, any former Employee who has an undistributed Account balance and is or may become (or whose Beneficiaries may become) eligible to receive a benefit under the Plan.
- 2.16 Pay Period** – means the Pay Period shall be the standard pay period generally used by the Employer for payment of Compensation to Employees. As of January 1, 2001, the Pay Period shall be a semi-monthly period with a maximum of twenty-four (24) Pay Periods per year. If the Employer changes its standard pay period to a bi-weekly pay period, the Pay Period shall be a bi-weekly period with a maximum of twenty-six (26) Pay Periods per year. In the event an eligible Employee is not paid according to the standard pay period, the Administrator shall adjust the pay period so that the Employee has either twenty-four (24) or twenty-six (26) Pay Periods, as applicable, to be consistent with the standard Pay Period.
- 2.17 Plan** – means the State of Delaware Match Plan set forth herein, as amended from time to time.
- 2.18 Plan Year** – means the twelve-month period ending on December 31, a Valuation Date, beginning with the initial plan year, ending on December 31, 2001.
- 2.19 Regulation** – means a regulation issued by the Department of Treasury, including any final regulation, proposed regulation, temporary regulations, as well as any modification of any such regulation contained in any notice, revenue procedure, or similar pronouncement issued by the Internal Revenue Service.
- 2.20 Supplemental Retirement Plan** – means the elective salary reduction defined contribution plan established under Title 29, Chapter 60A of the Delaware Code.
- 2.21 Trust** – means the trust fund established pursuant to the Plan, maintained in accordance with the terms of this Plan as from time to time amended.
- 2.22 Trustee** – means the Board, or any successor trustee that may be appointed by the Administrator who will administer the Trust, and includes the entity or person(s) holding the assets of a custodial account or holding an annuity contract in accordance with Section 401(a) of the Code. ***Note:*** To the extent that any plan assets are in an annuity contract, technically, the Internal Revenue Code would consider that product to be in a similar custodial arrangement without the need for a trustee.

- 2.23 Valuation Date** – means each business day on which the New York Stock Exchange is open.

ARTICLE III **ELIGIBILITY AND PARTICIPATION**

- 3.1 Eligibility Requirements** - On or after January 1, 2001, but on or before June 30, 2008, every Employee meeting the definition of Employee in Article II and the standards of eligibility set forth in this Article III shall automatically become a Participant in this Plan. A Participant shall be entitled to have a Matching Contribution made to this Plan for his or her Account provided the Participant satisfies the rules and limitations set forth in Article IV.

To be eligible to participate an Employee must satisfy either of the following conditions:

- (i) An Employee must be enrolled in the Deferred Compensation Plan and making salary reduction contributions pursuant to such program at each Pay Period for no less than six (6) consecutive months; or
- (ii) An Employee must be enrolled in the Deferred Compensation Plan and, but for the fact that the Employee had deferred the maximum allowable by the Code, would have made salary reduction contributions pursuant to such program at each Pay Period for no less than six (6) consecutive months.

If an Employee satisfies one of the above criteria, he or she shall be considered a "Qualified Participant" eligible for Matching contributions pursuant to the terms of Section 4.1.

- 3.2 Automatic Enrollment** - No specific action shall be required for any Employee to become a Participant in this Plan, other than such actions as are necessary to cause salary reduction contributions under the Deferred Compensation Plan.
- 3.3 Leaves of Absence** - Participation in the Plan shall not be deemed to have terminated though it is interrupted by a temporary absence from active service by reason of: (i) a Leave of Absence granted by the Employer on account of vacation, holiday, illness, incapacity (including short-term disability), or jury duty, (ii) a Leave of Absence required by law or granted by the Employer on account of service in the Armed Forces of the United States, (iii) any other Leave of Absence during which the individual remains in active pay status (irrespective of whether the employment relationship has terminated), or (iv) any other Leave of Absence, extending for not more than two years, under conditions which are not treated by the Employer as a termination of employment.
- 3.4 Resumption of Participation Following Reemployment** - If a Participant who terminates employment with the State is reemployed, he or she shall again become a Participant on his or her date of reemployment; provided the Participant did not liquidate his or her account under the Deferred Compensation Plan. If the Participant did liquidate

his or her account on termination of employment, the Participant must satisfy the requirements for eligibility set forth in Section 3.1 above.

- 3.5 Determination of Eligibility** - The Board shall have the sole authority to determine eligibility for, and membership status in, the Delaware Deferred Compensation Plan. The Administrator shall also have sole authority to determine eligibility for, and participation in, this Plan. All determinations shall be made in a uniform and consistent manner.
- 3.6 Relationship to Statute** - Title 29, Chapter 60A, Sections 6051 through 6061 of the Delaware Code authorizes the creation of this Plan, sets forth eligibility standards, and establishes the amount of the State contribution for each participating Employee. The standards and rules under this Article and Article IV are intended to implement the requirements of the statute.

ARTICLE IV **CONTRIBUTIONS**

- 4.1 Matching Contributions** - Commencing January 1, 2001, and each Pay Period thereafter through June 30, 2008, an amount equal to ten dollars (\$10) per Pay Period, shall be credited to the Matching Account of each Qualified Participant making a voluntary deferral for that Pay Period under the provisions of the Deferred Compensation Plan. If a Participant has elected to make salary reduction contributions under the Deferred Compensation Plan but has reached the maximum salary deferral dollar limitation as set by the Code, the Participant will be deemed to have continued to make voluntary deferrals for each Pay Period after such Code limitation applies. The Administrator shall determine the method for crediting Matching Contributions when such Code limitation applies.

Effective as of July 1, 2008 there shall be no matching contributions made to the Plan.

- 4.2 Maximum Contributions** - Modifications of the Matching Contribution amount per Pay Period, formula to determine the match, number of Pay Periods per year to be matched and other fiscal and operational aspects of the Plan are contingent upon funding by the State of Delaware General Assembly and may be administered through rules and regulations promulgated by the Board and pursuant to Code section 401(a).
- 4.3 Rollovers and Trust-to-Trust Transfers** - With the consent of the Administrator, an Employee may pay over or have transferred to the Trust on his behalf any amount which constitutes an eligible rollover distribution as defined by Code section 402(c)(4) or a rollover contribution described in Code section 408(d)(3) consisting solely of a rollover from a trust qualified under Code Section 401(a) and earnings thereon.

The Administrator may also accept a transfer of assets from the trustee of another plan qualified under Code section 401(a) on behalf of one or more Employees in connection with the merger of plans of the Employer. In the event assets are transferred to this Plan on behalf of any Employee in accordance with the preceding sentence, any optional forms of benefit available to the Employee under the transferor plan shall be preserved with respect to the transferred assets of the Employee under this Plan to the extent

required by the Code and the applicable Regulations. Such rollover, or any such trust-to-trust transfer to the Plan, shall constitute a part of the Employee's Account (although accounted for separately), and shall be fully vested at all times.

- 4.4 Annual Addition Limitation** - If, for any Limitation Year, the maximum annual addition described in Code section 415(c) is exceeded by reason of contributions made by, or, on behalf of the Participant to this or any other tax-qualified defined contribution plan under the authority of the Administrator, the contributions (plus or minus any investment gains or losses or other income attributable thereto) from such other plans shall, if permitted under the applicable Regulations, be returned to the Participant to the extent necessary so that the maximum limitation on annual additions under this Plan is not exceeded. For purposes of 415(c), Compensation includes certain additional amounts if paid no later than 2½ months after severance from employment or the end of the calendar year that includes a Participant's severance from employment that, absent a severance from employment, would have been paid to the Participant while the Participant continued in employment with the Employer. Such additional amounts include regular compensation for services during the Participant's regular working hours or compensation for services outside the Participant's regular work hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and, payments for unused accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use the leave if employment had continued. Any payment to a Participant paid by the Employer not described above is not considered compensation if paid after severance from employment, even if it is paid within 2½ months following severance from employment.

An Employee who is in qualified military service (within the meaning of Internal Revenue Code Section 414(u)(1)) shall be treated as receiving compensation from the Employer during such period of qualified military service equal to (i) the compensation the Employee would have received during such period if the Employee were not in qualified military service, determined based on the rate of pay the Employee would have received from the Employer but for the absence during the period of qualified military service, or (ii) if the compensation the Employee would have received during such period was not reasonably certain, the Employee's average compensation from the Employer during the twelve month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

If as of any allocation date the, Annual Additions allocated to any Participant exceed the limitations of 415(c), the excess Annual Additions will be corrected as permitted under the Employee Plan Compliance Resolution System (or similar IRS correction program).

ARTICLE V

ALLOCATION OF FUNDS

- 5.1 Individual Accounts** - The Administrator shall establish and maintain an Account for each Participant with sub-accounts to reflect Matching Contributions, Rollover and Transfer Contributions as set forth in Section 2.1. The Administrator shall establish and

maintain such other accounts and records as it decides in its discretion to be reasonably required or appropriate in order to discharge its duties under the Plan. The Administrator shall notify the Trustee of all Accounts established and maintained under the Plan.

- A. Matching Account** - There shall be established and maintained a separate Matching Account in the name of each Participant, which shall be fully vested at all times, and to which shall be credited or charged: (i) Matching Contributions made to his or her account; (ii) withdrawals, and (iii) any income, or expenses, gains or losses (whether or not realized, based on fair market value of invested assets) attributable or allocable thereto.
- B. Rollover Account** - There shall be established and maintained a separate Rollover Account in the name of each Participant who makes a rollover contribution to the Plan, which shall be fully vested at all times, and to which shall be credited or charged: (i) Rollover Contributions made to his or her account; (ii) withdrawals, and (iii) any income, or expenses, gains or losses (whether or not realized, based on fair market value of invested assets) attributable or allocable thereto.
- C. Transfer Account** - There shall be established and maintained a separate Transfer Account in the name of each Participant who makes a trust to trust transfer to the Plan, which shall be fully vested at all times, and to which shall be credited or charged: (i) Transfer Contributions made to his or her account; (ii) withdrawals, and (iii) any income, or expenses, gains or losses (whether or not realized, based on fair market value of invested assets) attributable or allocable thereto.

- 5.2 Adjustment of Accounts** - As of each Valuation Date, each Account will be adjusted to reflect the fair market value of the assets allocated to the Account. In so doing: (i) each Account balance will be increased by the amount of contributions, income and gain allocable to such Account since the prior Valuation Date; and (ii) each Account balance will be decreased by the amount of distributions from the Account and expenses and losses allocable to the Account since the prior Valuation Date. Any expenses relating to a specific Account or Accounts, including without limitation, commissions or sales charges with respect to an investment in which the Account participates, may be charged solely to the particular Account or Accounts.

ARTICLE VI

INVESTMENT OF CONTRIBUTIONS

- 6.1 Manner of Investment** - All contributions made to the Accounts of Participants shall be held for investment by the Trustee.
- 6.2 Participant Direction of Investments** - Participants shall direct the investment of their Accounts in accordance with rules and procedures established by the Administrator into one or more of the investment options selected by the Administrator and set forth in Schedule C to the Trust Agreement between the State and the Trustee, as such may be

amended from time to time. The Trustee shall have no duty to inquire into the investment decisions of a Participant or to advise the Participant regarding the purchase, retention, or sale of assets credited to his Account,

- A. Initial Investment Election** - The Participant shall provide investment instructions in such form and manner as may be prescribed by the Administrator, selecting the investments in which amounts credited to his or her Account shall be invested. On January 1, 2001 or the Participant's enrollment in the Plan, the Administrator, if it has not received contrary instructions from the Participant, may allocate the Participant's investment allocation according to the same allocation used by the Participant in the Deferred Compensation Plan in which he or she participates; but any such Participant shall have the same right as any other Participant to change such initial allocation. It is intended that all Participants, Beneficiaries or Alternate Payees shall direct the investment of their Accounts in accordance with this Section 6.2.
- B. Change in Investment Election** - A Participant shall be permitted to change his or her investment elections both as to amounts credited to the Participant's Account and future contributions. Any change in investment elections shall be made in accordance with rules and procedures established by the Administrator.
- C. Default Election** - In the event that the Administrator does not possess instructions under this Plan or the Deferred Compensation Plan as to the investment of any portion of the Participant's Account, the Participant, Beneficiary or Alternate Payees shall be deemed to have designated that the non-directed portion of the Account shall be invested in the American Funds Target Date Retirement Fund, or a fund with similar investment characteristics as selected by the Administrator. The American Funds Target Date Retirement Fund is one of a series of target retirement date funds, and contributions will be invested in a particular American Funds Target Date Retirement Fund based on the Participant's age at the time any contributions and target retirement date for which such Participant failed to provide investment direction for contributions are made to the Plan. The American Funds Target Date Fund is intended to be a Qualified Default Investment Alternative ("QDIA") as that term is defined under Department of Labor regulation Section 2550.404c-5.
- D. Replacement of Investment Option** - If the Administrator is removing a particular investment option that had been available for selection by any Plan Participant, the Administrator may automatically transfer to a replacement option having similar investment characteristics the Account balances of a Participant that has been sent a notice that his or her current option is being removed from the Plan, and has failed to take action to make a new investment election for his or her Account.

6.3 Account Transfers - Participants may transfer part or all of their existing Account balances from one investment option to another in accordance with rules and procedures established by the Administrator.

- 6.4 Liability for Participant-Directed Investments** - Notwithstanding any other provision of the Plan and to the extent permitted by applicable law, neither the Board, nor any individual member, nor the State, nor any other officer or employee of the State who may be a fiduciary with respect to the Plan shall have any liability, fiduciary or otherwise, for any loss arising from or as a result of any investment designation by the Participant pursuant to Section 6.2, or by reason of the inability to make a change in designation on any particular date, and all such persons are specifically absolved of any statutory, judicial, legal or other responsibility with respect thereto (including any responsibility to determine the appropriateness of any individual Participant's investment designations).

ARTICLE VII

DISTRIBUTION OF BENEFITS

- 7.1 Distribution Date** - For the Participant's Matching Account, the Distribution Date is the date on which a Participant: (i) reaches retirement under the personnel policies of the State and retires, (ii) dies while in the active employ of the State, or (iii) otherwise terminates his employment with the State. For the Rollover Account or Transfer Account, any day requested by the Participant.
- 7.2 Amount** - Upon reaching his or her Distribution Date, a Participant (or his or her Beneficiary) shall become entitled to receive his or her Account valued as of the Valuation Date, coincident with or otherwise immediately preceding the Distribution Date, plus the value of any contributions made pursuant to Article IV after the Valuation Date; provided, however, that any benefits shall be distributed only as provided by Section 7.3.
- 7.3 Method of Payment** - The Administrator shall determine, at its discretion, whether the amount to which a Participant who has reached his or her Distribution Date (or his or her Beneficiary) is entitled shall be distributed in cash in a single sum or in property valued at its fair market value, or partly in each. In accordance with the election procedure set forth in Section 7.3(A), the distribution shall be made in a lump sum, in a fixed number of installments, or by the purchase of a paid-up annuity contract for the Participant and/or the Beneficiary, or, subject to the consent of the Administrator, a combination of such methods of distribution.
- A. Election of Method of Payment** - Subject to the remaining provisions of this Section 7.3, and subject to such conditions and limitations as may be prescribed by the Administrator, the Participant shall have the right to elect the method by which his or her Account is to be distributed. In the absence of such election by the Participant, the method of distribution shall be determined by the Administrator. The election by the Participant must be in writing and filed with the Administrator prior to the date on which benefits are due to commence (for which purpose the purchase of an annuity contract shall be deemed to be a benefit commencement date).
- B. Methods of Payment** - Distribution of the Account of a Participant may be made in a lump sum or any of the following methods:

1. **Installment Payments** - If all or any part of the distribution by the Trustee is to be in installments, the Participant shall determine subject to Section 7.3(B)(3) the period over which such installments are to be paid and, in the discretion of the Administrator, payments shall be made monthly, quarterly, semiannually, annually, or otherwise.
2. **Annuity Options** - If all or any part of the amount to be distributed shall be used to purchase a paid-up annuity contract, the Administrator shall select such form of contract (including a variable annuity) to be so purchased and such payment option thereunder as reflects the election made by the Participant, and the Administrator shall direct that the contract be purchased in the name of the Participant and distributed to him free and clear of the Trust, in which case: (i) the contract shall be issued so as to be nontransferable, (ii) it shall not contain a death benefit in excess of the greater of the reserve or the total premiums paid for annuity benefits, and (iii) it shall not contain provisions that expand upon, change or eliminate any Plan provisions applicable to distributions in annuity form.
3. **Minimum Distribution Requirement** - Any distribution shall be made only in accordance with Regulation section 1.401(a)(9)-1 and shall begin no later than the April 1 of the calendar year following the later of: (i) the calendar year (hereinafter referred to as the "Commencement Year") in which the Participant reaches age 70-1/2, or (ii) the calendar year in which the Participant subsequently terminates employment with the State of Delaware. Distribution in the form of installment payments or the purchase of an annuity policy shall be made over: (A) the life of the Participant; (B) the lives of the Participant and his or her designated Beneficiary; (C) a period certain not extending beyond the life expectancy of the Participant; (D) a period certain not extending beyond the joint life and last survivors' expectancy of the Participant and his or her designated Beneficiary; or (E) any combination thereof. For this purpose life expectancies shall be determined, using the appropriate expected return multiples in Regulation section 1.72-9 based upon the Participant's age (in whole years) as of the date on which the Participant attains age 70-1/2 or his actual retirement.

Notwithstanding any other provisions of this Section 7.3 a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code Section 401(a)(9)(H) ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant's designated Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will not receive those 2009 distributions unless the Participant or Beneficiary elects to receive such

distribution. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the distributions described in the preceding sentence. However, those Participants and Beneficiaries who receive required minimum distributions through systematic withdrawal system will continue to receive 2009 RMDs unless he or she elects not to receive the 2009 RMDs.

Notwithstanding any other provisions of the Plan, and solely for purposes of applying the rollover provisions of the Plan, 2009 RMDs (amounts that would have been required minimum distributions for 2009 but for the enactment of Code Section 401(a)(9)(H)) and Extended 2009 RMDs (one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant's designated Beneficiary, or for a period of at least 10 years), will be treated as Eligible Rollover Distributions.

7.4 Timing of Benefit Commencement

- A. Termination of Employment** - Payment of benefits to a Participant shall begin within a reasonable period of time following his or her termination of employment unless the Participant, with the consent of the Administrator, and subject to Section 7.4(B), elects to defer distribution to a later date. A failure to request payment of benefits shall constitute an election to defer payment. Prior to the commencement of benefits, the Account of a Participant whose benefits are deferred shall continue to be invested according to the elections last made by the Participant, and such Participant shall continue to have full rights to designate his or her investments as if he or she were still employed. No such failure to make an affirmative election to request payment of benefits shall postpone distribution beyond the latest date to begin distribution under Section 7.4(B) hereof.
- B. Commencement of Payment After Last Distribution Date** - Unless the Participant otherwise elects pursuant to any elective provision which may be present in the Plan, the payment of benefits under the Plan to each Participant will commence within a reasonable period of time after the last of the possible Distribution Dates, but in no event, shall benefits begin later than the 60th day after the end of the year in which occurs the latest of: (i) the date on which the Participant attains age 70-1/2; or (ii) the termination of the Participant's service with the Employer.
- C. Mandatory Distribution of Small Accounts Prior to April 18, 2006** - Notwithstanding any provision of this Plan to the contrary, if the fair market value of the Participant's Account as of the Valuation Date coincident with or next following the date of the Participant's termination of employment is \$5,000 or less, the Account shall be distributed to the Participant (or his beneficiary, if applicable) in a lump sum payment as soon as practicable following the date of the Participant's termination of employment. Notwithstanding the foregoing,

effective April 18, 2006, distributions of Accounts of \$5,000 or less following a Participant's termination of employment shall no longer be permitted without the Participant's written election.

7.5 Special Provisions - Death Benefits - The following provisions shall govern the payment of death benefits following the death of a Participant:

- A.** Upon the death of a Participant while in the active employ of the State, or after termination of employment but before commencement of his or her benefits, or before the Participant receives all of the amount to which he or she is entitled pursuant to the option under which benefits are being paid, the entire (or remaining) value of the Account shall be paid to the person or persons designated in accordance with Article VIII.
- B.** All death benefits payable pursuant to this Section 7.5 shall be paid in a single lump sum unless: (i) the Participant shall have elected another method of distribution, or; (ii) if the Participant has not elected another method of distribution, the Beneficiary has elected another method of distribution; provided, however, that payment in other than a lump sum shall be subject to the consent of, and to acceleration at any time at the direction of the Administrator.
- C.** All death benefits payable pursuant to this Section 7.5 shall be distributed in full by the December 31 coincident with or next following the fifth anniversary of the death of the Participant, except as follows:
 - 1.** Benefits payable to or for the benefit of a Beneficiary designated by the Participant, and which begin no later than the December 31 coincident with or next following the first anniversary of the Participant's death (except as otherwise permitted under the applicable Regulations), may be distributed over the life of the Beneficiary or a period certain not extending beyond the life expectancy of the Beneficiary, under a method of distribution which meets the requirements of Section 7.3(B)(3), except that no redetermination of the Beneficiary's life expectancy may be made after the initial determination.
 - 2.** If the Participant has designated his surviving spouse as a Beneficiary, benefits payable to or for the benefit of the spouse, and which begin no later than the later of the December 31 coincident with or next following the first anniversary of the Participant's death (except as otherwise permitted under the applicable Regulations) or the date on which the Participant would have reached age 70-1/2, may be distributed over the life of the spouse or a period certain not extending beyond the life expectancy of the spouse, under a method of distribution which meets the requirements of Section 7.3(B)(3). For this purpose, benefits paid to or for the benefit of a child of the Participant, with provision that they become payable to the Participant's surviving spouse when the child reaches

majority or in any other event described in the applicable Regulations, shall be treated as if they had been paid to the spouse.

3. If benefits are payable in accordance with Section 7.5(C)(2), and the surviving spouse dies prior to benefit commencement, the aforesaid five year limit shall be measured from the death of the spouse.
4. If distribution of benefits to the Participant had commenced pursuant to Section 7.3(B)(3) (relating to required minimum distributions under Code section 401(a)(9)), the death benefits payable pursuant to this Section 7.5 may be distributed without regard to the aforesaid five year limit, but must be distributed at least as rapidly as they would have been under the pre-death method of distribution,
5. Nothing contained in this Section 7.5(C) shall prevent the purchase of, or distribution under, an annuity Policy which meets the requirements of Section 7.3(B)(2).

- D. If a deceased Participant was receiving benefits under an annuity option, and such annuity contains provisions for survivorship payments, such survivorship payments shall be made in accordance with the annuity contract. If a deceased Participant was to have received benefits under an annuity option, and death occurs prior to the completed purchase of an annuity by the Trustees, the entire amount which would have been utilized for such purchase shall be paid to the person or persons designated pursuant to the provisions of Article VIII.

7.6 Direct Rollovers - Notwithstanding any other provision of the Plan to the contrary, a Participant, Beneficiary (spouse or non-spouse beneficiary who is a designated beneficiary as defined by Code Section 401(a)(9)(E)) or Alternate Payee ("Distributee") may elect, at the time and in the manner prescribed by the Administrator, to have any portion or all of an "eligible rollover distribution" as defined by the Code section 402(c)(4) paid directly to an "eligible retirement plan" as defined by the Code section 402(c)(8), which includes an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), a qualified trust described in Code Section 401(a), effective January 1, 2002, an annuity contract described in Code Section 403(b), effective January 1, 2002, a plan eligible under Code Section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system, or effective January 1, 2008, a Roth individual retirement account as described in Code section 408A(e) as specified by the Distributee in a direct rollover; provided, however, that this provision shall not apply if the total "eligible rollover distribution" that the Participant is reasonably expected to receive for the calendar year is less than \$200 and that a Distributee may not elect a direct rollover with respect to a portion of an "eligible rollover distribution" if such portion totals less than \$500. The Administrator shall notify the Distributee in writing of the payment options available under the Plan, the Distributee's right to make a Direct Rollover, the

Distributee's right to consider the payment options for at least 30 days and the federal income tax consequences relating to distributions from the Plan. A non-spouse beneficiary may rollover the distributions only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

A. Eligible Rollover Distribution - For these purposes, an "eligible rollover distribution" as defined in Code section 402(e)(4) 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 upon a financial hardship of the employee, (3) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Code section 401(a)(9), or (4) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation described in Code Section 402(e)(4)); however, such portion may be transferred only (i) effective for distributions after December 31, 2001, to an individual retirement account or annuity described in Code Section 408(a) or (b), or to a qualified defined contribution plan described in Code Section 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible; or (ii) on or after January 1, 2007, to a qualified defined benefit plan described in Code Section 401(a) or to an annuity contract described in Code Section 403(b), that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or (iii) on or after January 1, 2008, to a Roth IRA described in Code Section 408A.

B. Eligible Retirement Plan - For these purposes, an "eligible retirement plan" as defined in Code section 402(c)(8) means an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b), a designated Roth individual retirement account described in Code section 408A(e), a qualified trust described in Code section 401(a), an annuity plan described in Code section 403(a), an annuity contract described in Code section 403(b), or an eligible governmental plan described in Code section 457(b), that accepts the eligible rollover distribution.

7.7 Incapacity - In the event that the Administrator determines, on the basis of a medical report or other evidence satisfactory to the Administrator, that the Participant, Beneficiary, or Alternate Payee is incapable of handling his affairs by reason of minority, illness, infirmity or other incapacity, the Administrator may direct the Trustee to disburse payments to a person or institution designated by a court or other legal authority to receive such payments.

ARTICLE VIII
BENEFICIARIES; PARTICIPANT DATA

- 8.1 Designation of Beneficiaries** - Each Participant from time to time may designate any person, persons (who may be named contingently or successively), or entity to receive such benefits as may be payable under the Plan upon or after his or her death, and such designation may be changed from time to time by the Participant by filing a new designation. Each designation will revoke all prior designations by the same Participant, shall be in a form prescribed by the Administrator, and will be effective only when filed in writing with the Administrator during the Participant's lifetime. If a Participant in this Plan has not made a valid beneficiary designation and is also a participant in the State of Delaware Deferred Compensation Plan, the beneficiary designation on file under the Deferred Compensation Plan shall govern the distribution of benefits under this Plan. If there is no beneficiary designation on file under this Plan or the State of Delaware Deferred Compensation Plan, Section 8.2 shall govern this distribution of benefits under this Plan.

A Beneficiary that has an account in this Plan because of the death of a Participant, or a person maintaining an account with the Plan under the terms of a Domestic Relations Order issued pursuant to Section 13.5(c), may also designate a Beneficiary under the provisions of this Article, unless the Domestic Relations Order specifically provides otherwise. A former spouse who becomes an "alternate payee" pursuant to a Domestic Relations Order shall no longer be treated as the Participant's Beneficiary under the Plan, unless (i) the Participant designates the former spouse as a Beneficiary, and such designation is signed after the date on which the Domestic Relations Order became effective; or (ii) the Domestic Relations Order specifically provides otherwise.

- 8.2 Absence of Beneficiary Designation** - (a) In the absence of a valid Beneficiary designation under this Plan or the Deferred Compensation Plan, at the time any benefit payment is due to a Beneficiary, the Participant has no Beneficiary validly named by the Participant for this Plan, or if no Beneficiary survives the Participant, the Participant's Account shall be paid to his or her estate. If a Beneficiary was receiving payments under the Plan, and the Beneficiary is a person and does not make a new Beneficiary Designation in a form acceptable to the Administrator and dies, before the Account is fully distributed, any remaining value of the Account shall be paid to the Beneficiary's estate.

(b) In determining the existence or identity of anyone or the entity entitled to a benefit payment, the Administrator may rely conclusively upon information supplied by the Participant, Beneficiary, the Participant's estate, or the Participant's or Beneficiary's personal representative or the personal representative of the Participant's estate. The Administrator may also act and rely upon information it may deem reliable upon reasonable inquiry, and upon any affidavit, certificate, or other paper believed by it to be genuine, and upon any evidence deemed by it to be sufficient. In the event of a lack of adequate information having been supplied to the Administrator, or in the event that any question arises with respect to any such payment, then, notwithstanding the foregoing, the Administrator, in its sole discretion, may distribute such payment to the Participant's

or Beneficiary's (as applicable) estate or take other action, including legal action, without liability for any tax or other consequences which might flow therefrom.

- 8.3 Information to be Furnished by Participant and Beneficiaries** - Any communication, statement or notice addressed to a Participant or Beneficiary at his or her last post office address filed with the Administrator, or if no such address was filed with the Administrator then at the last post office address as shown on the State's records as Employer, shall be binding on the Participant or Beneficiary for all purposes of the Plan. If the Administrator notifies any Participant or Beneficiary of a deceased Participant that he or she is entitled to an amount under the Plan and the Participant or Beneficiary fails to claim such amount or make their location known to the Administrator within three years thereafter, then except as otherwise required by law, if the location of one or more of the next of kin of the Participant, including the surviving spouse, is known to the Administrator, it may direct distribution of such amount to any one or more or all of such next of kin, and in such proportions as the Administrator determines. If the location of none of the foregoing persons can be determined, the Administrator shall take reasonable measures on behalf of such persons.

ARTICLE IX **TRUST FUND**

- 9.1 Investment of Funds** - All contributions under the Plan shall be paid to the Trustee of the Plan and deposited in the Trust. Such contributions, all investments made therewith and proceeds thereof, and all earnings and profits thereon, less the authorized disbursements therefrom, shall constitute the Trust, which Trust, and any agreement under which it is maintained, shall in all respects constitute a part of the Plan. The State of Delaware, acting as Employer, reserves the right to select, and from time to time to change, the Trustee. The Administrator reserves the right to amend the Trust, or to create separate or additional trusts and by express appointment designate additional trustees of such entities, or to create and administer master or group trusts that hold assets of this and other tax qualified plans, or other plans permitted to participate in group trusts under the Code.
- 9.2 Prohibition Against Diversion of Funds** - It shall be impossible by operation of the Plan or Trust, by natural termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by other means, for any part of the corpus or income of the Trust, or any funds contributed thereto, to inure to the benefit of the State of Delaware or otherwise be used for or diverted to purposes other than providing benefits to Participants and Beneficiaries and defraying reasonable expenses of administering the Plan. Recovery by the State of an amount contributed to the Plan under a mistake of fact shall not be treated as a diversion of funds.

ARTICLE X **ADMINISTRATION**

- 10.1 Administrative Authority** - Except as otherwise specifically provided herein, the Board shall have the sole responsibility for and the sole control of the operation and

administration of the Plan, and shall have the power and authority to take all action and to make all decisions and interpretations which may be necessary or appropriate in order to administer and operate the Plan, including, without limiting the generality of the foregoing, the power, duty and responsibility to:

- A. Resolve and determine all disputes or questions arising under the Plan, including the power to determine the rights of Employees, Participants and Beneficiaries, and their respective benefits, and to remedy any ambiguities, inconsistencies or omissions.
- B. Adopt such rules of procedure as in its opinion may be necessary for the proper and efficient administration of the Plan and are consistent with the Plan.
- C. Implement the Plan in accordance with such rules.
- D. Decide upon the eligibility of any Employee as a Participant, and the crediting and distribution of a Participant's interest in the Trust, which are to be made only upon the basis of instructions from the Participant pursuant to the terms of the Plan.

10.2 Administration - The Plan shall be operated and administered on behalf of the Board by the Office of the State Treasurer. In the absence of a specific designation to the contrary by the Board, and subject to the power to delegate pursuant to this Section, the State Treasurer shall be the "Administrator" for purposes of this Plan. The Administrator shall be governed by the following:

- A. The Administrator shall have full authority to act for the Board before all persons in any matter directly pertaining to the Plan, including the exercise of any power or discretion otherwise granted to the Board pursuant to the terms of the Plan, other than the power to amend or terminate the Plan, to determine State contributions, to exercise authority to direct the Administrator with respect to investment of the Trust, to affect the employer-employee relationship between the State of Delaware and any Employee, and to retain and/or discharge any separately appointed Trustees, all of which powers are reserved to the Board unless expressly granted to the Administrator under this Plan.
- B. Fiduciary duties, powers and responsibilities may be allocated among the fiduciaries (if there be more than one) to whom such duties, powers and responsibilities have been delegated, so long as such allocation is pursuant to action of the Administrator or by written agreement executed by the involved fiduciaries and approved by the Administrator, in which case, no such fiduciary shall have any liability, with respect to any duties, powers or responsibilities not allocated to him, for the acts or omissions of any other fiduciary. Any person may serve in more than one fiduciary capacity under the Plan, including those of Administrator and Trustee.
- C. The Administrator may appoint any persons or firms, or otherwise act to secure specialized advice or assistance, as he or she deems necessary or desirable in

connection with the administration and operation of the Plan; the Administrator shall be entitled to rely conclusively upon, and shall be fully protected in any action or omission taken by it in good faith reliance upon, the advice or opinion of such firms or persons. The Administrator shall have the power and authority to delegate from time to time by written instrument all or any part of his or her duties, powers or responsibilities. Any action of such person in the exercise of such delegated duties, powers or responsibilities shall have the same force and effect for all purposes hereunder as if such action had been taken by the Administrator. Further, the Administrator may authorize one or more persons to execute any certificate or document on behalf of the Administrator, in which event any person notified by the Administrator of such authorization shall be entitled to accept and conclusively rely upon any such certificate or document executed by such person as representing action by the Administrator until such third person shall have been notified of the revocation of such authority. The Administrator shall not be liable for any act or omission of any person to whom the Administrator's duties, powers or responsibilities have been delegated, nor shall any person to whom any duties, powers or responsibilities have been delegated have any liabilities with respect to any duties, powers or responsibilities not delegated to him.

- D.** All representatives of the Administrator, its staff, or other persons to whom they delegate responsibility, shall use ordinary care and diligence in the performance of their duties pertaining to the Plan, but, except to the extent required by law, no such individual shall incur any liability: (i) by virtue of any contract, agreement, bond or other instrument made or executed by him or on his behalf as in his official capacity with respect to the Plan, (ii) for any act or failure to act, or any mistake or judgment made, in his official capacity with respect to the Plan, unless resulting from gross negligence or willful misconduct, or (iii) for the neglect, omission or wrongdoing of any other person involved with the Plan. Such persons shall be entitled to the indemnification provisions of Delaware law for the effects and consequences of their acts, omissions and conduct in their official capacity with respect to the Plan, except to the extent that such effects and consequences shall result from their own willful misconduct or gross negligence. If any matter arises as to which an individual is entitled to indemnity hereunder, the indemnitee shall give the Administrator or the State of Delaware, as the case may be, prompt written notice thereof. The Administrator, at its own expense, shall then take charge of the disposition of the asserted liability, including compromise or the conduct of litigation. The indemnitee may, at his or her own expense, retain his or her own counsel and share in the conduct of any such litigation, but the failure to do so shall not adversely affect his or her right to indemnity.
- E.** The Plan may purchase, as an expense of the Plan, liability insurance for the Plan and/or for its fiduciaries to cover liability or losses occurring by reason of an act or omission of a fiduciary. Any fiduciary may purchase, from and for his or her own account, insurance to protect against liability in the event of a breach of fiduciary duty.

F. Nothing in the Plan shall be construed so as to prevent any fiduciary from (i) receiving any benefit to which he or she may be entitled as a Participant or Beneficiary, or: (ii) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly incurred in the performance of his duties under the Plan (except that no person so serving who receives compensation as an Employee shall receive compensation from the Plan, except for reimbursement of expenses properly incurred), or (iii) serving as a fiduciary in addition to being an officer, employee, agent or other representative of the State or any related entity.

10.3 Uniformity of Discretionary Acts - Whenever in the administration or operation of the Plan discretionary actions by the Employer, the Board or the Administrator are required or permitted, such action shall be consistently and uniformly applied to all persons similarly situated.

10.4 Fiduciary Standards - The Administrator and all other persons in any fiduciary capacity with respect to the Plan shall discharge their duties with respect to the Plan: (i) solely in the interest of the Participants and Beneficiaries and for the exclusive purposes of providing benefits to Participants and their Beneficiaries and defraying reasonable expenses of administering and operating the Plan, (ii) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims and (iii) in accordance with the statutes, documents and instruments governing the Plan.

10.5 Litigation - In any action or judicial proceeding affecting the Plan and/or the Trust, it shall be only necessary to join the Administrator as a party. Except as may be otherwise required by law, no Participant or Beneficiary shall be entitled to any notice or service of process, and any final judgment entered in such action shall be binding on all persons interested in, or claiming under, the Plan.

10.6 Payment of Administration Expenses - Expenses incurred in the administration and operation of the Plan shall be paid by the Trustees out of the Trust unless they are paid by the State of Delaware. In allocating such expenses among the Accounts within the Trust, the Administrator may calculate same as a percentage of a Participant's Account value in or at the end of any period or year (including assessment as part of any daily valuation system), or as a sum in dollars assessed upon the status and/or value of a Participant's Account as of the closing date for statements of such Account. In allocating such expenses the Administrator need not assess the same charge or type of charge against every account, but may establish different charges based on the size of the account, the investment option the Participant has selected, or the type and number of transactions with respect to an individual Participant. The Administrator, in its discretion, may adopt methods under which Participants can elect to pay directly (rather than through reduction of account values) their proportionate share of Plan Administration expense.

- 10.7 Statements of Account** - Statements of each Participant's Account shall be furnished to each Participant at least quarterly, within 45 days after the end of each calendar quarter, and at such more frequent intervals as determined by the Administrator.
- 10.8 Plan Statements** - Within 90 days after the end of the calendar year the Administrator, or such other person or entity as is from time-to-time designated by the Administrator, shall provide the Administrator a written report of the assets of the Plan, a schedule of all receipts and disbursements, and a report of all material transactions of the Plan during the preceding year. The report shall be in such form and contain such other information, as the Administrator shall determine.
- 10.9 Administrator Records** - The Administrator's records, and any records of the Administrator pertaining to a Participant's Account, shall be open to inspection during normal business hours by a Participant or his or her designated representative. Any Participant may only view records for his or her own account.
- 10.10 Claims Procedure**
- A.** In the event that any Participant or Beneficiary (hereinafter referred to as the "Claimant") believes that he or she is entitled to a benefit under the Plan, and such benefit has not been paid or commenced, or if such benefit has been paid or commenced under terms or in an amount with which the Claimant is not in agreement, said Claimant shall have the right to file a written claim with the Administrator setting forth the reason he or she is entitled to the benefit, or setting forth the nature of his dispute with the terms or amount of the benefit, as the case may be. Such claim shall be delivered or mailed to the Board, to the attention of its Executive Secretary.
 - B.** Unless it is determined that the matter is to be resolved in accordance with the wishes of the Claimant as set forth in the claim, the Administrator shall provide the Claimant with a written notice setting forth the specific reason or reasons for the denial, specific reference to pertinent Plan provisions on which the denial is based, a description of any additional material or information necessary for the Claimant to perfect his claim and an explanation of why such material or information is necessary, and an explanation of the Plan's claim review procedure: If such a notice has not been provided to the Claimant within 90 days after the claim was received by the Administrator, and the claim has not been granted within such period of time, the claim shall be deemed denied and the Claimant shall be entitled to institute review procedures as hereinafter set forth, except that the 90 day period may in special circumstances be extended to 180 days provided that the Administrator so notifies the Claimant, before expiration of the initial 90 day period, in a written notice setting forth the reason for the extension and the estimated decision date.
 - C.** For a period of 60 days following the date on which a Claimant has been provided with a notice of denial as aforesaid, the Claimant may appeal the denial by submitting to the Administrator a written request for a review by the

Administrator of the denial. At any time prior to the filing of such an appeal, the Claimant shall have a right to review all pertinent documents (which shall be made available to the Claimant during normal business hours at his place of employment or such other place as may be reasonably designated by the Administrator). The Claimant shall have the right to submit to the Administrator, at any time during the pendency of the review procedure, any written statement of issues and comments which the Claimant believes is relevant for the Administrator to consider. A decision by the Administrator shall be made promptly, and not later than 60 days after the Administrator's receipt of the request for review, unless special circumstances require an extension of time for processing, and the Administrator so notifies the Claimant in writing prior to the expiration of the initial 60 day period, in which case a decision shall be rendered as soon as possible but not later than 120 days after such receipt of a request for review. The Administrator's decision shall be set forth in writing and delivered to the Claimant and shall include specific reasons for the decision and specific references to the pertinent Plan provisions on which the decision is based. The Administrator's decision shall be final and binding on the Employer, the Claimant, and all other parties claiming any interest under the Plan, and their heirs and assigns.

- D.** Any reference herein to the "Claimant" shall be deemed to include any person named by the Claimant as his or her duly authorized representative, provided that such representative delivers to the Employer a written power of attorney or otherwise satisfies the Employer that he or she has been duly authorized to act for the Claimant.

- 10.11 Elections, Disclosures by Telephone and Electronic Means Permitted** - Any direction, notice or other communication provided to the Employer, the Administrator, the Trustee, or the Participant which is required to be in writing under the provisions of the Plan may be provided by electronic means or by telephone if permitted by the Administrator and by applicable law or regulations.

ARTICLE XI **AMENDMENT**

- 11.1 Right to Amend** - Except as provided in Section 11.3, the Administrator shall have the right to amend the Plan in writing, at any time, and with respect to any provisions thereof, and all parties thereto or claiming any interest thereunder shall be bound thereby. Notwithstanding the foregoing, no amendment can be made that results in the forfeiture of a vested benefit or modifies or limits the requirement that Plan assets be held for the exclusive benefit of Participants and their Beneficiaries and defraying the reasonable expenses of the Plan.
- 11.2 Amendment Required by Federal Law** - Notwithstanding anything to the contrary in Section 11.1, the Plan and Trust may be amended at any time, retroactively if required, if found necessary in order to conform to the provisions and requirements of the Code, or

any similar act or any amendments thereto or regulations promulgated thereunder; no such amendment shall be considered prejudicial to any interest of a Participant or Beneficiary hereunder.

- 11.3 Modifications to Match** - Modifications to the match amount per pay period, the percentage of contribution matched, and the number of pay periods per year to be matched are contingent upon funding by the General Assembly of the State of Delaware.

ARTICLE XII **TERMINATION**

- 12.1 Right to Terminate** - It is the present intention of the State to maintain the Plan. Nevertheless, the State, acting through the Administrator, or by passage of statutory amendment duly enacted under law, reserves the right, at any time, to terminate its obligation to allow contributions to be made to the Trust or to terminate the entire Plan and may do so by amending or repealing the statutes authorizing the Plan.
- 12.2 Suspension of Contributions** - In the event that contributions under the Plan are suspended, the Administrator shall continue all aspects of the Plan, other than contributions during the period of suspension, in which event distributions will be made, as each Participant reaches his Distribution Date, in accordance with ARTICLE VII.
- 12.3 Allocation and Distribution**

- A. Immediate Distribution** – Subject to action by or on behalf of the General Assembly, this Section shall become operative in any of the following events: (i) a complete termination of liability to make further contributions to the Trust; (ii) a complete discontinuance of contributions to the Trust; (iii) a suspension of contributions to the Trust which ripens into a complete discontinuance of contributions; or (iv) a complete termination of the Plan. The provisions of this Section shall also become applicable in the event of a partial termination of the Plan as described in Code section 411(d)(6) and the regulations promulgated thereunder, but only with respect to that portion of the Plan attributable to the Participants to whom the termination is applicable. Upon the effective date of any such event, then, notwithstanding any other provisions of the Plan, no persons who were not theretofore Participants shall be eligible to become Participants. The value of the interests of all Participants and Beneficiaries shall be determined and, after deduction of estimated expenses in liquidating and distributing the Trust, distributed to them as soon as is practicable after such termination.
- B.** As an alternative to immediate distribution of the Trust, the Administrator, in its discretion, and subject to its option at any time to require the complete distribution of the Trust to the then Participants, may defer commencement of benefits to each Participant until such Participant reaches his Distribution Date, at which time the Participant shall have the same powers to direct the Trustees in making payments as are contained in Section 7.3.

- C. The provisions set forth in this Section shall be subject to such modification, retroactively if required, without necessity of formal amendment to the Plan, as may be necessary in order to cause the termination of the Plan and/or Trust, and any distributions made pursuant thereto, to conform to any requirements which may be imposed by the Internal Revenue Service to prevent disqualification of the Plan and/or Trust, and no such modification shall be deemed prejudicial to the interest of any Participant or Beneficiary.
- D. In the event of a complete termination of the Plan or a complete discontinuance of contributions to the Plan, all Plan records and accounts shall be transferred to a designated agent pursuant to Title 29, Chapter 60A, Sections 6054(c) of the Delaware Code.

12.4 Plan Combinations and Transfers - In the case of any merger or consolidation of the Plan with, or transfer of assets or liabilities of the Trust to, any other Plan, the transaction shall be structured so that each Participant in the Plan would (if the Plan had then terminated) receive a benefit immediately after the transaction which is at least equal to the benefit he or she would have been entitled to receive immediately before the transaction (if the Plan had then terminated).

ARTICLE XIII **MISCELLANEOUS**

13.1 Procedure When Distributee Cannot Be Located - Of a distribution check is returned, the Administrator shall make all reasonable attempts to determine the identity and address of a Distributee entitled to benefits under the Plan.

(a) The Administrator will attempt to locate a lost Participant and may use one or more of the following methods: (1) provide a distribution notice to the lost Participant at his/her last known address by certified or registered mail; (2) check with other employee benefit plans of the Employer that may have updated information regarding the Participant's whereabouts; (3) identify and contact the Participant's designated Beneficiary; (4) use free internet search tools; (5) use a commercial locator service, credit reporting agencies, other Internet tools or other search method.

(b) If the Administrator is still unable to locate the Distributee using one or more of the methods described in paragraph (a) above, or if there has been no claim made for such benefits within 6 months, the Funding Vehicle shall continue to hold the benefits due such person. Following this 6-month period, if no such claim has been made, the Administrator may forfeit any amounts being held on the Distributee's behalf, but the Plan shall place the forfeited amounts in a separate Account under the Plan specifically designated for this purpose. If the Distributee is located subsequent to such forfeiture, the Administrator will restore the forfeited Account to the same dollar amount forfeited, unadjusted for net income, gains or losses occurring subsequent to the forfeiture.

13.2 Limitations on Liability of Employer - Neither the establishment of the Plan or Trust nor any modification thereof, nor the creation of any fund or account, nor the payment of

any benefits, shall be construed as giving to any Participant or other person any legal or equitable right against the State (or any person connected therewith), the Trustees or any insurance or investment company, except as provided by law or by any Plan provision. Neither the State nor the Administrator in any way guarantees the Trust from loss or depreciation, nor does the Administrator guarantee the payment of any money, which may be or become due to any person from the Trust. Any person having a right or claim under the Plan shall look solely to the Trust assets, and in no event shall the State 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 Trust or any contribution thereto or distribution therefrom. Neither the State 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 State 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 qualified status under Code section 401(a), or the failure of the Trust to attain and/or maintain tax exempt status under Code section 501(a), regardless of whether or not such failure is due to any act or omission (willful, negligent or Otherwise) of the Administrator (or any person connected therewith).

13.3 Construction - The Plan is intended to comply with all requirements for qualification under Code section 401(a) and, if any provision of the Plan is subject to more than one interpretation or construction, such ambiguity shall be resolved in favor of that interpretation or construction which is consistent with the Plan being so qualified. In case any provision of the Plan shall be held to be illegal or void, such illegality or invalidity shall not affect the remaining provisions of the Plan, but shall be fully severable, and the Plan shall be construed and enforced as if said illegal or invalid provisions had never been inserted herein. For all purposes of the Plan, where the context admits, words in the masculine gender shall include the feminine and neuter genders, the singular shall include the plural, and the plural shall include the singular. Headings of Article and Sections are inserted only for convenience of reference and are not to be considered in the construction of the Plan. Except to the extent preempted by federal law, the laws of Delaware shall govern, control and determine all questions arising with respect to the Plan and the interpretation and validity of its respective provisions. If the indefinite continuance of the Plan would be in violation of the law, then the Plan shall continue for the maximum period permitted by law and shall then terminate, whereupon distribution of the Trust shall be made as provided in Section 12.3 hereof. Participation under the Plan will not give any Participant the right to be retained in the service of the State of Delaware nor any right or claim to any benefit under the Plan unless such right or claim has specifically accrued hereunder.

13.4 Protection of Persons Who Serve in a Uniformed Service - Notwithstanding any provisions of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") [as codified

at Chapter 43, Title 38, of the United States Code]; Code Section 414(u); and Code Section 401(a)(37), as amended from time to time.

For purposes of this section, "qualified military service" means any service in the uniformed services as defined in USERRA by any individual if such individual is entitled to reemployment rights under USERRA with respect to such service.

A Participant, whose employment is interrupted by qualified military service or who is on a leave of absence for qualified military service who timely resumes employment with the Employer in accordance with USERRA, may elect to make-up deferral contributions to the Deferred Compensation Plan in accordance with Code Section 414(u) reduced by deferral contributions to the Deferred Compensation Plan, if any, actually made for the Participant during the period of such interruption or leave. Except to the extent otherwise provided under Code Section 414(u), this right applies for five (5) years following such resumption of employment (or, if shorter, for a period equal to three (3) times the period of the interruption or leave). Such contribution by the Participant may only be made during such period and while the Participant is employed by the Employer.

If such Participant elects to make such make-up contributions, then the Employer shall make-up the related Matching Contribution which would have been required had such contributions actually been made during the period of qualified military service. The make-up contributions by the Employer shall be made as soon as practicable after the Participant makes such make-up contributions.

Effective January 1, 2007, to the extent provided under Code Section 401(a)(37), in the case of a Participant whose employment is interrupted by qualified military service and who dies while performing qualified military service, the survivor of such Participant shall be entitled to any additional benefit (other than benefit accruals) provided under the Plan as if the Participant timely resumed employment in accordance with USERRA and then, on the next day, terminated employment on account of death.

Effective January 1, 2009, a Participant receiving a differential wage payment within the meaning of Code Section 414(u)(12)(D) from the Employer, shall be treated as a Participant and the differential wage payment shall be treated as compensation for purposes of Code Section 415(c). This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

13.5 Anti-Alienation

- A. General Rule** - Subject to paragraphs (B) and (C) below, no portion of any Account or benefit, or interest of a Participant or Beneficiary in the Trust Fund, may be sold, transferred, assigned, pledged, charged or used as collateral; and no such Account or interest shall be subject to attachment or seizure by a creditor, including the State of Delaware acting as a creditor.
- B. Federal Tax Levy** - The Plan may recognize the Internal Revenue Service's authority to levy a Participant's Account for federal taxes.

- C. Qualified Domestic Relations Orders Procedures.** The Administrator will establish reasonable procedures to determine the qualified status of a domestic relations order. Upon receiving a domestic relations order, the Administrator shall promptly notify the Participant and any alternate payee named in the order, in writing, of the receipt of the order and the Plan's procedures for determining the qualified status of the order. Within a reasonable period of time after receiving the domestic relations order, the Administrator must determine the qualified status of the order and must notify the Participant and each alternate payee, in writing, of its determination. The Administrator shall provide such notice by mailing to the individual's address specified in the domestic relations order, and the Participant and alternate payee must notify the Administrator of any changes to such address.

If any portion of the Participant's Account is payable during the period the Administrator is making its determination of the qualified status of the domestic relations order, the Administrator must make a separate accounting of the amounts payable. If the Administrator determines the order is a qualified domestic relations order within 18 months of the date amounts first are payable following receipt of the order, the Administrator shall direct the Trustee to distribute the payable amounts in accordance with the order. If the Administrator does not make his determination or the qualified status of the order within the 18-month determination period, the Administrator shall direct the Trustee to distribute the payable amounts in the manner the Plan would distribute if the order did not exist and shall apply the order prospectively if the Administrator later determines the order is a qualified domestic relations order.

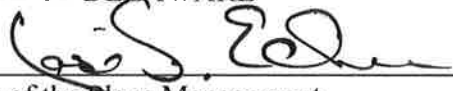
The Trustee shall set up segregated accounts for each alternate payee when properly notified by the Administrator.

A domestic relations order shall not fail to be deemed a qualified domestic relations order merely because it requires the distribution or segregation of all or part of a Participant's Account with respect to an alternate payee prior to the Participant's earliest retirement age (as defined in Code section 414(p)) under the Plan. A distribution to an alternate payee prior to the Participant's attainment of the earliest retirement age is available if the order specifies distribution at that time.

Unless otherwise stated in the domestic relations order, a former spouse who becomes an alternate payee shall no longer be treated as the Participant's Beneficiary unless the Participant designates the former spouse as a Beneficiary and such designation is signed after the date of that domestic relations order became effective.

IN WITNESS WHEREOF, the undersigned has executed this Plan on behalf of the Plans Management Board this 6th day of June 2017.

STATE OF DELAWARE



Chair of the Plans Management