

**MARYLAND SENATOR EDWARD J. KASEMEYER  
COLLEGE INVESTMENT PLAN**

**AMENDED AND RESTATED DECLARATION OF TRUST**

**THIS AMENDED AND RESTATED DECLARATION OF TRUST** is made as of June 1, 2023, by the Maryland State Treasurer, as administrator of the Maryland Senator Edward J. Kasemeyer College Investment Plan (“College Investment Plan” or “MCIP”) and as successor to the Maryland 529 Board (as defined herein) pursuant to Md. Code Ann. Education Article §18-1901 et seq. (the “Enabling Statute”) and amends and restates the Declaration of Trust dated June 13, 2001 (the “Original Declaration of Trust” and as so amended and restated, the “Declaration of Trust”). As of the date hereof, the Maryland State Treasurer (the “Trustee”) is the successor trustee of the Maryland College Investment Trust (the “Trust”).

**RECITALS**

The Trust was created in accordance with the Original Declaration Trust by Maryland Higher Education Investment Board (the “MHEI Board”). The purpose of the Trust is to hold, manage and administer all money, assets, and other proceeds received by the Board from the sale of College Investment Plan accounts authorized by Md. Code Ann. Education Article §18-19A-02, and to disburse such funds solely in accordance with the Enabling Statute, provisions of the investment accounts, and this Declaration of Trust.

The Maryland 529 Board (under and as defined in the Enabling Statute in effect prior to date hereof) was the successor to the MHEI Board. In accordance with the provisions of Chapter 113 of the 2023 Laws of Maryland, as of June 1, 2023, (i) the Maryland 529 Board is abolished and (ii) the State Treasurer became successor to the Maryland 529 Board and the administrator of the Maryland 529 Program, including the MCIP.

All capitalized terms that are not defined herein shall have the meanings provided in Md. Code Ann. Education Article §18-19A-01.

**ARTICLE I**

**TRUST ASSETS**

1.1 **Contributor Payments**. All payments made by contributors shall be deposited and held by the Trustee in the name of the Trust, to be managed, invested, reinvested, and ultimately disbursed in accordance with the terms of the Enabling Statute, the underlying investment account and this Declaration of Trust.

1.2 **Separate Accounting for Fees**. Under the authority of §18-19A-03(b) the Plan is entitled to receive and expend funds received from application fees charged to contributors (“Administrative Funds”). Any Administrative Funds shall be used to pay reasonable and necessary operating expenses as defined in Section 1.4 and shall be accounted for and disbursed separately from this Trust, and shall not be considered part of the Trust unless specific dedication is made by

the Trustee to contribute such assets to the Trust. Said dedication shall specify the uses and purposes of such funds, which shall be separately accounted for and identified within the Trust.

1.3 **Exclusive Purpose of Trust Funds.** Trust Assets shall be used exclusively to:

(a) make qualified and unqualified distributions in accordance with the provisions of the Enabling Statute and the investment accounts;

(b) pay expenses of the Trust incurred in the management, protection, investment and reinvestment of Trust assets; and

(c) expend funds for such purposes expressed by a specific decision of the Trustee dedicating any special purpose or non-account generated funds to the Trust.

1.4 **Operating Expenses.** Reasonable and necessary operating expenses shall include general program administration expenses, as well as amounts necessary to communicate with and inform qualified designated beneficiaries, contributors and the general public about the Plan. Reasonable and necessary operating expenses may include reserves set aside and dedicated for a future year's operating expenses, but any such reserve shall continue to be held as Administrative Funds until it is actually expended. The Trustee may purchase insurance against fiduciary liability similar to that used for officers, trustees or directors of private financial entities, if they in their discretion believe such expenditure necessary and appropriate.

1.5 **No Reversion to State.** Assets of the Trust shall not revert to the State but shall be expended exclusively according to the terms of the Trust for the benefit of contributors, beneficiaries, or the specific purposes of special, dedicated funds. In the event of termination of the Plan, and/or termination of the Trust, Trust assets shall be distributed according to the terms of Section 5.5.

## ARTICLE II

### TRUSTEE

2.1 **Maryland State Treasurer.** The Maryland State Treasurer ("State Treasurer" or "Trustee") is the Trustee of the Trust, is a fiduciary of the Trust and has the responsibilities set forth in §18-19A-02(c).

2.2 **Trust Management Decisions.** Any and all decisions pertaining to the management or disposition of the Trust shall be made by the State Treasurer or their designee.

2.3 **Delegation to Designees or Contractors.** The Trustee may:

(a) Delegate, wholly or partly, the exercise of fiduciary duties related to the Trust;  
and

(b) Contract for support services necessary to carry out the State Treasurer's fiduciary duties related to the Trust.

2.4 **Non-Delegable Decisions.** The Trustee may not delegate adoption of or amendment to the comprehensive investment plan referenced in Section 3.1.

2.5 **Successor Trustee.** The Treasurer serves as Trustee under this Declaration of Trust, ex officio, by virtue of his, her or their status as Treasurer. The position of Treasurer shall automatically confer the rights, responsibilities, and fiduciary duties of a trustee, without the need for any separate appointment or revision of this Declaration of Trust upon a change in the office holder. The Trust established under this Declaration of Trust shall continue uninterrupted and remain in full force and effect, regardless of any successor or change in the Treasurer's office.

The Trustee may be changed by statutory amendment. In such a case, the successor trustee named by statute will become the Trustee for all purposes under this Declaration of Trust without need for revision of this Declaration of Trust.

### ARTICLE III

#### TRUST MANAGEMENT

3.1 **Investment Plan.** The Trustee shall adopt a comprehensive investment plan and policies and may change the plan from time to time as they deem in the best interest of contributors and qualified designated beneficiaries. Any delegation of investment authority to managers, firms or employees may only occur if the delegation is in accord with the comprehensive investment plan. No investment may occur other than as part of such a plan or to further any purpose other than as expressed in this Declaration of Trust.

3.2 **Selection of Plan Administrator.** The Trustee may, as considered appropriate by the Trustee, from time to time, without limiting the generality of the Trustee's powers and authority otherwise set forth in this Declaration, enter into one or more contracts with a plan administrator (the "Plan Administrator"), as an independent contractor, to provide some or all of the plan management services necessary to carry out the duties prescribed by Md. Code Ann. Education Article §18-19A-02(c) ("Plan Management Services"). In the event the Trustee shall not select a Plan Administrator to perform a particular service, the Trustee shall perform that service.

3.3 **Plan Management Services.**

(a) Plan Management Services may include the performance and assumption of some or all of the following services, duties and responsibilities to, or for, or on behalf of the Trust, the Plan and the Trustee: (i) assist in the development and implementation of the Plan; (ii) administrative functions and recordkeeping; (iii) distribution and marketing; (iv) investment management; (v) investment advice; (vi) custodial and depository; (vii) accounting; (viii) customer relations; and (ix) such other services, duties and responsibilities as the Trustee may determine appropriate and/or necessary.

(b) The Plan Management Services expressly include determination, following approval of the Trustee or such other Trustee involvement as may be required by the Internal Revenue Code of 1986, as amended (the "Code"), of detailed asset allocations and the selection of underlying mutual funds and other investments that make up the Trust investment options.

(c) The Plan Administrator may issue orders for the purchase and sale of securities, including orders through any affiliate of the Plan Administrator, as permitted by the Trustee. The Plan Administrator is specifically authorized to direct contributors' contributions to, or make investments in, the Trust investment options as directed by the contributors, or as provided in the Plan.

(d) The Plan Administrator, in rendering assistance to contributors or qualified designated beneficiaries, shall not be expected to and shall not provide tax or legal advice.

3.4 **Permitted Investments.** The Trustee in their management of the Trust Fund and any Plan Administrator so designated by the Trustee, may:

(a) purchase or subscribe for and invest in any securities, and retain any such securities in the Trust, including common and preferred stocks, mortgages, debentures, bonds, notes or other evidences of indebtedness, and other forms of securities, including index securities and options for the purchase or sale of securities, or indices of securities;

(b) invest all or a portion of the Trust in shares of any open-ended investment fund or company;

(c) sell, transfer and convey for cash or on credit, convert, redeem, exchange for other securities, or otherwise dispose of any securities at any time held by it;

(d) exercise any conversion privilege and/or subscription right available in connection with any securities held by it; oppose or consent to the reorganization, consolidation, merger, or readjustment of the finances of any corporation, company or association in any entity in which they hold securities; oppose or consent to the sale, mortgage, pledge or lease of the property of any corporation, company or association, for any entity in which they hold securities; and take any action, including the exercise of options, the making of agreements or subscriptions and the payment of expenses, assessments or subscriptions, which they deem necessary or advisable in connection with the securities held by the Trust,

(e) vote, personally or by general or limited proxy, any securities held by the Trust at any time and exercise (personally or by general or limited proxy) any right appurtenant to any securities held by them;

(f) register any securities held hereunder in the name of the Maryland College Investment Trust or in the name of a nominee, or in any form permitting title to pass by delivery, providing the records of the Trustee shall clearly indicate the ownership of any asset of the Trust;

(g) make, execute and deliver any and all mortgages, contracts, consents, waivers, releases or other instruments in writing necessary or proper for the accomplishment of any of the foregoing powers;

(h) invest and reinvest all or any portion of the Trust in units of participation in one or more common, collective or commingled trust funds that may be established and maintained by the Trustee, the Plan Administrator or any other specific entity, or other trustee; and any such common, collective or commingled trust fund may be specifically designated for investment in guaranteed investment contracts, or similar investment vehicles; and

(i) invest part or all of the Trust (including idle cash balances) in certificates of deposit, demand or time deposits, savings accounts, money market accounts or similar investments, or in fixed or variable annuity contracts, or other types of insurance policies, including insurance policies that pay benefits in amounts related to increases in the consumer price index, similar indices, or indices that relate to education cost.

3.5 **Trustee Powers.** The Trustee has the powers set forth in §18-1905 of the Enabling Statute.

## ARTICLE IV

### ACCOUNTING AND VALUATIONS

4.1 **No Distinction Between Principal and Income.** No distinctions shall be made between principal and income in the valuation of Trust assets; and in making any valuation the Trustee shall not be bound by any provision of Md. Code Ann. Estates & Trusts Article §15-501 through §15-530 (the Maryland Revised Uniform Principal and Income Act) that relates to distinctions between principal and income.

4.2 **Generally Accepted Accounting Principles.** In valuing assets the Trustee and the Plan Administrators, as applicable, shall generally use fair market value as of the valuation date, except that assets, instruments, contracts or insurance policies not readily tradable in a securities market may be valued at book value or fair value if this method is in accord with generally accepted accounting principles in effect at the close of the accounting period.

4.3 **Time of Statement Issuance.** In accordance with the provisions of Md. Code Ann. Education Article §18-19A-07(b), the Trustee shall issue an annual report containing a financial accounting of the Plan, including the Plan's operating and administrative budget, the number of new Contributors to the Plan, marketing efforts and recommendations of the Trustees concerning the operation of the Plan.

## ARTICLE V

### DISTRIBUTIONS

5.1 **Payments.** The Trustee shall distribute the assets of the Trust:

(a) in accordance with the provisions of Article I, dealing with expenses and separate dedicated funds;

(b) to make payments under the terms of the investment accounts established under the Plan; and

(c) in accordance with Section 5.5 dealing with Trust and Program termination. Trust assets shall not otherwise be expended for any purpose.

5.2 **Method of Account Payments.** The Trustee, their employees, agents and contractors may, in making qualified or unqualified distributions, apply standards for identification, verification of signature, direction of payments and reliance on forms and records that are similar to those used by financial entities of similar size and scope. The Trustee may also impose (and change from time to time) reasonable waiting periods prior to making distributions; and any such delays imposed under the authority of this section shall be solely for the administrative efficiency of the Plan. The Trustee may also waive the necessity of any such waiting period, but nothing in this Section 5.2 shall be viewed as waiving, restricting or otherwise amending the provisions of any investment account setting forth when such account may receive an unqualified distribution.

5.3 **Withholding of Liabilities.** The investment accounts that create Trust assets will contain provisions imposing a variety of administrative and/or transaction charges, and the amount of such charges may change from time to time. The Trustee is authorized to withhold from any qualified or unqualified distribution, any charge not yet paid but otherwise due, whether or not such charge should have been paid by some entity or person other than the person receiving the distribution.

5.4 **Penalties.**

(a) The Trustee shall charge an investment account, in accordance with the terms and conditions of the Plan, a penalty, as shall be determined, from time to time, by the Trustee in accordance with the Code, for any distribution from an investment account that shall not be one of the following:

(i) used for qualified higher education expenses of the qualified designated beneficiary;

(ii) made on account of the death or disability of the qualified designated beneficiary;

(iii) made on account of a scholarship, tuition remission, allowance or payment (as described in the Code) received by the qualified designated beneficiary, to the extent the distribution shall not exceed the amount of the scholarship, tuition remission, allowance or payment;

(iv) a rollover distribution made in compliance with the Code; or

(v) any other items allowed by the Code.

(b) The Trustee shall cause, through the Plan, practices and procedures to be implemented that determine whether a distribution from an investment account is subject to the penalty specified in Section 5.4(a) and to collect that penalty when appropriate.

(c) All penalties collected shall be considered Administrative Funds and retained by the Trust to be used for the operation of the Plan as determined by the Trustee, in their sole discretion; *provided, however*, that in the event that such penalties have not been designated for a particular purpose, the Plan Administrator may utilize such funds as necessary to satisfy any monetary obligations arising from indemnification provisions contained in its operating agreement

with the Trustee. Any such use of funds shall be requested from the Trustee by the Plan Administrator in writing accompanied by supporting data satisfactory to the Trustee.

**5.5 Trust Termination.** In the event the Maryland statutes are amended to terminate the Plan, the Trustee shall value all assets and investment accounts as of a specific date and, after allowance for terminating or winding up expenses, distribute assets proportionately to those contributors entitled to receive a qualified or unqualified distribution on the declared date of termination. Any specifically dedicated funds held within the Trust shall be disbursed according to the purposes of the dedication.

## **ARTICLE VI MISCELLANEOUS**

**6.1 Amendment.** This Declaration of Trust may be amended by the Trustee then serving and by filing the amendatory provisions with the Division of State Documents or publication in the Maryland Register. Any amendment shall contain provisions, such as an effective date, that specifies how it applies to active investment accounts. No amendment may be made that causes a material, non-proportional reduction in investment account value for any particular active investment account, or a diversion of trust assets away from their intended use.

**6.2 Maryland Law.** This Declaration of Trust shall be interpreted according to Maryland law. In the event of a conflict between this Trust and Maryland law, Maryland law shall control.

**6.3 Personal Liabilities and Immunity.** The Trust, the Plan and their employees, agents and contractors, shall have the liability or immunity for their actions, inactions, negligence or misconduct as expressed in Maryland law from time to time. Nothing in this Declaration of Trust shall be viewed as restricting or expanding any such liability or immunity.

**6.4 No Interest or Control of Trust Assets.** Neither contributors nor qualified designated beneficiaries shall have interest in, or right of control over, the specific Trust assets or investments. His, her or their rights and claims are solely against the Trust.

**6.5 Effective Date.** This Declaration of Trust shall be effective as of the date of the Trustee's execution hereof.

*(signatures appear on next page)*

I, Dereck E. Davis, Maryland State Treasurer hereby certify that this Declaration of Trust is approved and effective as of this 1<sup>st</sup> day of June, 2023.

By: Dereck E. Davis  
Dereck E. Davis  
Maryland State Treasurer