

AGREEMENT FOR LEGAL SERVICES

THIS AGREEMENT FOR LEGAL SERVICES (the "Agreement") is effective as of the 10th day of September, 2010, by and between Ballard Spahr LLP ("Ballard"), and the Office of Management and Budget ("OMB") for the State of Delaware ("State"), with the approval of the Governor and the Attorney General.

WITNESSETH:

WHEREAS, on September 13, 2010, a Request for Proposal ("RFP") was issued by OMB to engage a law firm to act as Special Labor Relations Counsel ("Special Counsel") to provide legal advice and representation to OMB concerning Public Sector Labor Law in the Binding Interest Arbitration process under 19 Del.C. Chapters 13 and 16, or Binding Interest Arbitration as prescribed by the terms of a collective bargaining agreement ("Binding Interest Arbitration Proceedings"); and,

WHEREAS, it is the stated intent of the OMB to engage a law firm to represent it in the Binding Interest Arbitration Proceedings; and,

WHEREAS, OMB received and evaluated proposals from (5) five law firms interested in acting as Special Counsel for the State in the Binding Interest Arbitration Proceedings and interviewed (5) five firms; and,

WHEREAS, the OMB has determined to engage (2) two law firms to act as Special Counsel, and wishes to enter into this Agreement with Ballard because the proposal submitted by Ballard was technically superior, and meets the needs of the OMB. *See* Ballard's Proposal dated August 26, 2010, attached hereto as Exhibit A.

NOW THEREFORE, in consideration of the premises, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Ballard and OMB (collectively the "Parties") hereto agree as follows:

1. Pursuant to 29 *Del. C.* §2507, Ballard is hereby appointed and employed as a Special Counsel for OMB in Binding Interest Arbitration Proceedings.
2. Ballard agrees to serve as Special Counsel in Binding Interest Arbitration Proceedings and perform such legal duties as assigned by OMB during the duration of the proceedings and shall commence providing legal services on the date noted above. Notwithstanding the preceding, the Parties acknowledge that

this Agreement is subject to termination at will by OMB, the State, or the Delaware Department of Justice (“DOJ”), with or without cause.

- Ballard agrees that it will assign members of its firm listed below to perform the legal services under this Agreement. Ballard has discounted its normal billing rates for its attorneys by 20% *:

	<u>Standard Rate</u>	<u>Discounted Rate</u>
Kenneth M. Jarin (Partner)	\$760.00	\$608.00
Brian D. Pedrow (Partner)	\$565.00	\$452.00
Sean J. Bellew (Partner)	\$525.00	\$420.00
William K. Kennedy (Partner)	\$455.00	\$364.00
Thomas D. Rethage (Associate)	\$315.00	\$252.00
Meredith C. Swartz (Associate)	\$270.00	\$216.00
Gwyn N. Molsbergen (Paralegal)	\$190.00	\$152.00

Ballard agrees that the rate for any other attorneys who work on this engagement shall be at comparable rates to those above, taking into account each attorney’s experience. The above fees are subject to adjustment on an annual basis after notice and agreement of the Parties.

*Notwithstanding the above stated rates, it is agreed that the maximum hourly rate which can be charged to the State is \$500 per hour. Additionally, upon the mutual agreement of the parties from time to time there may be a need to add staff attorney’s whose rates shall be discounted by at least 20% and whose hourly rates shall be agreed upon prior to beginning any work on the Binding Interest Arbitration Proceedings.

- Ballard shall bill OMB no more frequently than monthly for hours spent on legal services rendered on behalf of and at the request of the OMB at the rates agreed to in paragraph 3 of this Agreement. Each invoice shall be in a format customary in the community for Delaware legal billing for services rendered; however, the DOJ shall have the right to request reasonable alterations in the format of the billing, as it deems appropriate. Ballard agrees to comply with the *Delaware Department of Justice Outside Counsel Billing Policy*, attached hereto as Exhibit B. Copies of the bill should be sent to the Director of Outside Counsel, the State Solicitor and Governor’s Counsel. Bills shall be paid as provided by State law. In the event OMB, the State, the DOJ or the Governor’s Counsel questions the substance of any bill or any item of work performed, Ballard shall provide such additional information as may reasonably be requested, and Ballard shall not charge any additional amount for any discussion, extra documentation or additional information required to settle any dispute regarding any issue related thereto.
- Ballard agrees that it shall perform legal services as directed by the DOJ and the OMB and that OMB, the State and the DOJ shall have the right to receive copies of all documents, submissions, filings, and/or pleadings, in order to monitor,

direct, and/or participate in the performance of legal services by Ballard under this Agreement.

6. Ballard agrees that all documents generated by it under this Agreement, including research, belong to the DOJ, OMB and the State and upon request will be provided. OMB, DOJ and the State shall have the right to use any such work product or documents as they deem is in the interest of the State, without additional compensation to Ballard apart from the compensation earned under this Agreement.
7. Ballard provided the State a Certificate of Insurance from ALAS -- Attorneys' Liability Assurance Society, Inc., dated 6/3/2010, indicating the amount and nature of Ballard's professional liability insurance coverage under policy ALA#1157. *See* Insurance Certificate, attached hereto as Exhibit C.
8. Ballard performed an initial screening for potential conflicts of interest and has disclosed its report to OMB, the State and DOJ.

Ballard has performed a comprehensive conflicts check and informed the State in writing of any potential or actual conflicts of interest it has or may have not only with the State, but with any agency thereof. Such notice provided the identify of the agency involved and the nature of the case and the actual or potential conflict. With respect to each such matter, the State has waived any actual conflict. Ballard will seek waivers from each of the clients on such matters for actual conflicts.

Likewise, during the term of this Agreement, Ballard shall inform the State of any actual or potential conflict that must be disclosed as required by the Delaware Lawyers' Rules of Professional Conduct. No less than quarterly Ballard shall run a conflicts check report ("Report") and send the Report to the DOJ and the Counsel to the Governor. Ballard shall submit any conflicts request to the Director of Outside Counsel at the DOJ. It shall not commence work on any matter until such time as it has notified the State in writing as required by this paragraph and received a written waiver of the conflict from the State Solicitor and Counsel to the Governor.. Ballard understands and acknowledges that should the State choose not to waive the conflict, the State is free to obtain such legal services as necessary from other counsel as it deems appropriate.

9. Ballard understands and acknowledges that OMB will work with Ballard to perform the legal work covered by this Agreement through the DOJ. Nothing in this Agreement restricts the DOJ's ability to do so or guarantees Ballard the right to perform any legal services, except those that the OMB specifically requests Ballard to perform.
10. Ballard shall take no position on any legal matter in connection with its representation of the State under this Agreement, without consultation with and

approval by OMB and the DOJ. No position shall be deemed to be the position of OMB and/or the State if disapproved by the DOJ. Ballard shall take no legal position in any court, or any federal agency or any other entity without approval of the DOJ. No opinion rendered by Ballard may be represented as an opinion of the Attorney General.

11. Prior to incurring any costs to be charged to OMB, Ballard shall consult with OMB and the DOJ and obtain their approval.
12. The validity of this Agreement and the rights and obligations of the Parties hereunder shall be determined in accordance with the laws of the State of Delaware and no other, except to the extent that federal law is applicable. Any litigation which may be instituted between the State and the Ballard regarding this Agreement shall be filed and litigated in the State of Delaware.
13. This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Agreement shall exchange among themselves original signed counterparts.

[Remainder of page left intentionally blank]

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have executed this Agreement as of the date first above written.

BALLARD SPAHR

Philadelphia, Pennsylvania

Original on File

By: _____
Kenneth M. Jarin, Partner

**OFFICE OF MANAGEMENT AND
BUDGET**

Wilmington, Delaware

Original on File

By: _____
Ann S. Visalli, Director

APPROVED:

Original on File

By: _____
Jack A. Markell
Governor
State of Delaware

Original on File

By: _____
Joseph R. Biden, III
Attorney General
State of Delaware

AGREEMENT FOR LEGAL SERVICES

THIS AGREEMENT FOR LEGAL SERVICES (the "Agreement") is effective as of the 10th day of September, 2010, by and between Young Conaway Stargatt & Taylor, LLP ("Young Conaway"), and the Office of Management and Budget ("OMB") for the State of Delaware ("State"), with the approval of the Governor and the Attorney General.

WITNESSETH:

WHEREAS, on September 13, 2010, a Request for Proposal ("RFP") was issued by OMB to engage a law firm to act as Special Labor Relations Counsel ("Special Counsel") to provide legal advice and representation to OMB concerning Public Sector Labor Law in the Binding Interest Arbitration process under 19 Del.C. Chapters 13 and 16, or Binding Interest Arbitration as prescribed by the terms of a collective bargaining agreement ("Binding Interest Arbitration Proceedings"); and,

WHEREAS, it is the stated intent of the OMB to engage a law firm to represent it in the Binding Interest Arbitration Proceedings; and,

WHEREAS, OMB received and evaluated proposals from (5) five law firms interested in acting as Special Counsel for the State in the Binding Interest Arbitration Proceedings and interviewed (5) five firms; and,

WHEREAS, OMB has determined to engage (2) two law firms to act as Special Counsel, and wishes to enter into this Agreement with Young Conaway because the proposal submitted by Young Conaway was technically superior, and meets the needs of OMB. *See* Young Conaway's Proposal dated August 26, 2010, attached hereto as Exhibit A.

NOW THEREFORE, in consideration of the premises, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Young Conaway and OMB (collectively the "Parties") hereto agree as follows:

1. Pursuant to 29 *Del. C.* §2507, Young Conaway is hereby appointed and employed as a Special Counsel for OMB in Binding Interest Arbitration Proceedings.
2. Young Conaway agrees to serve as Special Counsel in Binding Interest Arbitration Proceedings and perform such legal duties as assigned by OMB during the duration of the proceedings and shall commence providing legal services on the date noted above. Notwithstanding the preceding, the Parties acknowledge that

this Agreement is subject to termination at will by OMB, the State, or the Delaware Department of Justice ("DOJ"), with or without cause

3. Young Conaway agrees that it will assign members of its firm listed below to perform the legal services under this Agreement. Young Conaway has discounted its normal billing rates for the its attorneys by 15%*:

	<u>Standard Rate</u>	<u>Discounted Rate</u>
William W. Bowser (Partner)	\$450.00	\$380.00
Barry M. Willoughby (Partner)	\$450.00	\$380.00
Sheldon N. Sandler (Partner)	\$450.00	\$380.00
Teresa A. Check (Partner)	\$450.00	\$380.00
Scott A. Holt (Partner)	\$450.00	\$380.00
Adria B. Martinelli (Associate)	\$325.00	\$276.25
Maribeth L. Minella (Associate)	\$325.00	\$276.25
Michael P. Stafford (Associate)	\$325.00	\$276.25
Margaret DiBianca (Associate)	\$325.00	\$276.25
Lauren Hudecki (Associate)	\$265.00	\$225.25
Lauren Moak (Associate)	\$240.00	\$204.00
Debbie Coles (Paralegal)	\$150.00	\$127.50
Jill Bathon (Paralegal)	\$125.00	\$106.25
Rose Ruggieri (Paralegal)	\$125.00	\$106.25

Young Conaway agrees that the rate for any other attorneys who work on this engagement shall be at comparable rates to those above, taking into account each attorney's experience. The above fees are subject to adjustment on an annual basis after notice and agreement of the Parties.

*Notwithstanding the above stated rates, it is agreed that the maximum hourly rate which can be charged to the State for partner hourly rate is \$380.00 per hour. Additionally, upon the mutual agreement of the parties from time to time there may be a need to add staff attorneys whose rates shall be discounted by at least 15% and whose hourly rates shall be agreed upon prior to beginning any work on the Binding Interest Arbitration Proceedings.

4. Young Conaway shall bill OMB no more frequently than monthly for hours spent on legal services rendered on behalf of and at the request of the OMB at the rates agreed to in paragraph 3 of this Agreement. Each invoice shall be in a format customary in the community for Delaware legal billing for services rendered; however, the DOJ shall have the right to request reasonable alterations in the format of the billing, as it deems appropriate. Young Conaway agrees to comply with the *Delaware Department of Justice Outside Counsel Billing Policy*, attached hereto as Exhibit B. Copies of the bill should be sent to the Director of Outside Counsel, the State Solicitor and Governor's Counsel. Bills shall be paid as provided by State law. In the event OMB, the State, the DOJ or the Governor's Counsel questions the substance of any bill or any item of work performed,

Young Conaway shall provide such additional information as may reasonably be requested, and Young Conaway shall not charge any additional amount for any discussion, extra documentation or additional information required to settle any dispute regarding any issue related thereto.

5. Young Conaway agrees that it shall perform legal services as directed by the DOJ and the OMB and that OMB, the State and the DOJ shall have the right to receive copies of all documents, submissions, filings, and/or pleadings, in order to monitor, direct, and/or participate in the performance of legal services by Young Conaway under this Agreement.
6. Young Conaway agrees that all documents generated by it under this Agreement, including research, belong to the DOJ, OMB and the State and upon request will be provided. OMB, DOJ and the State shall have the right to use any such work product or documents as they deem is in the interest of the State, without additional compensation to Young Conaway apart from the compensation earned under this Agreement.
7. Young Conaway provided OMB a Certificate of Insurance from Willis of Delaware, Inc. for the following (3) three policies all dated 4/15/2010, indicating the amount and nature of Young Conaway's professional and liability insurance coverage: (1) Continental Casualty Co. Policy No. 20443; (2) Am. Int'l Specialty/Chartis Policy No. 26883, and (3) St. Paul Fire & Casualty of WI Policy No. 40967. *See* Insurance Certificate, attached hereto as Exhibit C.
8. Young Conaway performed a screening for potential conflicts of interest on August 19, 2010, and has disclosed its report to OMB, the State and DOJ.

Likewise, during the term of this Agreement, Young Conaway shall inform the State of any actual or prospective representation that requires disclosure to the State under the Delaware Lawyers' Rules of Professional Conduct (the "Rules"). In addition, no less than quarterly Young Conaway shall generate a conflicts check report (a "Report") and send the Report to the DOJ and the Counsel to the Governor. In the event that a conflict arises with respect to the State, Young Conaway shall submit any waiver request to the Director of Outside Counsel at the DOJ. Young Conaway shall not commence work on any matter that presents such a conflict until such time as it has notified the State in writing as required by this paragraph and received a written waiver of the conflict from the State Solicitor and Counsel to the Governor. Young Conaway understands and acknowledges that should the State choose not to waive any conflict, the State is free to obtain such legal services as necessary from other counsel as it deems appropriate.

Notwithstanding the foregoing, the State, OMB and DOJ hereby waive any objections they may have based on conflicts or potential conflicts with respect to the representation by Young Conaway of other clients regarding matters involving

environmental, tax, workers' compensation, personal injury, or real estate law, and any pro bono representations of incarcerated persons, including representation in litigation against the State and in contract negotiations and other matters directly adverse to the State, in each case so long as (i) Young Conaway obtains a waiver from the non-State client agreeing to Young Conaway's concurrent or prior representation of the State and waiving any future claim of a conflict as permitted by the Rules, and (ii) Young Conaway's representation of the non-State client is, in view of this agreement, permitted by the Rules. During Young Conaway's engagement as Special Counsel, no Young Conaway attorney actively involved in the representation of the State in this matter shall be actively involved in the representation of any other client in a matter that gives rise to a conflict of interest with respect to the State.

In addition, the State understands that Young Conaway has a large corporate bankruptcy and restructuring practice, including the representation of debtors and financially troubled companies. As a result, current and prospective bankruptcy and restructuring clients or other parties to bankruptcy proceedings may owe debts to the State or any of its agencies or may otherwise hold and assert interests adverse to the State or any of its agencies. In connection with such bankruptcy and restructuring matters, the State, OMB and DOJ agree that Young Conaway may continue to represent or may undertake in the future to represent existing or new clients in any workout and bankruptcy related matter that is not substantially related to its work as Special Counsel, even if the interests of such clients in those other matters are adverse to the State or any of its agencies in the bankruptcy matter.

9. Young Conaway understands and acknowledges that OMB will work with Young Conaway to perform the legal work covered by this Agreement through the DOJ. Nothing in this Agreement restricts the DOJ's ability to do so or guarantees Young Conaway the right to perform any legal services, except those that the OMB specifically requests Young Conaway to perform.
10. Young Conaway shall take no position on any legal matter in connection with its representation of the State under this Agreement, without consultation with and approval by OMB and the DOJ. No position shall be deemed to be the position of OMB and/or the State if disapproved by the DOJ. Young Conaway shall take no legal position in any court, or any federal agency or any other entity without approval of the DOJ. No opinion rendered by Young Conaway may be represented as an opinion of the Attorney General.
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12. The validity of this Agreement and the rights and obligations of the Parties hereunder shall be determined in accordance with the laws of the State of Delaware and no other, except to the extent that federal law is applicable. Any

litigation which may be instituted between the State and the Young Conaway regarding this Agreement shall be filed and litigated in the State of Delaware.

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[Remainder of page left intentionally blank]

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have executed this Agreement as of the date first above written.

**YOUNG CONAWAY
STARGATT & TAYLOR, LLP**
Wilmington, Delaware

Original on File

By: _____
William W. Bowser, Partner

**OFFICE OF MANAGEMENT AND
BUDGET**
Wilmington, Delaware

Original on File

By: _____
Ann S. Visalli, Director

APPROVED:

Original on File

By: _____
Jack A. Markell
Governor
State of Delaware

Original on File

By: _____
Joseph R. Biden, III
Attorney General
State of Delaware