

DELAWARE QUALIFIED TUITION SAVINGS PLAN TRUST

DECLARATION OF TRUST

AGREEMENT AND DECLARATION OF TRUST made at Dover, Delaware this 1st day of April, 1998, by the State of Delaware Qualified Tuition Savings Board, as Trustees hereunder, for the benefit of the beneficiaries of the Delaware Qualified Tuition Savings Plan Trust who shall be designated in accordance with the terms hereof.

WHEREAS, the State of Delaware ("the State") has adopted legislation (the "Authorizing Legislation") authorizing and directing the State to create, establish and maintain the State of Delaware Qualified Tuition Savings Program (the "Plan");

WHEREAS, the Authorizing Legislation establishes the State of Delaware Qualified Tuition Savings Board which shall ensure the proper administration and management of the Plan;

WHEREAS, the Board is an instrumentality of the State;

WHEREAS, the Authorizing Legislation provides that the Plan shall be established and maintained so that a person or persons may make contributions to accounts established for the purpose of meeting the qualified higher education expenses of the designated beneficiaries of such accounts;

WHEREAS, the Plan is intended to be a qualified state tuition program within the meaning of section 529 of the United States Internal Revenue Code of 1986, as it may be amended from time to time (the "Code");

WHEREAS, the Authorizing Legislation enables the establishment of a vehicle for the Plan which shall enable the Plan to perform its designated governmental function as an instrumentality of the State, and as an integral part of State Government; and

WHEREAS, this Delaware Qualified Tuition Savings Plan Trust (the "Trust"), with the Board as trustees (the "Trustees"), has been formed to carry out and promote the governmental purposes of the Plan, and has been determined, selected and approved by the Board as the vehicle for the Plan;

NOW THEREFORE, the Board as trustees hereunder hereby declares that they shall hold all the cash, securities and other assets which the trustees may from time to time acquire pursuant to the terms hereof IN TRUST to manage and dispose of the same upon the following terms and conditions for the benefit of the beneficiaries designated hereunder.

ARTICLE I

PURPOSE OF THE TRUST

The purpose of the Trust is to carry out, promote and operate the Plan so that a person or persons may make contributions to accounts established for the purpose of meeting the qualified higher education expenses of the designated beneficiaries of such accounts.

ARTICLE II

THE TRUSTEES

The trustees of the Trust shall be the members of the Board, as they shall serve from time to time.

ARTICLE III

POWERS OF THE TRUSTEES

3.1 General. Subject to the provisions of this Declaration of Trust, the operation of the Trust shall be managed by the Trustees, and the Trustees shall have all powers necessary and convenient to carry out the responsibility and purpose of the Trust. Without limiting the foregoing, the Trustees may as they consider appropriate elect and remove officers and appoint and terminate agents and consultants and hire and terminate employees, and may provide for compensation of all of the foregoing; to employ one or more advisers, administrators, depositories and custodians and may authorize any depository or custodian to employ subcustodians or agents and deposit all or any part of such assets in a system or systems for the central handling of securities and debt instruments, retain transfer, dividend, accounting or shareholder servicing agents, provide for the promotion and marketing of participation accounts established hereunder. Nothing in this Agreement shall be construed in any way to limit the powers of the Trustees to manage, oversee, direct, or assume responsibility for the Plan.

3.2 Selection of Contracting Parties. Notwithstanding any limitations of present and future law or custom in regard to delegation of powers by trustees generally, the Trustees may, at any time and from time to time and without limiting the generality of the Trustees' powers and authority otherwise set forth herein, enter into one or more contracts with any one or more corporations, trusts, associations, partnerships, limited partnerships, other types of organizations or individuals (a "Contracting Party"), to provide for the performance and assumption of some or all of the following services, duties and responsibilities to, for or on behalf of the Trust and the Trustees, and to provide for the performance and assumption of such other services, duties and responsibilities in addition to those set forth below as the Trustees may determine appropriate: advisory services; investment management; administration, accounting and recordkeeping; distribution and marketing; custodian and depository; and account servicing. The same person may be the Contracting Party for some or all of the services, duties and responsibilities to, for and of the Trust and the Trustees, and the contracts with respect thereto may contain such terms interpretive of or in addition to the delineation of the services, duties and responsibilities provided for, as the Trustees may determine.

ARTICLE IV

PARTICIPANTS AND ACCOUNTS

4.1 Participant Eligibility. Any person (a "Participant") may make contributions to the Trust, regardless of whether such person is a resident of the State, on behalf of a beneficiary or beneficiaries designated in accordance with the terms of this Trust ("Designated Beneficiaries"), so long as either the Participant or the Designated Beneficiary is a resident of the State at the time an Account (as defined in Section 4.3 below) is opened for the Designated Beneficiary.

4.2 Participation Agreement. The Trust will accept such contributions only upon receipt of an executed Participation Agreement between the Participant and the Trust. The Trustee may amend the Participation Agreements from time to time in accordance with the terms of such Agreements.

4.3 Separate Accounts. Each Participant shall be required to open a separate account (an "Account") for each Designated Beneficiary. Each Account shall be maintained for all contributions made on behalf of such Designated Beneficiary by such Participant and the income, expenses, gains and losses attributable thereto. All contributions to an Account shall be held in trust by the Trustees for the benefit of the Participants and Beneficiaries. The Participant or Designated Beneficiary shall not have right to any title in or to the whole or any part of the Trust property or right to call for a partition or division of the same or for an accounting.

4.4 Contributions to Accounts. All contributions to Accounts shall be made only in cash. Contributions shall not exceed that amount that is necessary to provide for the qualified higher education expenses of the Designated Beneficiary. Each Participation Agreement shall set forth limitations on contributions that shall satisfy the prohibition on excess contributions set forth in Section 529(b)(5) of the Code. The Trustees may establish such fees as they deem necessary, which fees may be used for any purpose permitted by law and consistent with the purposes of this Trust including, but not limited to, to defray the costs of administering and operating the Trust, provided, however, that any such fees shall be fully disclosed in the Participation Agreement.

4.5 Distributions from Accounts. Payments of distributions from Accounts shall be made only in cash. Each Participation Agreement shall provide a greater than de minimis penalty as shall be determined from time to time by the Trustee in accordance with Section 529(b)(3) of the Code on any distribution from an Account that is not (a) used for qualified higher education expenses of the Designated Beneficiary, (b) made on account of the death or disability of the Designated Beneficiary, or (c) made on account of a scholarship, allowance or payment (as described in Section 529(b)(3) of the Code) received by the Designated Beneficiary to the extent the distribution does not exceed the amount of the scholarship, allowance or payment.

4.6 Manner of Investment; No Investment Direction. Ownership of the Account shall not entitle the Participant or Designated Beneficiary to directly or indirectly direct the investment of any contributions held in the Account (or earnings thereon). Notwithstanding any law regarding the legal investment of State assets to the contrary, the Trustees are granted full power and authority to invest and reinvest Trust assets in any property of any kind or nature whatsoever (speculative or otherwise) or in any rights or interests therein, or in any evidences or indicia thereof and whether real, personal or mixed, or whether tangible or intangible (including but not limited to the following or anything of a similar kind, character or class: common or preferred stocks, evidences or ownership in so-called business trusts, fees, beneficial interests, leaseholds, bonds, mortgages, leases, notes or obligations, oil or gas payments, oil or gas contracts, other securities, instruments or commodities, investments in property yielding little or no income and shares of regulated investment companies), and to hold cash uninvested at any time and from time to time in such amounts and to such extent as the Trustees in their own uncontrolled discretion and judgment deems advisable; provided however, that the Trustees are to act with the care, skill and diligence, under the circumstances then prevailing, which would characterize the actions of a prudent person who is acting as such a Trustee and who is familiar with the duties of such a Trustee; further provided that the Trustees are not empowered to enter into any investment which would be prohibited under the Act, Section 529 of the Code or otherwise by the provisions of this Trust.

4.7 Appointment of Investment Manager. The Trustees may contract with one or more persons to act as investment manager or investment managers of the assets of the Trust. If an investment manager is so designated, the Trustees shall, to the extent consistent with its obligations as Trustee, follow all investment directions given by the investment manager with respect to the retention, investment and reinvestment of the Trust assets to the extent they are under the control of the investment manager. If permitted by the Trustee, the investment manager may issue orders for the purchase and sale of securities, including orders through any affiliate of such investment manager. Such an investment manager is specifically allowed to direct or make investments in any investment described in paragraph 4.6 hereof. The Trustees shall not be liable for following any direction given by, or any actions of, an investment manager so appointed.

4.8 Registration. Any Trust assets may be registered in the name of the Trustees or any nominee designated by the Trustees.

4.9 Recordkeeping. The Trustees shall keep accurate and detailed accounts of all investments, receipts and disbursements and other transactions hereunder.

4.10 Audit. The Trustees shall cause the Trust and its assets to be audited at least annually by a certified public accountant selected by the Trustees.

4.11 Spendthrift Provision. No interest of any Participant or Designated Beneficiary in an Account shall be assigned, anticipated, used as security for any loan or otherwise alienated in any manner nor shall it be subject to attachment, bankruptcy proceedings or to any other legal process or to the interference or control of creditors or others.

ARTICLE V

DESIGNATION OF BENEFICIARIES

5.1 Designated Beneficiary Eligibility. Participants shall with respect to each Account appoint a Designated Beneficiary at the time of execution of a Participation Agreement. A Designated Beneficiary may be a resident of any state if the Participant is a resident of Delaware at the time the Account is opened. Otherwise, the Designated Beneficiary must be a resident of Delaware at the time the Account is opened.

5.2 Substitution of Designated Beneficiaries. A Participant may substitute another person as the Designated Beneficiary of an Account at any time and from time to time only if such person is a "member of the family" of the prior Designated Beneficiary. For purposes of this paragraph, the term "member of the family" shall have the meaning given such term under Section 529(e)(2) of the Code. A substitution shall only become effective upon execution by the Participant of such documents as shall be required under the terms of the Participation Agreement and delivery of such documents to the Trustees or their designee. Each such executed document is hereby specifically incorporated herein and shall be construed and enforced in accordance with the laws of the State of Delaware.

ARTICLE VI

FEES AND EXPENSES

The Trustees are authorized to pay or cause to be paid out of the principal or income of the Trust, and to charge and allocate the same to, between and among such one or more of the Accounts as the Trustees deem fair, all expenses, fees, charges, taxes and liabilities incurred or arising in connection with the Trust or in connection with the management thereof, including, but not limited to, the Trustees' compensation and such expenses and charges for the services of the Trust's investment adviser, administrator, distributor, auditor, counsel, depository, custodian, accounting and servicing agent and such other agents, consultants and independent contractors and such other expenses and charges as the Trustees may deem necessary or proper to incur. A portion of such fees and expenses may be designated as an initial application fee.

ARTICLE VII

NECESSITY OF QUALIFICATION; AUTHORIZATION OF MULTIPLE INVESTMENT PORTFOLIOS AND INSULATION THEREOF

7.1 This Trust is established with the intent that it shall qualify as a qualified state tuition program under Section 529 of the Code. If the Trust fails to attain or retain such qualification, the Trustees shall promptly either amend the Trust so that it does qualify, or shall terminate the Trust, and distribute all the assets of the Trust to the Participants, and the Trust shall be considered to be rescinded and of no force and effect.

7.2 This trust may be divided into one or more investment portfolios ("series"), and separate and distinct records shall be maintained for any such series and the assets associated with any such series shall be held and accounted for separately from the other assets of the Trust or any other series thereof. The debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a particular

series shall be enforceable against the assets of such series only, and not against the assets of the Trust generally.

ARTICLE VIII

AMENDMENT AND TERMINATION

8.1 Amendment and Termination. The Trustees may at any time, and from time to time, amend this Declaration of Trust and the Participation Agreements, or suspend or terminate this Trust by giving written notice of such action to the Participants, but the Trust assets may not thereby be diverted from the exclusive benefit of the Participants and their Designated Beneficiaries. No amendment shall be effective to the extent that it would have the effect of decreasing an Account balance. Nothing contained herein shall constitute an agreement or representation by the Trustees or any Contracting Party that it will continue to maintain the Trust indefinitely.

8.2 Distribution of Accounts Upon Termination. Upon termination of the Trust, the Trustees shall determine whether to pay the Accounts immediately, to retain such Accounts in the Trust and pay them in accordance with the terms of the Participation Agreements or to use what other methods the Trustees deem advisable in order to furnish whatever benefits the Trust will provide.

8.3 Duration of Trust. Unless terminated as provided herein, the Trust shall continue without limitation of time.

ARTICLE IX

GOVERNING LAW

This Declaration of Trust is made in the State of Delaware, and it is created under and is to be governed by and construed and administered according to the laws of the State of Delaware.

IN WITNESS WHEREOF, AND FOR THE PURPOSE OF ESTABLISHING THIS DELAWARE QUALIFIED TUITION SAVINGS PLAN TRUST, the undersigned have set their hands and seal in the City of Dover, Delaware as of the day and year first written above.

THE TRUSTEES OF THE STATE OF DELAWARE QUALIFIED
TUITION SAVINGS BOARD

By:

A Dale Stratton