

**AMENDMENT NUMBER THREE TO THE  
STATE OF DELAWARE DEFERRED COMPENSATION PLAN**

The Plans Management Board (the “Board”) of the State of Delaware currently maintains the State’s Deferred Compensation Plan (the “Plan”) under Internal Revenue Code Section 457(b), as authorized by Title 29, Chapter 60A of the Delaware Code, which Plan was originally adopted effective July 1, 1971, and which was subsequently restated and amended, most recently by a restatement effective January 1, 2017, and Amendment Number One, approved October 24, 2017, and Amendment Number Two, effective January 1, 2020.

The Board reserves the right to amend the Plan pursuant to Section 10.1 of the Plan. The Board now desires to amend the Plan, effective ~~January 1, 2020~~.

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1. Section 7.1 of the Plan is amended to ~~be~~ read as follows:

7.1 **Distribution Events.** A distribution of any of the Participant's Accounts from the Plan shall generally be made no earlier than the occurrence of one of the following events: (i) the Participant's Severance from Employment; (ii) the first day of the calendar year in which the Participant attains age ~~70-59~~<sup>59</sup> $\frac{1}{2}$ ; or (iii) Unforeseeable Emergency as determined by the Administrator. Exceptions to this general rule will be covered in Plan Sections 7.3 through ~~7.911~~ below.

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(a) **Severance from Employment.** Following a Severance from Employment, the Participant (or his or her Beneficiary, in the event of the Participant's death), may elect to take a distribution of his Account by submitting his or her request in such form and manner as prescribed by the Administrator.

(b) **Attainment of Age ~~70-59~~<sup>59</sup> $\frac{1}{2}$ .** Notwithstanding the fact that the Participant has not had a Severance from Employment, after the first day of the calendar year in which the Participant attains age ~~70-59~~<sup>59</sup> $\frac{1}{2}$ , the Participant may elect to take a distribution of part or all of his or her Account(s) by submitting a request in such form and manner as prescribed by the Administrator.

(c) **Unforeseeable Emergency.** A Participant may request a distribution due to an Unforeseeable Emergency by submitting a request to the Administrator, accompanied by evidence to demonstrate that the circumstances being experienced qualify as an Unforeseeable Emergency, including whether the Unforeseeable Emergency could be relieved. No distribution shall be permitted if the Unforeseeable Emergency could be relieved (i) through reimbursement or compensation from insurance or otherwise; (ii) by liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship; or (iii) by cessation of deferrals under the Plan. The Administrator shall have the authority to require such evidence as it deems necessary to determine if a distribution is permitted. If a request for a distribution due to an Unforeseeable Emergency is approved, the distribution shall be limited to an amount sufficient to meet the Unforeseeable Emergency (which may include the amounts necessary to pay any federal, state, or local income taxes or penalties

reasonably anticipated to result from the distribution). As noted in Section 4.4, such a distribution will subject the Participant to the limitation in Section 4.4.

2. Section 7.9 of the Plan is amended to ~~be~~ read as follows:

7.9 **Minimum Distribution Requirements.** The minimum distribution requirements as set forth below are intended and shall be interpreted to comply with Section 401(a)(9) of the Code and the applicable regulations.

- (a) Notwithstanding anything to the contrary contained elsewhere in this Plan:
- (1) A Participant's benefits under the Plan will:
    - (A) be distributed to him or her not later than the Required Distribution Date (as defined in subsection ~~(Aa)~~(3) below), or
    - (B) be distributed commencing not later than the Required Distribution Date in accordance with applicable Regulations over a period not extending beyond the life expectancy of the Participant and his Beneficiary.
  - (2)
    - (A) If the Participant dies after distribution has commenced pursuant to subsection ~~(Aa)~~(1)~~(bB)~~ but before his or her entire interest in the Plan has been distributed to him or her, then the remaining portion of that interest will be distributed at least as rapidly as under the method of distribution being used under subsection ~~(Aa)~~(1)~~(bB)~~ at the date of his or her death.
    - (B) If the Participant dies before distribution has commenced pursuant to subsection ~~(Aa)~~(1)~~(bB)~~, then, except as provided in subsections ~~(Aa)~~(2)~~(eC)~~ and ~~(Aa)~~(2)~~(dD)~~, his or her entire interest in the Plan will be distributed by the end of the calendar year which contains the fifth (5<sup>th</sup>) anniversary of his or her death.
    - (C) Notwithstanding the provisions of subsection ~~(Aa)~~(2)~~(bB)~~, if the Participant dies before distribution has commenced pursuant to subsection ~~(Aa)~~(2)~~(bB)~~ and if any portion of his or her interest in the Plan is payable (i) to or for the benefit of a Beneficiary, (ii) in accordance with the applicable Regulations over a period not extending beyond the life expectancy of the Beneficiary, and (iii) beginning not later than the end of the calendar year immediately following the calendar year of the Participant's death or such later date as permitted by applicable Regulations, then the portion referred to in this subsection ~~(Aa)~~(2)~~(eC)~~ shall be treated as distributed on the date on which such distribution begins.

- (D) Notwithstanding the provisions of subsections ~~(Aa)(2)(hB)~~ and ~~(Aa)(2)(eC)~~, if the Beneficiary referred to in subsection ~~(Aa)(2)(eC)~~ is the surviving spouse of the Participant, then
- (i) the date on which the distributions are required to begin under subsection ~~(Aa)(2)(eC)(iii)~~ of this section shall not be earlier than the date on which the Participant would have attained the age of 70 ½ for Participants born on or before June 30, 1949 or age 72 for Participants born after June 30, 1949, and
  - (ii) if the surviving spouse dies before the distributions to that spouse begin, then this subsection ~~(Aa)(2)(dD)~~ shall be applied as if the surviving spouse were the Participant.
- (3) For purposes of this section, the Required Distribution Date means April 1 of the calendar year following the later of:
- (A) the calendar year in which the Participant attains
    - (i) age 70½ for Participants born on or before June 30, 1949 ~~age 70 ½ if the individual attained age 70 ½ prior to December 31, 2019; or~~
    - (ii) age 72 for Participants born after June 30, 1949 ~~if the individual attained age 70 ½ after December 31, 2019; and~~
  - (B) the calendar year in which the Participant retires or otherwise has a Severance from Employment with the Employer and all related employers, unless the Participant is a 5% owner (as defined in Section 416 of the Code) of the Employer with respect to the Plan Year ending in the calendar year in which the Participant attains age 70 ½/72, in which case this clause (2B) shall not apply.
- (4) For purposes of this subsection, the life expectancies of the Participant and his surviving spouse may be redetermined, but not more frequently than annually, in accordance with the Regulations. This subsection ~~(Aa)(4)~~ shall not apply in the case of a life annuity.
- (5) A Participant may not elect a form of distribution under the Plan providing payments to a Beneficiary who is other than his surviving spouse unless the actuarial value of the payments expected to be paid to the Participant is more than 50% of the actuarial value of the total payments expected to be paid under such form of distribution.
- (b) Notwithstanding any other provisions of this Section 7.9<sub>2</sub>, a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of 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.

(c) 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 Section 401(a)(9)(H) of the Code) 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.”

3. In all other respects, the Plan shall remain unchanged.

IN WITNESS WHEREOF, the undersigned has executed this amendment to the Plan on behalf of the Plans Management Board this \_\_\_ day of \_\_\_\_\_ 2020.

STATE OF DELAWARE PLANS  
MANAGEMENT BOARD

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Chair of the Plans Management Board

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