

**MEMORANDUM OF UNDERSTANDING  
BETWEEN AND AMONG  
THE STATE OF DELAWARE OFFICE OF AUDITOR OF ACCOUNTS  
AND  
THE PLANS MANAGEMENT BOARD  
AND  
THE STATE OF DELAWARE OFFICE OF THE STATE TREASURER**

**WHEREAS**, pursuant to 29 *Del. C.* § 2722, the Plans Management Board (“Board”) is the State of Delaware (the “State”) agency responsible for the oversight and administration of the State’s deferred compensation programs under 26 U.S.C. §§ 457(b), 401(a), & 403(b), and the State’s qualified tuition program and college investment plan under 26 U.S.C. § 529 (collectively the “Plans”);

**WHEREAS**, pursuant to 29 *Del. C.* § 2722(e)(7), the Board is required to (a) arrange for an annual financial audit of each Plan; (b) enter into a memorandum of understanding with the State of Delaware Office of Auditor of Accounts (“OAOA”) regarding each such audit; and (c) approve payment for such audit;

**WHEREAS**, pursuant to 29 *Del. C.* § 2722, the State of Delaware Office of the State Treasurer (“OST”) is required to and does provide administrative support for the Board;

**WHEREAS**, OAOA, the Board, and OST are referred to collectively herein as the “Parties”;

**WHEREAS**, OAOA, pursuant to 29 *Del. C.* § 2906(c), has sole responsibility for the arrangements under which the postaudits of State of Delaware agencies are conducted and for the selection of certified public accounting firms who shall perform the postaudits;

**WHEREAS**, OAOA has conducted and completed the professional services procurement process in accordance with 29 Del. C. Ch. 69, subch. VI and has select a certified public accounting firm (the "Contractor") to perform the annual postaudits for each Plan (the "Engagement");

**WHEREAS**, following OAOA's selection of the certified public accounting firm and negotiations with said firm, OAOA entered into a professional services agreement (the "Contract") with the Contractor regarding the Engagement;

**WHEREAS**, the Contract provides for a two-year term and may be extended by OAOA as provided in the Contract and this Memorandum of Understanding (the "MOU"); and

**WHEREAS**, OAOA, the Board and OST agree that the MOU is intended to document their mutual understanding and agreement regarding payment of all Contract-related fees and other matters related to the Engagement, as specified herein, and is entered into as of the date executed by the Parties.

**NOW THEREFORE**, pursuant to the foregoing, the Parties hereto agree to the following:

1. All information, data, reports, and records, as are necessary for carrying out the engagement, shall be furnished to the Contractor without charge by OST, and OST shall cooperate with the Contractor during the course of the Engagement.
2. During the course of the Engagement, and prior to the completion thereof, OAOA shall notify in writing and consult with OST concerning any proposed extension of or addendum or revision to the Contract, including but not limited to the exercise of any optional term or changes in the scope of the Engagement that may affect Contract-related fees or other material terms. OAOA shall provide notice to OST of any such

potential extension at least 30 days prior to the deadline for exercising an optional term, if any, or 30 days prior to the end of the existing term, whichever is earlier.

3. Within 10 business days of such notice, OST may provide written comments to OAOA regarding the proposed extension, addendum or revision. OAOA will consider OST's comments and notify OST in writing of any extension of the Contract, or any changes made to the Contract that may affect Contract-related fees or other material terms. If applicable, OAOA shall include in any such notice the reasons why OST's comments regarding any proposed extension, addendum or revision were rejected.
4. OST and the Board acknowledge OAOA's statutory authority under 29 *Del. C.* § 2906(c) and agree that neither OST nor the Board will enter into any agreement or arrangement with the Contractor that would create a conflict of interest. OAOA agrees that, upon the termination or expiration of the Contract, it will provide advance notice to OST and the Board of the initiation of a procurement process for audit services related to a Plan. OAOA agrees that a representative of the Board shall be permitted to participate on any evaluation committee formed to make recommendations in connection with any such procurement process.
5. OAOA acknowledges the Board's statutory authority under 29 *Del. C.* § 2722(e)(7) to arrange and approve the payment for annual financial audits of the Plans.
6. OAOA shall be solely responsible for finalizing and publicly issuing reports relating to the annual financial audits.
7. In the first quarter of each calendar year during the term of this MOU, the Board shall approve an annual budget for the Plan that includes a line item for the payment of all

annual audit-related fees and expenses, including reasonable estimates for all OAOA and Contractor fees and expenses incurred or expected to be incurred each calendar year. OST shall pay the Contractor any fees and expenses due and owing under the Contract, subject to OST's right to review and approve such fees and expenses in accordance with this MOU.

8. OAOA shall promptly review and tentatively approve all invoices submitted by the Contractor. OAOA shall promptly send all tentatively approved fees to OST for review and approval. OST will approve and promptly pay all undisputed charges in accordance with the budget. OST may directly address with the Contractor any disputed fees or expenses. OST and the Contractor may resolve any such disputes, and OST may pay all agreed-upon fees or expenses in accordance with the budget. Absent Board approval, OST shall not pay any fees or expenses that exceed the amount provided in the annual budget.
9. If the Contractor informs OAOA of a potential cost overrun, OAOA will immediately notify OST.
10. In the event a subpoena, other legal process, or a Freedom of Information Act ("FOIA") request seeking access to or copies of work papers or any other documents related to the Engagement is received by OAOA, OAOA shall respond in accordance with the law. Unless prohibited by law, OAOA shall immediately notify OST of its receipt of any such request for access to confidential or potentially confidential documents relating to the Engagement.

11. OST and the Board agree to allow OST's employees to respond to audit inquiries and inform OAOA and the Contractor of any significant facts regarding matters of internal controls, fraud, waste, abuse, or illegal acts. Any information obtained as a part of this Engagement will be processed in accordance with applicable audit and investigative standards.

12. All notices and communications between the parties regarding any aspect of this MOU should be directed to the following individuals in writing:

John Meyer  
Director, Contributions and Plan Management  
Office of the State Treasurer  
820 Silver Lake Blvd, Suite 100  
Dover, DE 19904  
John.Meyer@delaware.gov  
302-672-6705

Kathleen K. McGuinness  
State Auditor  
Office of Auditor of Accounts  
401 Federal Street, Third Floor  
Dover, DE 19901  
Kathleen.McGuinness@delaware.gov  
302-739-5055

13. This MOU may be amended only by written agreement of the Parties.

14. OST shall pay to OAOA a reasonable fee for OAOA's administrative and oversight role related to the Contract and the Engagement. A "reasonable fee" shall be earned each audit cycle covered by the Contract, including any extension term, and shall be calculated based on 10% of the amount invoiced by the auditing firm and approved by the Board each audit cycle. For the avoidance of doubt, under this MOU, OAOA shall be entitled to an annual reasonable fee payment for calendar year 2022.

15. This MOU covers only work performed under the Contract relating to Plan audits for calendar year 2021 and shall expire after the Board's acceptance of those audits and full performance by the parties. The parties contemplate that OST and OAOA will enter into a further MOU governing their respective responsibilities relating to the Contract

and audits for calendar years 2022 and any subsequent year or years if and to the extent the Contract is extended.

**STATE OF DELAWARE  
OFFICE OF THE STATE TREASURER**

*John Meyer*

John Meyer  
Director, Contributions and Plan Management

Date: 10/17/2022

**STATE OF DELAWARE  
OFFICE OF AUDITOR OF ACCOUNTS**

*Kathleen K. McGuinness*

Kathleen K. McGuinness  
Delaware State Auditor

Date: 9/30/22

**PLANS MANAGEMENT BOARD**

\_\_\_\_\_  
Donna Vieira  
Chair, Plans Management Board

Date: \_\_\_\_\_