

**AMENDMENT NUMBER TWO TO THE  
STATE OF DELAWARE 403(b) PLAN**

The State of Delaware ("State") currently maintains the State of Delaware 403(b) Plan ("Plan") to enable certain eligible employees to save for retirement by making salary deferral contributions to the Plan.

The State reserves the right to amend the Plan pursuant to Section 8.2 of the Plan. The Plan was last restated effective January 1, 2017. The State now desires to amend the Plan in certain respects to eliminate the six-month suspension of elective deferrals to a participant's 403(b) account after receipt of a hardship withdrawal.

NOW, THEREFORE, BE IT RESOLVED that the Plan shall read as follows:

1. Section 5.5 is amended to be read as follows:

**Hardship Withdrawals.** (a) If permitted under the applicable Individual Agreement(s), a Participant who has not had a Severance from Employment may receive a distribution of his or her Elective Deferrals and Roth Contributions (excluding any earnings on such Elective Deferrals after December 31, 1988) for financial hardship. The Administrator or Vendor shall determine based on uniform and nondiscriminatory standards whether a financial hardship exists, and its determination shall be final and conclusive.

(b) "Immediate and Heavy Financial Need" means that a Participant has a financial need on account of:

(1) expenses for (or necessary to obtain) medical care that would be deductible under Code Section 213(d) (determined without regard to whether the expenses exceed seven and one-half percent (7.5%) of adjusted gross income) for the Participant, his or her spouse, designated Beneficiary, children, or any dependents (as defined in Code Section 152, and without regard to Code Sections 152(b)(1), (b)(2) and (d)(1)(B));

(2) costs directly related to the purchase (excluding mortgage payments) of a principal residence for the Participant;

(3) payment of tuition, related educational fees, and room and board expenses for up to the next twelve (12) months of post-secondary education for the Participant, his or her spouse, designated Beneficiary, children, or dependents (as defined in Code Section 152, and without regard to Code Sections 152(b)(1), (b)(2) and (d)(1)(B));

(4) payments necessary to prevent the eviction of the Participant from his or her principal residence or the foreclosure on the mortgage of the principal residence of the Participant;

(5) payments for burial or funeral expenses for the Participant's deceased parent, spouse, designated Beneficiary, children, or dependents (as defined in Code Section 152, without regard to Code Section 152(d)(1)(B));

(6) expenses to repair damage to the Participant's principal residence that would qualify for a casualty deduction under Code Section 165 (determined without regard to Code Section 165(h)(5) and whether the loss exceeds ten percent (10%) of adjusted gross income);

(7) expenses and losses (including loss of income) incurred by the Participant on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100-707, provided that the Participant's principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster; or

(8) such other circumstances as the Commissioner of Internal Revenue determines constitute financial hardship under Code Section 401(k) or the Treasury Regulations thereunder.

(c) A financial hardship distribution must be made on account of a Participant's Immediate and Heavy Financial Need. Any such distribution will be considered necessary to satisfy an Immediate and Heavy Financial Need of the Participant only if:

(1) the distribution is not in excess of the amount of the Immediate and Heavy Financial Need (including amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution);

(2) the Participant has obtained all distributions currently available under the Plan or any other deferred compensation plans maintained by the Employer, other than hardship distributions;

(3) for distributions made on or after January 1, 2020, the Participant represents that he or she has insufficient cash or other liquid assets to satisfy the need; and

(4) the Participant has met any such additional or alternative requirements as may be prescribed in Treasury Regulation Section 1.401(k) 1(d)(3)(iv)(E) or subsequent promulgations.

Effective January 1, 2019, Elective Deferrals or Roth Contributions are no longer required to be suspended for six (6) months after receipt of the hardship distribution, and any suspension in effect on such date shall immediately end.

(d) If the Administrator or Vendor requires further information in order to determine whether a financial hardship exists, it may request this information from the Participant. Denial of a financial hardship distribution request shall be made in accordance with the claims procedures of the Plan.

(e) The Vendor may charge a fee for processing financial hardship distributions under this Section."

2. In all other respects, the Plan shall be and remain unchanged.

IN WITNESS WHEREOF, the State of Delaware has duly adopted this Amendment as stated herein effective January 1, 2019, and has caused the Amendment to be executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

STATE OF DELAWARE

By: \_\_\_\_\_  
Title: Chair of the Plans Management Board